U.S. Department of Justice

United States Attorney
Southern District of New York

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July 12, 2019

VIA ECF

The Honorable Richard M. Berman
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States* v. *Jeffrey Epstein*, 19 Cr. 490 (RMB)

Dear Judge Berman:

The Government respectfully submits this letter in response to the defendant's Motion for Pretrial Release (the "Release Motion"), dated July 11, 2019 (Dkt. 6), and in further support of its Memorandum in Support of Detention (the "Detention Memo"), submitted to Magistrate Judge Pitman on July 8, 2019, which is attached hereto and incorporated herein (Ex. A).

PRELIMINARY STATEMENT

The defendant is a serial sexual predator who is charged with abusing underage girls for years. A grand jury has returned an indictment alleging that he sexually exploited dozens of minors, including girls as young as 14 years old, in New York and Florida. To this day, he is a registered sex offender designated by New York State in the highest category of risk to reoffend, despite unsuccessfully attempting to have that classification lowered. And any doubt that the defendant is unrepentant and unreformed was eliminated when law enforcement agents discovered hundreds or thousands of nude and seminude photographs of young females in his Manhattan mansion on the night of his arrest, more than a decade after he was first convicted of a sex crime involving a juvenile.

The defendant also faces substantial evidence of his guilt, founded on the corroborated testimony of numerous victims, and this case presents the very real possibility that he will go to prison for the rest of his life. The defendant has at his disposal a vast fortune, the details of which remain largely concealed from the Court. He also has a history of obstruction and manipulation of witnesses, including, as detailed herein, as recently as within the past year, when media reports about his conduct reemerged. And he continues to show a shocking lack of understanding of the gravity of the harm he has perpetrated, including through the minimization of his conduct and casual disparagement of victims in his arguments.

Against this backdrop of significant—and rapidly-expanding—evidence, serious charges, and the prospect of a lengthy prison sentence, the defendant proposes to be released on conditions that are woefully inadequate. The Release Motion misconstrues and misunderstands the relevant

law, seeks to diminish and demean the harm caused to the many victims of the defendant's appalling sexual abuse, and utterly fails to meet its burden of rebutting the presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community. Rather than even attempting to address the grave risks of releasing a defendant with extraordinary financial resources and a history of abusing minors, the defendant instead proposes a bail package that amounts to little more than a barely-secured bond masquerading as a 14-point plan. The Court should reject the defendant's application and order him detained pending trial.

Among other things, the proposed bail package contemplates the defendant pledging as the principal security a property that has already been identified by the Government as subject to forfeiture upon the defendant's conviction, and which therefore is of no value as collateral. His proposed global waiver of extradition is unenforceable, and even if enforceable would be little comfort to victims forced to wait additional years while the defendant is located and returned to this country. The promise to "deregister or otherwise ground" his private jet is meaningless given his wealth and ability to easily secure other means of travel. The two co-signers he proposes only further highlight his minimal community ties, including his lack of any family in or near the District. Electronic monitoring would merely give the defendant less of a head start in fleeing—and does not guard against the risk of him endangering victims in the very home where he has continued to hoard nude images of young women and girls. And the private security force he proposes to guard his gilded cage, a proposal already rejected by this Court in similar circumstances, simply reinforces the obvious fact that the defendant should be housed where he can be secured at all times: a federal correctional center.

The defendant faces a presumption of detention, Pretrial Services has recommended detention, and victims of the defendant seek his detention. Because there are no set of conditions short of incarceration that can reasonably assure the appearance of the defendant or reasonably protect the community from the dangers he poses if released, the Court should order him detained.

BACKGROUND

As previously set forth, a federal grand jury in this District returned an indictment (the "Indictment") charging the defendant with violating Title 18, United States Code Section 1519, and conspiracy to commit the same.

As charged by the grand jury, the facts giving rise to those counts involve a years-long scheme to sexually abuse underage girls. Specifically, the defendant enticed and recruited dozens of minor girls to engage in sex acts with him, for which he paid the victims hundreds of dollars in cash, in at least two different states. Victims were initially recruited to provide "massages" to the defendant, which would be performed nude or partially nude, would become increasingly sexual in nature, and would typically include one or more sex acts, including groping and direct or indirect contact with victims' genitals. To perpetuate this exploitation of underage girls, the defendant actively encouraged certain victims to recruit additional girls to be similarly sexually abused. He paid these victim-recruiters hundreds of dollars for each additional girl they brought to him, creating a network of underage victims for him to exploit in New York and Palm Beach.

The defendant, through counsel, continues to evidence a complete lack of appreciation for the gravity of the offenses with which he is charged.[1] As an initial matter, there can be no plausible suggestion that the allegations against the defendant involve isolated or aberrational conduct; they involve repeated, regular acts of sexual abuse committed over a period of many years. And following the defendant's prior conviction, as described previously by the Government, the defendant continued to maintain at least hundreds and possibly thousands of nude photos of young subjects. The defendant's victims in this case, often particularly vulnerable girls, were as young as 14 years old when he abused them. The defendant knew he was abusing minors, including because victims told him directly they were underage. And he preyed on his victims habitually and repeatedly—day after day, month after month, year after year.

The defense calls these disturbing alleged acts "simple prostitution."[2] Mag. Tr. 12:12; *see also* D. Tr. at 6:15-19 ("This is basically the Feds today . . . redoing the same conduct that was investigated 10 years ago and calling it, instead of prostitution, calling it sex trafficking"). That characterization is not only offensive but also utterly irrelevant given that federal law does not recognize the concept of a child prostitute—there are only trafficking victims—because a child cannot legally consent to being exploited. Defense counsel's repeated assertion that the Government's case is infirm because no threats or coercion are alleged—*e.g.*, Mag. Tr. at 12 ("There was no coercion. There were no threats. There was no violence."), 17 ("there was no coercion. There was no intimidation. There is no deception."); Release Motion at 2 ("There are no allegations . . . that he forced, coerced, defrauded, or enslaved anybody . . . ."))—is equally irrelevant because the offense with which the defendant has been charged requires no such proof. *See, e.g.*, *United States v. Afyare*, 632 F. App'x 272, 278 (6th Cir. 2016) ("We hold that § 1591(a) criminalizes the sex trafficking of children (less than 18 years old) with or without any force, fraud, or coercion, and it also criminalizes the sex trafficking of adults (18 or older), but only if done by force, fraud, or coercion.").

Far more important, the defense has already effectively conceded that the Government will be able to present evidence of the actual primary elements of the charged offense—*i.e.*, that the defendant engaged in sex acts for money with girls he knew were underage. *See* Release Motion at 2. On this record, the Government agrees with Pretrial Services that the defendant should be detained pending trial. He poses a tremendous risk of flight and a danger to the community, and he cannot overcome the statutory presumption in favor of detention in this case.

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[1] Such arguments are unsurprising from a defendant who previously compared himself to a "person who steals a bagel" or a tragic mythical figure. *See*, *e.g.*, Amber Southerland, *Billionaire Jeffrey Epstein: I'm a sex offender, not a predator*, N.Y. Post (2011) ("'I'm not a sexual predator, I'm an "offender," the financier told The Post yesterday. 'It's the difference between a murderer and a person who steals a bagel.'"); Philip Weiss, *The Fantasist*, NY Magazine (2007) ("'It's the Icarus story, someone who flies too close to the sun,' I said. 'Did Icarus like massages?' Epstein asked.").

[2] "Mag. Tr." refers to the transcript of the hearing before Magistrate Judge Pitman on July 8, 2019; "D. Tr." refers to the transcript of the hearing before this Court on July 8, 2019.

ARGUMENT

The Government respectfully submits that the defendant cannot overcome the statutory presumption in favor of detention in this case for the following reasons, among others:

I. Victims Seek Detention

Pursuant to the Crime Victims' Rights Act ("CVRA"), a crime victim has the right to be reasonably heard at certain public proceedings in the district court, including proceedings involving release. 18 U.S.C. § 3771(a)(4). Consistent with that requirement, the Government has been in contact with victims and counsel identified through this investigation in connection with the argument regarding bail.

Multiple victims and/or their counsel have asked the Government to seek detention (and to inform the Court of their views in that respect) for multiple reasons. First, they believe that the defendant's continued detention is necessary under the CVRA's right to be reasonably protected from the accused. 18 U.S.C. § 3771(a)(1). They have specifically conveyed to the Government that they would be fearful for their safety if the defendant were released. For the reasons articulated herein, the Government believes those concerns to be well-founded.

Additionally, certain victims have asked the Government to advise the Court that they are specifically concerned about the defendant's proposal to be released even if under conditions that included home detention and full-time private guards. They believe it would be unfair to victims of a wealthy defendant, like Epstein, if he were to be given greater freedoms than others would be in similar circumstances, and that such an arrangement would be inconsistent with their rights. They specifically asked the Government to advise the Court that they believed such an arrangement could result in harassment and abuse by the defendant. [3]

II. The Defendant's Proposal Does Nothing to Mitigate His Flight Risk

Each of the relevant factors to be considered as to flight risk—the nature and circumstances of the offense, the strength of the evidence, and the history and characteristics of the defendant—counsel strongly in favor of detention, and the defendant's proposed package would do nothing whatsoever to mitigate those risks.

A. Defendant Proposes No Infringement Upon His Ability to Use his Vast Wealth to Flee

It might not be immediately apparent to a reader of the Release Motion that the defendant is extravagantly wealthy and worth, according to records relating to the defendant recently obtained by the Government from a financial institution ("Institution-1"), more than $500 million.

[3] The Government is aware of at least one additional attorney for a victim who has publicly stated that her client supports the pretrial detention of the defendant. The Government is unaware of any victim who has expressed support for the defendant being granted pretrial release on bail.

Indeed, while the defendant has still not filled out a financial affidavit, under penalty of perjury, in connection with his application for bail, his token effort to account for his finances makes painfully clear the need for detention. The defendant reports having an extraordinary amount of money in both total assets and cash or cash-equivalent holdings. And while the defendant repeatedly represents in his Release Motion that his assets are "in the United States," there is absolutely nothing in the defendant's minimal financial submission to verify that.

Indeed, and as discussed further below, even assuming the defendant's assets are *presently* in the United States, nothing in the proposed package would prevent the defendant from transferring liquid assets out of the country quickly and in anticipation of flight or relocation. The defendant is an incredibly sophisticated financial actor with decades of experience in the industry and significant ties to financial institutions and actors around the world. He could easily transfer funds and holdings on a moment's to places where the Government would never find them so as to ensure he could live comfortably while a fugitive.

But perhaps most important, even were the defendant to sacrifice *literally all* of his current assets, there is every indication that he would immediately be able to resume making millions or tens of millions of dollars per year outside of the United States. He already earns at least $10,000,000 per year, according to records from Institution-1, while living in the U.S. Virgin Islands, traveling extensively abroad, and residing in part in Paris, France; there would be little to stop the defendant from fleeing, transferring his unknown assets abroad, and then continuing to do whatever it is he does to earn his vast wealth from a computer terminal beyond the reach of extradition.[4]

That the defendant faces up to 45 years of incarceration on the current counts with which he is charged provides the motive for him do so and is another significant factor in assessing the risk of flight. *See United States v. Jackson*, 823 F.2d 4, 7 (2d Cir. 1987). So too is the strength of the evidence, detailed above and in the Government's Detention Memo. Indeed, that evidence, already robust less than a week ago when the Indictment was unsealed, is growing stronger by the day. Just since the Indictment was unsealed, several additional women, in multiple jurisdictions, have identified themselves to the Government as having been victimized by the defendant when they were minors. Moreover, pursuant to judicially-authorized search warrants, the Government has discovered and seized a significant volume of photographs of nude and seminude young women and girls in the defendant's Manhattan residence, and is in the process of reviewing dozens of electronic discs that contain still more such photos.[5] And dozens of individuals have called the Government in recent days to convey information regarding the defendant and the allegations

[4] As noted in the Government's Detention Memo, the defendant is a frequent traveler and regularly travels to and from the United States, including approximately more than 20 flights in which he traveled to or from a foreign country since 2018 alone. Extensive international travel of this nature further demonstrates a significant risk of flight. *See*, *e.g.*, *United States v. Anderson*, 384 F. Supp. 2d 32, 36 (D.D.C. 2005).

[5] The Government's review of these materials, seized earlier this week, remains ongoing.

contained in the Indictment. All this in less than a week, and all in addition to an Indictment that already alleges the existence of dozens of victims in New York and dozens of victims in Florida.

B. The Proposed Bond is Inadequate to Overcome the Presumption of Detention

The defendant's "slate of highly restrictive" measures which purportedly "amply suffice to secure his release" are neither highly restrictive nor amply sufficient. Rather, they are effectively standard conditions of home confinement, monitoring, and bond unsecured by the defendant's assets—broken out into 14 pieces. The Government will address the most concerning and salient elements of the defendant's proposal below.

1. Lack of Meaningful Bond Security

The defendant proposes that the Court accept his Manhattan mansion as the primary security for a personal recognizance bond of an indeterminate amount, to be co-signed by the defendant's brother and a friend. Release Motion at 4. This is plainly insufficient.

As an initial matter, and as noted above, the defendant's Manhattan mansion has been identified in the Indictment as subject to forfeiture because it is alleged to have been used to commit or facilitate the commission of the sex trafficking offenses charged there. *See* 18 U.S.C. § 1594(c)(1). Because the defendant would thus be likely to lose that property following a conviction, it provides no value whatsoever as collateral. *See* 18 U.S.C. § 3142(g)(4) ("In considering the conditions of release described . . . the judicial officer . . . shall decline to accept the designation, or the use as collateral, of property that, because of its source, will not reasonably assure the appearance of the person as required."). And while the defendant offers to also pledge his private jet as additional collateral, there is absolutely no reason to assume that the defendant would not readily trade his private plane for his freedom. Indeed, the defendant, who has a net worth of more than $500 million, by his own admission recently sold a second plane and thus presumably has cash on hand to replace the posted aircraft without difficulty if need be.

Nor does the proposed security of properties owned by two identified co-signers meaningfully change the calculus. As further described below, the defendant provides no information about the value or equity of the property of his brother, Mark (the "Palm Beach Property"), or the significance of that property in the context of his brother's own net worth.[6] Similarly, the defendant provides no details regarding the "investment interests" of his friend Mr. Mitchell, nor any reason to believe the loss of those "interests" would be meaningful to Mr. Mitchell, let alone the defendant. More generally, given the defendant's proffered net worth, the defendant could easily make his co-signers whole – and even reward them – were he to flee.

The proposed security, in sum, should give the Court little comfort the defendant would appear in Court if released on bail.

[6] In fact, the defendant's own submission makes clear that the Palm Beach Property is not his brother's exclusive residence and that his brother lives elsewhere for half of the year.

2. Co-Signers, Moral Suasion, and Ties to the Community

The dearth of detailed financial information about the defendant himself, much less his brother or friend, further shows the hollowness of the proposal. The Court cannot possibly evaluate whether there would be any incentive whatsoever for those the two proposed co-signers to exercise moral suasion over the defendant—or whether, as noted above, the defendant could easily compensate them, perhaps many times over, for any loss they incurred through the defendant's flight from justice. The defendant provides no information about his brother other than that he lives half the year in the home he purportedly would pledge, and even less information about Mr. Mitchell, other than that he is "Mr. Epstein's friend," his "close personal friend of decades," and his "close personal friend." Release Motion at 4, 9. Their willingness to "guarantee" his appearance, Release Motion at 9, is meaningless in the absence of such information.

Moreover, the notion that *any* individual co-signer could meaningfully secure a bond for this defendant strains credulity. Given the defendant's wealth and his extraordinary risk of flight, any bond for this defendant would assuredly have to be in the hundreds of millions of dollars to even be claimed to be sufficient to guard against the risks posed by the defendant's release. The defendant offers no reason to believe any co-signers could meaningfully sign such a bond, much less these two particular individuals, which is yet another reason the proposed package is patently insufficient.

3. The Defendant's "Consent" to Extradition is Unenforceable and Impractical

The defendant's offer to sign a so-called "consent" to extradition provides no additional reassurance whatsoever. As an initial matter, the Government would need to find and re-arrest the defendant before such a waiver would even come into play. Moreover, even assuming the Government could locate and apprehend the defendant, numerous courts have recognized that such purported waivers are unenforceable and effectively meaningless because any defendant who signs such a purported waiver and then flees will assuredly contest the validity and/or voluntariness of the waiver, and will get to do so in the jurisdiction of his choosing (*i.e.*, the one to which he chose to flee). *See, e.g.*, *United States v. Morrison*, No. 16-MR-118, 2016 WL 7421924, at *4 (W.D.N.Y. Dec. 23, 2016); *United States v. Kazeem*, No. 15 Cr. 172, 2015 WL 4645357, at *3 (D. Or. Aug. 3, 2015); *United States v. Young*, Nos. 12 Cr. 502, 12 Cr. 645, 2013 WL 12131300, at *7 (D. Utah Aug. 27, 2013); *United States v. Cohen*, No. C 10-00547, 2010 WL 5387757, at *9 n.11 (N.D. Cal. Dec. 20, 2010); *United States v. Bohn*, 330 F. Supp. 2d 960, 961 (W.D. Tenn. 2004); *United States v. Stroh*, No. 396 Cr. 139, 2000 WL 1832956, at *5 (D. Conn. Nov. 3, 2000); *United States v. Botero*, 604 F. Supp. 1028, 1035 (S.D. Fla. 1985). . The Department of Justice's Office of International Affairs is unaware of any country anywhere in the world that would consider an anticipatory extradition waiver binding. And, of course, the defendant could choose to flee to a jurisdiction with which the United States does not have an extradition treaty.

Beyond being impossible to guarantee, extradition is typically a lengthy, complicated and expensive process, and the possibility that it would be successful neither provides any real deterrent to the defendant's incentive to flee nor any measure of justice to the victims who would be required to wait years for his return.

4. Home Confinement and Electronic Monitoring Provide No Assurance

The defendant's proposal of ankle-bracelet monitoring should be of no comfort to the Court. In particular, the defendant's endorsement of a GPS monitoring bracelet rather than a radio frequency bracelet is farcical because neither one is useful or effective *after it has been removed.* At best, home confinement and electronic monitoring would reduce his head start should he decide to cut the bracelet and flee. *See United States v. Zarger*, No. 00 Cr. 773, 2000 WL 1134364, at *1 (E.D.N.Y. Aug. 4, 2000) (rejecting defendant's application for bail in part because home detention with electronic monitoring "at best . . . limits a fleeing defendant's head start"); *see also United States v. Casteneda*, No. 18 Cr. 047, 2018 WL 888744, at *9 (N.D. Cal. Feb. 2018) (same); *United States v. Anderson*, 384 F. Supp.2d 32, 41 (D.D.C. 2005) (same); *United States v. Benatar*, No. 02 Cr. 099, 2002 WL 31410262, at *3 (E.D.N.Y. Oct. 10, 2002) (same).

5. Private Security is Inadequate, Unfair, and Impractical Here

The defendant also proposes the use of a private security force to march him to and from court under the threat of deadly force. This proposal should be rejected.

At the outset, it is far from clear that private jail, which seeks to replicate the conditions of a government-run detention facility in the defendant's home, is a condition of "release" that implicates the Bail Reform Act. "[T]here is a debate within the judiciary over whether a defendant, if she is able to perfectly replicate a private jail in her own home at her own cost, has a right to do so under the Bail Reform Act and the United States Constitution." *United States v. Valerio*, 9 F. Supp. 3d 283, 292 (E.D.N.Y. 2014) (Bianco, J.) (collecting cases). The Second Circuit has never directly addressed this issue. *See United States v. Sabhnani*, 493 F.3d 63, 78 n.18 (2d Cir. 2007) ("The government has not argued and, therefore, we have no occasion to consider whether it would be 'contrary to the principles of detention and release on bail' to allow wealthy defendants 'to buy their way out by constructing a private jail." (citations omitted)). Indeed, a decision by this Court reasoned that "the very severe restrictions" in the private jail proposal presented to him did "not appear to contemplate 'release' so much as it describes a very expensive form of private jail or detention." *United States v. Zarrab*, 2016 WL 3681423, at *10 (S.D.N.Y. June 16, 2016).

Courts have long been troubled by private jail proposals like the defendant's which, "at best 'elaborately replicate a detention facility without the confidence of security such a facility instills.'" *United States v. Orena*, 986 F.2d 628, 632 (2d Cir. 1993) (quoting *United States v. Gotti*, 776 F. Supp. 666, 672 (E.D.N.Y. 1991) (rejecting private jail proposal)); *see also Valerio*, 9 F. Supp. 3d at 295 ("The questions about the legal authorization for the private security firm to use force against defendant should he violate the terms of his release, and the questions over whether the guards can or should be armed, underscore the legal and practical uncertainties—indeed, the imperfections—of the private jail-like concept envisioned by defendant, as compared to the more secure option of an actual jail."). A private security firm simply cannot replicate the controlled environment of a federal correctional facility, in which, typically, all of the needs to the prisoner can be attended to without placing the prisoner in the community at large; the defendant's proposed private jail arrangement would have the effect of permanently placing him in just such a high-flight-risk circumstance. The risk of a public escape attempt while in the community and involving

armed private guards attempting to stop the defendant, potentially by force—rather than the defendant being in the environment of a federal facility—also greatly magnifies the danger of the defendant's flight to the public. *See United States v. Boustani*, 356 F. Supp. 3d 246, 257 (E.D.N.Y. 2019). "This is why, as the Government correctly notes, federal prisoners should be detained in facilities run by trained personnel from federal correctional facilities." *Id.* at 258 (citing *Sabhnani*, 493 F.3d at 74 n.13 ("To the extent [armed private guards] implies an expectation that deadly force may need to be used to assure defendant['s] presence at trial ... [s]uch a conclusion would, in fact, demand a defendant's detention")).

The Second Circuit has held it is not legal error "for a district court to decline to accept," as "a substitute for detention," a defendant hiring private security guards to monitor him. *United States v. Banki*, 369 Fed. App'x 152, 153-54 (2d Cir. 2010). In the same decision, the Second Circuit noted that it was "troubled" by the possibility of "allow[ing] wealthy defendants to buy their way out by constructing a private jail." (internal quotation marks omitted)). *Id.*; *accord, e.g.*, *United States* v. *Cilins*, No. 13 Cr. 315 (WHP), 2013 WL 3802012, at *3 (S.D.N.Y. July 19, 2013) ("'it is contrary to underlying principles of detention and release on bail that individuals otherwise ineligible for release should be able to buy their way out by constructing a private jail, policed by security guards not trained or ultimately accountable to the Government, even if carefully selected'" (quoting *Borodin* v. *Ashcroft*, 136 F. Supp. 2d 125, 134 (E.D.N.Y. 2001))); *Valerio*, 9 F. Supp. 3d at 293-94 (E.D.N.Y. 2014) ("There is nothing in the Bail Reform Act that would suggest that a defendant (or even, hypothetically, a group of defendants with private funding) has a statutory right to replicate or construct a private jail in a home or some other location.").

The defendant's payment of his guards also raises the conflict of interest inherent in having the defendant having extraordinary influence over a private security company tasked with guarding him, leaving the company's incentives entirely aligned with the defendant. *See*, *e.g.*, *Boustani*, 356 F. Supp. 3d at 257 (in finding that private armed guards would not reasonably assure the appearance of a defendant, noting a "clear conflict of interest—private prison guards paid by an inmate" and noting that in a recent S.D.N.Y. case involving private security guards the defendant "was outside of his apartment virtually all day, every weekday; was visited by a masseuse for a total of 160 hours in a 30-day period; and went on an unauthorized visit to a restaurant in Chinatown with his private guards in tow"); *see also United States v. Tajideen*, 17 Cr. 046, 2018 WL 1342475, at *5-6 (D.D.C. Mar. 15, 2018) (finding *Zarrab* "particularly instructive" and further noting: "While the Court has no reason to believe that the individuals selected for the defendant's security detail would intentionally violate federal law and assist the defendant in fleeing the Court's jurisdiction, it nonetheless is mindful of the power of money and its potential to corrupt or undermine laudable objectives. And although these realities cannot control the Court's ruling, they also cannot be absolutely discounted or ignored.").

Finally, in *Zarrab* this Court found that "the Defendant's privately funded armed guard proposal is unreasonable because it helps to foster inequity and unequal treatment in favor of a very small cohort of criminal defendants who are extremely wealthy, such as Mr. Zarrab." 2016 WL 3681423, at *13; *see also Boustani*, 356 F. Supp. 3d at 258 ("although this Defendant has vast financial resources to construct his own 'private prison,' the Court is not convinced 'disparate treatment based on wealth is permissible under the Bail Reform Act'") (quoting *United States v.*

Bruno, 89 F. Supp. 3d 425, 432 (E.D.N.Y. 2015) (""Even if Defendant had the financial capacity to replicate a private jail within his own home, this Court is not convinced that such a set of conditions would be sufficiently effective in this case to protect the community from Defendant, or that such disparate treatment based on wealth is permissible under the Bail Act.")); *Borodin*, 136 F. Supp. 2d at 134 (E.D.N.Y. 2001) (Nickerson, J.) ("It is contrary to underlying principles of detention and release on bail that individuals otherwise ineligible for release should be able to buy their way out by constructing a private jail, policed by security guards not trained or ultimately accountable to the government, even if carefully selected.").

If the defendant's appearance can only be assured through use of round-the-clock guards, the defendant belongs in a federal detention center, not released under bail conditions that effectively create a private prison of one, using guards to be paid by the defendant himself. It is frankly outrageous for the defendant to suggest that preventing him from using his vast wealth to duplicate a private prison that cannot control, monitor, and contain him consistent with the requirements of the Bail Act would cause him to somehow "bear a *special disadvantage*." Release Motion at 12 n.9. Indeed: "What more compelling case for an order of detention is there than a case in which only an armed guard and the threat of deadly force is sufficient to assure the defendant's appearance?" *Zarrab*, 2016 WL 3681432, at *12 (quoting *United States v. Valerio*, 9 F. Supp. 3d at 295).

III. The Defendant Provides No Assurance He is Not a Danger to the Community and a Risk to Obstruct Justice

A. Danger to the Community

In the first instance, the defendant's argument that 14 years without a criminal conviction eliminates "any danger presumption" should be rejected. Were that the case—which is certainly is not—a lack of criminal record for any defendant would automatically rebut the presumption applicable to crimes such as sex trafficking. That is manifestly incorrect. *See United States v. Artis*, 607 F. App'x 95, 97 (2d Cir. 2015) (finding that a defendant's lack of criminal record was "not so compelling as to defeat the presumption or to manifest clear error in the district court's determination that no combination of release conditions . . . could reasonably assure against dangerousness and the risk of flight"). Moreover, here, the defendant not only has a criminal record, but has been convicted of a sex crime involving a minor.

But the ongoing and forward-looking danger posed by the defendant is further demonstrated by the defendant's maintenance of a substantial collection of photographic trophies of his victims and other young females in his mansion, as discovered by the Government through its search warrants. As indicated in the Detention Memo, the many discs found in the defendant's residence included those with hand-written labels including the following: "Young [Name] + [Name]," "Misc nudes 1," and "Girl pics nude." Not surprisingly, the Government has found that such discs contain photographs of sexually suggestive photographs of fully- or partially-nude females appearing to be underage.

B. Danger to Obstruct Justice

The defendant has also already demonstrated a willingness to use intimidation and aggressive tactics in connection with a criminal investigation. Far from being "musty," Release Motion at 6 n.6, the defendant's past behavior in connection with being *investigated* for sexually abusing children is the best predictor of his likely incentives and activities in connection with being *charged* with sexually abusing children. For example, in the incident the defendant now claims was not attributable to or authorized by him, the contemporaneous police report indicates that pressure tactics were *at the very least* coordinated closely with individuals in the defendant's orbit. *See* Palm Beach Police Report (the "Police Report") (Ex. B). According to the Police Report, the parent of one of the defendant's victims was driven off the road by a private investigator. The Police Report provides further information regarding victim and witness threats and intimidation reported against an individual who was directly in contact with an assistant of the defendant, followed "immediately" by a call to that same individual from a phone number associated with the defendant's businesses and associates.

Separately, and in addition, there are also extensive allegations of obstruction and tampering in connection with civil lawsuits brought against the defendant following his 2008 conviction. *See Doe v. United States*, 08 Civ. 80736 (S.D. Fla.), Dkt. 291-15 at 21-23, 31. Moreover, police reports suggest that an associate of Epstein's was offering to buy victims' silence during the course of the prior investigation. Specifically, one victim reported that "she was personally contacted through a source that has maintained contact with Epstein," who "assured [the victim] that she would receive monetary compensation for her assistance in not cooperating with law enforcement." Indeed, the victim reported having been told: "*Those who help him will be compensated and those who hurt him will be dealt with.*" *See* Palm Beach Police Report (Ex. C).

And Epstein's efforts to influence witnesses continue to this day. As in the past, within recent months. he paid significant amounts of money to influence individuals who were close to him during the time period charged in this case and who might be witnesses against him at a trial. By way of background, on or about November 28, 2018, the *Miami Herald* began publishing a series of articles relating to the defendant, his conduct, and the circumstances of his prior conviction and the non-prosecution agreement ("NPA"). Records obtained by the Government from Institution-1 appear to show that just two days later, on or about November 30, 2018, the defendant wired $100,000 from a trust account he controlled to an individual named as a possible co-conspirator in the NPA. The same records appear to show that just three days after that, on or about December 3, 2018, the defendant wired $250,000 from the same trust account to another individual named as a possible co-conspirator in the NPA and also identified as one of the defendant's employees in the Indictment. Neither of these payments appears to be recurring or repeating during the approximately five years of bank records presently available to the Government. This course of action, and in particular its timing, suggests the defendant was attempting to further influence co-conspirators who might provide information against him in light of the recently re-emerging allegations

IV. The Defendant Raises Legal Arguments Not Relevant Here

Finally, the defendant raises certain legal arguments he contends he will litigate at the appropriate stage and which he further suggests mitigate in favor of bail. None is meritorious, and certainly none should give the Court any comfort whatsoever that the defendant would, if granted bail, refrain from fleeing so he could attempt to vindicate himself via dubious legal strategies. Nevertheless, the Government will address the defendant's arguments briefly in turn.

A. The Non-Prosecution Agreement Does Not Preclude Prosecution

As an initial matter, as the Court itself noted at the parties' initial appearance earlier this week, and as the defendant appears to concede, the instant Indictment charges conduct well beyond the scope of the NPA – that is, alleged conduct that occurred here in New York and involving New York based victims. D. Tr. 6-8; Release Motion at 2. For present purposes, that alone is sufficient to put this issue to rest, because even assuming the defendant were to mount a meritorious challenge to the NPA, he would still have to stand trial on Count Two of the Indictment and additional charges brought based on New York conduct.

But more generally, the reasons the defendant can be prosecuted in the Southern District of New York—or anywhere else outside the SDFL—are manifold. The language of the NPA overwhelmingly refers to the SDFL, and the core terms and text of the agreement are limited to the SDFL. The prefatory language states: "THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution ***in this District for these offenses*** shall be deferred in favor of prosecution by the State of Florida."[7] The final paragraph of the prefatory language also states, among other things, that after fulfilling the terms of the agreement, "no prosecution for the [sex abuse] offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted ***in this District***."

In its terms section, the NPA further states that Epstein's signature "is not to be construed as an admission of civil ***or criminal liability*** or a waiver of any jurisdictional or other defense" as to any victim whose identity was not disclosed by SDFL to Epstein, as provided for in the NPA, and additionally states that neither Epstein's signature nor any resulting waivers or civil settlements "are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person." These provisions show the parties contemplated possible criminal prosecutions in other jurisdictions and/or based on victims not initially identified in the Florida investigations (whether in Florida or elsewhere). The final substantive paragraph of the NPA states that "Epstein hereby requests that the ***United States Attorney for the Southern District of Florida*** defer [. . .] prosecution."

It is well settled in the Second Circuit that "a plea agreement in one U.S. Attorney's office does not, unless otherwise stated, bind another." *United States v. Prisco*, 391 F. App'x 920, 921

[7] All emphases relating to the NPA are added unless otherwise specified.

(2d Cir. 2010) ("A plea agreement binds only the office of the United States Attorney for the district in which the plea is entered unless it affirmatively appears that the agreement contemplates a broader restriction.") (citing *United States v. Annabi,* 771 F.2d 670, 672 (2d Cir. 1985) (per curiam)). Moreover, any references in an NPA to the "Government" or the "United States" do not abrogate these principles. *Annabi*, 771 F.2d at 672 ("[A] plea agreement whereby a federal prosecutor agrees that 'the Government' will dismiss counts of an indictment . . . might be thought to bar the United States from reprosecuting the dismissed charges in any judicial district unless the agreement expressly limits the scope of the agreement . . . . However, the law has evolved to the contrary."). "The mere use of the term 'government' in the plea agreement does not create an affirmative appearance that the agreement contemplated barring districts other than the particular district entering into the agreement." *United States v. Salameh*, 152 F.3d 88, 120 (2d Cir. 1998) (citations and internal quotation marks omitted); *see also United States v. Brown*, No. 99-1230, 2002 WL 34244994, at *2 (2d Cir. Apr. 26, 2002) (in analyzing an SDFL plea agreement, reiterating the holding of *Annabi* and noting that it applies "even if the plea agreement purports to bind 'the Government'" or the "United States") (summary order); *United States v. Bruno*, 159 F. Supp. 3d 311, 321 (E.D.N.Y. 2016) ("The Court disagrees with Defendant's argument that the phrase 'United States' shows an intent to bind all United States Attorney's Offices. Rather, the plea agreement covers only Defendant's liability in the SDFL."). [8]

In sum, this issue is a distraction that has little relevance to the bail determination and does nothing to address the defendant's risk of flight or mitigate the danger he poses to the community.

B. The Defendant Wrongly Argues the Statute Does Not Apply to His Sex Trafficking

Next, the defendant wrongly argues that the "principal conduct" giving rise to the charges is his payment of underage girls for sex acts, and that such conduct could not possibly fall under the charged statutes. As the defendant implicitly concedes, Release Motion at 14, this is an issue for a motion to dismiss. Nevertheless, the defendant's argument is incorrect for two reasons.

First, although the defendant undoubtedly participated on the demand side of the crime, he was also instrumental on the supply side given his role in recruiting and causing others to recruit additional victims. He organized, funded, and perpetuated a sex trafficking *scheme* in two states, including with co-conspirators. The fact that he did so for his own eventual and frequent sexual gratification does not vitiate his role in enticing and recruiting victims, consistent with the elements of the offense with which he is charged. The defendant was the leader of a sex-trafficking enterprise, not a mere consumer.

[8] This analysis similarly extends to a non-prosecution agreement. *See United States v. Laskow*, 688 F. Supp. 851, 854 (E.D.N.Y. 1988) ("Defendant's argument, in effect, is that unless there is an explicit statement to the contrary, it is presumed that a non-prosecution agreement binds offices of the United States Attorney that are not parties to the agreement. This position is at odds with the law in this Circuit, which presumes a narrow reading of the boundaries of a plea agreement unless a defendant can affirmatively establish that a more expansive interpretation was contemplated.") (citing *Annabi*, 771 F.2d at 672).

Second, he is also wrong on the law. Courts have found that Section 1591 applied to both suppliers and consumers of commercial sex acts. *See, e.g.*, *United States v. Jungers*, 702 F.3d 1066, 1069 (8th Cir. 2013) (upholding the conviction of a defendant who attempted to pay for oral sex from an underage girl and explaining: "The sole issue raised on appeal is whether '[t]he plain and unambiguous provisions of 18 U.S.C. § 1591 apply to both suppliers and consumers of commercial sex acts.' We conclude they do.") (alteration in original). The lone case cited by the defendant, *Fierro v. Taylor*, No. 11 Civ. 8573, 2012 WL 13042630 (S.D.N.Y. July 2, 2012), relied heavily on the statutory interpretation undertaken by two district courts in the District of South Dakota, *United States v. Bonestroo*, No. 11 Cr. 40016, 2012 WL 13704 (D.S.D. Jan. 4, 2012), and *United States v. Jungers*, 11 Cr. 40018, 2011 WL 6046495 (D.S.D. Dec. 5, 2011), both of which were explicitly overruled by the Eighth Circuit decision in *Jungers*, 702 F.3d 1066. In the seven years since *Fierro* has been decided, it does not appear to have been cited by a single other court. Additionally, other cases in this Circuit and elsewhere have upheld convictions of procurers or customers. *See United States v. O'Connor*, 650 F.3d 839 (2d Cir. 2011) (upholding convictions under Section 1591 of both the buyer and seller of a child); *United States v. Cook*, 782 F.3d 983 (8th Cir. 2015) (rejecting a constitutional challenge that Section 1591 would be void for vagueness if applied to purchasers); *United States v. Mikoloyck*, No. 09 Cr. 036, 2009 WL 4798900 (W.D. Mo. Dec. 7, 2009) ("contrary to defendant's argument, 18 U.S.C. § 1591 clearly applies to those who attempt to purchase underage sex, not merely the pimps of actual exploited children") (citing *United States v. Roberts*, 174 F. App's 475 (11th Cir. 2006) (in which defendant was convicted under sections 1591(a) and 1594(a) even though no actual children were involved)).

CONCLUSION

As set forth above, the defendant's proposed bail package is insufficient and insubstantial. Pretrial Services, victims, and the Government all recommend pretrial detention due to the unusual and concerning confluence of factors in this case, including the defendant's extraordinary wealth, demonstrated willingness to interfere with victims and witnesses, continued possession of lewd photographs of young females, and both the incentive and means to flee prosecution.

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney

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U.S. Department of Justice

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July 8, 2019

VIA ECF

The Honorable Henry Pitman
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States* v. *Jeffrey Epstein*, 19 Cr. 490 (RMB)

Dear Judge Pitman:

The Government respectfully submits this letter in advance of the bail hearing scheduled for July 8, 2019, in the above-captioned case. For the reasons set forth herein, the Court should order that the defendant be detained pending trial; he cannot meet his burden of overcoming the presumption that there is no combination of conditions that would reasonably assure his continued appearance in this case or protect the safety of the community were he to be released.

As set forth below, the charges in this case are exceptionally serious: the defendant is alleged to be a serial sexual predator who preyed on dozens of minor girls over a period of years, and he now faces a potentially massive prison sentence predicated on substantial and multifaceted evidence of his guilt. In light of the strength of the Government's evidence and the substantial incarceratory term the defendant would face upon conviction, there is an extraordinary risk of flight, particularly given the defendant's exorbitant wealth, his ownership of and access to private planes capable of international travel, and his significant international ties. Indeed, the arrest of the defendant occurred when he arrived in the United States on his private jet after having returned from a multi-week stay abroad.

Finally, and as detailed herein, the Government has real concerns—grounded in past experience with this defendant—that if allowed to remain out on bail, the defendant could attempt to pressure and intimidate witnesses and potential witnesses in this case, including victims and their families, and otherwise attempt to obstruct justice. As a result, he poses both an acute danger to the community, including some of its most vulnerable members, and a significant risk of flight. The defendant thus cannot overcome the statutory presumption that detention is appropriate in this case, and the Court should order that he be detained pending trial.

BACKGROUND

A. Overview

On July 2, 2019, a federal grand jury in the Southern District of New York returned a sealed indictment (the "Indictment") charging the defendant with one count of sex trafficking of minors, in violation of 18 U.S.C. § 1591, and one count of conspiracy to commit sex trafficking of minors, in violation of 18 U.S.C. § 371.

As charged by the grand jury, the facts underlying the charges in the Indictment arise from a years-long scheme to sexually abuse underage girls. In particular, beginning in at least 2002, the defendant enticed and recruited dozens of minor girls to engage in sex acts with him, for which he paid the victims hundreds of dollars in cash.

He undertook this activity in at least two different locations, including his mansion in Manhattan, New York (the "New York Residence") and his estate in Palm Beach, Florida (the "Palm Beach Residence"). In both New York and Florida, the defendant perpetuated this abuse in similar ways. Victims were initially recruited to provide "massages" to the defendant, which would be performed nude or partially nude, would become increasingly sexual in nature, and would typically include one or more sex acts, including groping and direct or indirect contact with victims' genitals. The defendant paid his victims hundreds of dollars in cash for each separate encounter.

Moreover, the defendant actively encouraged certain of his victims to recruit additional girls to be similarly sexually abused. He incentivized his victims to become recruiters by paying these victim-recruiters hundreds of dollars for each additional girl they brought to him. In this fashion, the defendant created a vast network of underage victims for him to exploit, in locations including New York and Palm Beach.

The defendant's victims were as young as 14 years old when he abused them. Many of his victims were, for various reasons, often particularly vulnerable to exploitation. The defendant intentionally sought out—and knew that he was abusing—minors. Indeed, in some instances, his victims expressly told him they were underage before or during the period in which he abused them.

In creating and maintaining a network of minor victims whom he abused, the defendant worked with others, including employees and associates who facilitated his exploitation of minors by, among other things, contacting victims and scheduling their sexual encounters with the defendant, both in New York and in Florida.

B. The Defendant

Jeffrey Epstein designed, financed, and perpetrated this scheme, both as its main participant and through his direction of others, including certain of his employees, to further facilitate his rampant abuse of underage girls.

As has been widely reported, the defendant is extraordinarily wealthy, and he owns and maintains luxury properties and residences around the world, including in Manhattan, New York; Palm Beach, Florida; Stanley, New Mexico; and Paris, France. Additionally, Epstein owns a private island in the U.S. Virgin Islands which, as noted above, is believed to be his primary residence in the United States. His mansion in Manhattan alone—a multi-story townhouse reported to be one of the largest single residences in all of Manhattan, which previously housed a school and which he owns through an LLC—has been valued at approximately $77 million. Entities controlled by the defendant also own at least two private jets in active service, at least one of which is capable of intercontinental travel.

As described further below, the defendant possesses three active United States passports, and his international connections and travels are extensive. For example, in addition to maintaining a residence in Paris, France, as described above, in the past 18 months alone, the defendant has traveled abroad, via private jet, either into or out of the country on approximately more than 20 occasions.

C. The Prior Florida Investigation

In or about 2005, the defendant was investigated by local police in Palm Beach, Florida, in connection with allegations that he had committed similar sex offenses against minor girls. The investigation ultimately also involved federal authorities, namely the U.S. Attorney's Office for the Southern District of Florida ("SDFL") and the FBI's Miami Office, and included interviews with victims based in the Palm Beach area, including some of the alleged victims relevant to Count One of the instant Indictment.[1]

In fall 2007, the defendant entered into a non-prosecution agreement with the SDFL in connection with the conduct at issue in that investigation, which the non-prosecution agreement identified as including investigations into the defendant's abuse of minor girls in the Palm Beach area. The Southern District of New York was not a signatory to that agreement, and the defendant was never charged federally.[2] In June 2008, the defendant pled guilty in state court to one count of procuring a person under the age of 18 for prostitution, a felony, and one count of solicitation of prostitution, a felony. As a result, the defendant was designated as a sex offender with registration requirements under the national Sex Offender Registration and Notification Act.

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[1] The non-prosecution agreement, further discussed below, was entered into at the conclusion of the SDFL investigation and did not purport to cover any victims outside of the State of Florida. As noted above, the instant Indictment expressly alleges the existence of dozens of victims who were abused in this District in addition to dozens of victims who were abused in Florida.

[2] While beyond the scope of a bail hearing, as discussed further below, it is well-established in the Second Circuit that absent an express provision to the contrary in the agreement, one District is not bound by the terms of an agreement entered into between a defendant and a U.S. Attorney's Office in another district. *See* page 6, *infra.*

ARGUMENT

I. Applicable Law

Under the Bail Reform Act, 18 U.S.C. §§ 3141 et seq., federal courts are empowered to order a defendant's detention pending trial upon a determination that the defendant is either a danger to the community or a risk of flight. 18 U.S.C. § 3142(e) ("no condition or combination of conditions would reasonably assure the appearance of the person as required and the safety of any other person and the community"). A finding of risk of flight must be supported by a preponderance of the evidence. *See*, *e.g.*, *United States v. Jackson*, 823 F.2d 4, 5 (2d Cir. 1987); *United States v. Chimurenga*, 760 F.2d 400, 405 (2d Cir. 1985). A finding of dangerousness must be supported by clear and convincing evidence. *See*, *e.g.*, *United States v. Ferranti*, 66 F.3d 540, 542 (2d Cir. 1995); *Chimurenga*, 760 F.2d at 405. In addition, a court may also order detention if there is "a serious risk that the [defendant] will . . . attempt to obstruct justice, or . . . to threaten, injure, or intimidate, a prospective witness or juror." 18 U.S.C. § 3142(f)(2)(B); *see also United States v. Friedman*, 837 F.2d 48 (2d Cir. 1988).

The Bail Reform Act lists four factors to be considered in the detention analysis: (1) the nature and circumstances of the crimes charged; (2) the weight of the evidence against the person; (3) the history and characteristics of the defendant, including the person's "character . . . [and] financial resources"; and (4) the seriousness of the danger posed by the defendant's release. *See* 18 U.S.C. § 3142(g). Evidentiary rules do not apply at detention hearings and the government is entitled to present evidence by way of proffer, among other means. *See* 18 U.S.C. § 3142(f)(2); *see also United States v. LaFontaine*, 210 F.3d 125, 130-31 (2d Cir. 2000) (government entitled to proceed by proffer in detention hearings); *Ferranti*, 66 F.3d at 542 (same); *United States v. Martir*, 782 F.2d 1141, 1145 (2d Cir. 1986) (same).

Where a judicial officer concludes after a hearing that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial." 18 U.S.C. § 3142(e)(1). Additionally, where, as here, a defendant is charged with committing an offense involving a minor victim under 18 U.S.C. § 1591, it shall be presumed, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community. 18 U.S.C. § 3142(e)(3)(E).

II. Discussion

The defendant should be detained pending trial. For the reasons set forth below, it is difficult to overstate the risk of flight and danger to the community if the defendant is released, and for those reasons, the defendant cannot overcome the statutory presumption in favor of detention in this case.

A. The Defendant Poses an Extreme Flight Risk

Each of the relevant factors to be considered as to flight risk – the nature and circumstances of the offense, the strength of the evidence, and the history and characteristics of the defendant – counsel strongly in favor of detention.

1. The Nature and Circumstances of the Offense and the Strength of the Evidence

The "nature and circumstances" of this offense plainly favor detention. 18 U.S.C. § 3142(g)(1) (specifically enumerating "whether the offense. . . involves a minor victim" as a factor in bail applications). Indeed, the crime of sex trafficking of a minor is so serious that for a defendant charged with that offense, there is a presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community. 18 U.S.C. § 3142 (e)(3)(E). Here, as specified in the Indictment, the defendant's conduct was committed serially, over a period of years, and affected dozens of victims.

The seriousness of the charge is also reflected in the penalties the defendant faces, which include up to 45 years of incarceration for Counts One and Two of the Indictment.[3] As the Second Circuit has noted, the possibility of a severe sentence is a significant factor in assessing the risk of flight. *See Jackson*, 823 F.2d at 7; *see also United States v. Cisneros*, 328 F.3d 610, 618 (10th Cir. 2003) (defendant was a flight risk because her knowledge of the seriousness of the charges against her gave her a strong incentive to abscond); *United States v. Townsend*, 897 F.2d 989, 995 (9th Cir. 1990) ("Facing the much graver penalties possible under the present indictment, the defendants have an even greater incentive to consider flight."). Here, the defendant is facing a statutory maximum of decades in prison. Even in the absence of means—which, as discussed in detail below, the defendant has in abundance—this fact alone would provide a compelling incentive for anyone to fail to appear. It is particularly compelling for a defendant who is 66 years old and therefore faces the very real prospect of spending the rest of his life in prison if convicted.

The likelihood of a substantial period of incarceration is buttressed by the strength of the evidence. As set forth in the Indictment, the evidence in this case is strong. The Indictment alleges that the defendant sexually abused dozens of minor victims, and the conspiracy count lists numerous overt acts committed in furtherance of the defendant's crimes.[4]

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[3] The current penalties for violations of 18 U.S.C. § 1591 include a 10 year mandatory minimum sentence. However, that punishment was created through an amendment to the statute in 2006. The penalty for a violation of Section 1591 during the period charged in the Indictment, and therefore relevant here, was a maximum of 40 years' imprisonment.

[4] With respect to the evidence in this case, the Court should start its analysis by accepting that the Indictment is sufficient, on its own, to establish probable cause that the defendant committed the crimes of sex trafficking and sex trafficking conspiracy. *Contreras*, 776 F.2d at 54. ("Were an evidentiary hearing addressing the existence of probable cause required in every § 3142(e) case in which an indictment had been filed, the court would spend scarce judicial resources considering that which a grand jury had already determined, and have less time to focus on the application of

Multiple victims, including several specified in the Indictment, have provided information against the defendant. That information is detailed, credible, and corroborated, in many instances, by other witnesses and contemporaneous documents, records and other evidence—including, as further detailed below, evidence from a search of the New York Residence on the night of the defendant's arrest that reflects an extraordinary volume of photographs of nude and partially-nude young women or girls. Such corroborating evidence also includes documents and other materials, such as contemporaneous notes, messages recovered from the defendant's residence that include names and contact information for certain victims, and call records that confirm the defendant and his agents were repeatedly in contact with various victims during the charged period. Put simply, all of this evidence – the voluminous and credible testimony of individuals who were sexually abused by the defendant as minors, each of whom are backed up by other evidence – will be devastating evidence of guilt at any trial in this case and weighs heavily in favor of detention.

Finally, it bears noting that neither the age of the conduct nor the defendant's previous non-prosecution agreement ("NPA") with a different federal district pose any impediment to his conviction. As an initial matter, all of the conduct is timely charged, pursuant to 18 U.S.C. § 3283, which was amended in 2003 to extend the limitations period for conduct that was timely as of the date of the amendment, to any time during the lifetime of the minor victim. *See United States v. Chief*, 438 F.3d 920, 922-25 (9th Cir. 2006) (finding that because Congress extended the statute of limitations for sex offenses involving minors during the time the previous statute was still running, the extension was permissible); *United States v. Pierre-Louis*, No. 16 Cr. 541 (CM), 2018 WL 4043140, at *1 (S.D.N.Y. Aug. 9, 2018) (same).

Moreover, with respect to the NPA, that agreement, to which the Southern District of New York was not a party, which by its express language pertained exclusively to the SDFL investigation, and which did not purport to bind any other Office or District, does not preclude prosecution in this District for at least two reasons. *First,* it is well settled in the Second Circuit that "a plea agreement in one U.S. Attorney's office does not, unless otherwise stated, bind another." *United States v. Prisco*, 391 F. App'x 920, 921 (2d Cir. 2010) ("A plea agreement binds only the office of the United States Attorney for the district in which the plea is entered unless it affirmatively appears that the agreement contemplates a broader restriction.") (citing *United States v. Annabi,* 771 F.2d 670, 672 (2d Cir. 1985) (per curiam)). This is true even if the text of the agreement purports to bind "the Government." *See Annabi*, 771 F.2d at 672. This analysis similarly extends to a non-prosecution agreement. *See United States v. Laskow*, 688 F. Supp. 851, 854 (E.D.N.Y. 1988) ("Defendant's argument, in effect, is that unless there is an explicit statement to the contrary, it is presumed that a non-prosecution agreement binds offices of the United States Attorney that are not parties to the agreement. This position is at odds with the law in this Circuit, which presumes a narrow reading of the boundaries of a plea agreement unless a defendant can affirmatively establish that a more expansive interpretation was contemplated.") (citing *Annabi*, 771 F.2d at 672). *Second*, the Indictment charges conduct not covered by the NPA, namely

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the presumptions and the § 3142(g) factors in deciding whether the defendant should be detained.").

conduct that occurred in New York. The prior NPA included a list of several dozen victims identified in the prior investigation, all of whom were abused in the State of Florida, and none of whom are a part of the conduct charged in Count Two of the instant Indictment.

Each of these factors—the seriousness of the allegations, the strength of the evidence, and the possibility of lengthy incarceration—creates an extraordinary incentive to flee. And as further described below, the defendant has the means and money to do so.

2. The Characteristics of the Defendant

The history and characteristics of the defendant also strongly support detention. The defendant is extraordinarily wealthy and has access to vast financial resources to fund any attempt to flee. Indeed, his potential avenues of flight from justice are practically limitless.

As the defendant acknowledged in his most recent New York State sex offender registration, he has *six* residences, including two in the U.S. Virgin Islands (including his own private island), and one each in Palm Beach, Florida; Paris, France; New York, New York; and Stanley, New Mexico. The most recent estimated value of the defendant's New York City mansion alone is more than $77 million. The most recent tax-assessed value of the defendant's Palm Beach estate is more than $12 million. The defendant's primary residence is a *private island* in the U.S. Virgin Islands, a place where any sort of meaningful supervision would be all but impossible.

Moreover, the defendant has access to innumerable means to flee. His sex registration documentation of "current vehicles" lists no fewer than 15 motor vehicles, including seven Chevrolet Suburbans, a cargo van, a Range Rover, a Mercedez-Benz sedan, a Cadillac Escalade, and a Hummer II. These cars are registered in various states and territories including the Virgin Islands, New York, Florida, and New Mexico. The defendant also has access to two private jets, giving him the ability to leave the country secretly and on a moment's notice and to go virtually anywhere he wants to travel. He is a very frequent international traveler and regularly travels to and from the United States by private plane. In particular, between January 1, 2018, and the present, U.S. Customs and Border Patrol has logged approximately more than 20 flights in which Epstein was traveling to or from a foreign country. Indeed, he was arrested at Teterboro Airport arriving on just such a private international flight after having spent approximately three weeks abroad. Extensive international travel of this nature further demonstrates a significant risk of flight. *See*, *e.g.*, *United States v. Anderson*, 384 F. Supp. 2d 32, 36 (D.D.C. 2005). There can be no assurance that, upon release, the defendant would suddenly lack access to such means of travel.

Finally, the defendant has no meaningful ties that would keep him in this country. The defendant has no known immediate family. He is not married and has no children. He has friends and associates worldwide, as demonstrated by his extensive international travel, and his professional obligations, if any, can and seemingly are plainly capable of being handled by the defendant remotely. Simply put, there would be no meaningful reason for the defendant to remain in the country, while he would have every incentive (and every resource needed) to flee.

Nor would home confinement with electronic monitoring reasonably assure the defendant's presence as required. At best, home confinement with electronic monitoring would

merely reduce his head start should he decide to flee. *See United States v. Zarger*, No. 00 Cr. 773, 2000 WL 1134364, at *1 (E.D.N.Y. Aug. 4, 2000) (Gleeson, J.) (rejecting defendant's application for bail in part because home detention with electronic monitoring "at best . . . limits a fleeing defendant's head start"); *see also United States v. Casteneda*, No. 18 Cr. 047, 2018 WL 888744, at *9 (N.D. Cal. Feb. 2018) (same); *United States v. Anderson*, 384 F.Supp.2d 32, 41 (D.D.C. 2005) (same); *United States v. Benatar*, No. 02 Cr. 099, 2002 WL 31410262, at *3 (E.D.N.Y. Oct. 10, 2002) (same).

Finally, there can be little doubt that the defendant is in a position to abandon millions of dollars in cash and property securing any potential bond and still live comfortably for the rest of his life. These resources, and the ease with which the defendant could flee and live outside the reach of law enforcement—particularly considering his vast wealth and lack of meaningful ties to this District—make the risk of flight exceptionally high in this case, particularly when considered in conjunction with the strength of the government's case and the lengthy sentence the defendant could receive if convicted.

B. The Defendant Poses a Risk of Danger to the Community and of Engaging in Obstruction of Justice

The release of the defendant, under any conditions, would pose a significant threat to the community and to the ongoing investigation.

As described above, where there is probable cause to believe that an individual has committed an offense under 18 U.S.C. § 1591, it is presumed that no condition or combination of conditions can reasonably assure the safety of the community. 18 U.S.C. § 3142(e)(3). Here, not only is the defendant charged with very serious sex crimes against minors, he has already previously admitted to—and been convicted of—engaging in related conduct. Specifically, in June 2008, the defendant pled guilty in state court to one count of procuring a person under the age of 18 for prostitution, a felony, and he currently is a registered sex offender, under classification level three in New York—defined as presenting a "high" risk of committing another sex crime and harm to the community. While the conduct presently alleged does not post-date the 2008 conviction, it nevertheless underscores the risk he poses to the community if released.

Additionally, and in connection with the investigation of the defendant's offense in Florida, there were credible allegations that the defendant engaged in witness tampering, harassment, or other obstructive behaviors. In fact, according to publicly-filed court documents, there were discussions between prosecutors and the defendant's then-counsel about the possibility of the defendant pleading guilty to counts relating to "obstruction," as well as "harassment," with reference to 18 U.S.C. § 1512, which criminalizes "[t]ampering with a witness, victim, or informant." For example, in a communication from the defendant's then-counsel to prosecutors in SDFL, his counsel set forth a possible factual proffer that included statements that the defendant had "attempted to harass both [redacted] delay and hinder their receipt of a [redacted] to attend an official proceeding" and that the defendant "in particular, changed travel plans and flew with both [redacted] to the United States Virgin Islands rather than to an airport in New Jersey in order to attempt to delay their receipt of what Mr. Epstein expected to be a [redacted]" and "further verbally

harassed both [redacted] in connection to this attempt to delay their voluntary receipt of process all in violation of 18 USC 1512(d)(1)."[5] *Doe v. United States*, 08 Civ. 80736 (S.D. Fla.), Dkts. 361 at 3-4, 361-7 through 361-11. In addition to 18 U.S.C. § 1512(d), prosecutors also proposed that the defendant could plead guilty to 18 U.S.C. § 403, that is, a knowing or intentional violation of the privacy protection of child victims and child witnesses, to which the defendant's then-counsel replied: "Already thinking about the same statutes." *Id.* Dkt. 361-11. They also discussed a possible obstruction plea that "could rely on the incident where Mr. Epstein's private investigators followed [redacted] father, forcing off the road." *Id.* Dkt. 361-10.

The defendant's apparent previous willingness to obstruct a federal investigation, harass or tamper with witnesses, and hire private investigators that "*forc[ed] off the road*" the father of an individual relevant in the investigation is alarming. It should especially weigh on the Court's consideration here because the defendant was apparently willing to take those steps *before* even being charged and thus facing federal indictment; the incentive to interfere in the Government's case here, where an Indictment has been returned, is exponentially greater. And as discussed above, the defendant has nearly limitless means to do so.

Finally, despite having been previously convicted of a sex offense involving an underage victim, the defendant has continued to maintain a vast trove of lewd photographs of young-looking women or girls in his Manhattan mansion. In a search of the New York Residence on the night of his arrest, on July 6-7, 2019, pursuant to judicially-authorized warrants, law enforcement officers discovered not only specific evidence consistent with victim recollections of the inside of the mansion, further strengthening the evidence of the conduct charged in the Indictment, but also at least hundreds—and perhaps thousands—of sexually suggestive photographs of fully- or partially-nude females. While these items were only seized this weekend and are still being reviewed, some of the nude or partially-nude photographs appear to be of underage girls, including at least one girl who, according to her counsel, was underage at the time the relevant photographs were taken. Additionally, some of the photographs referenced herein were discovered in a locked safe, in which law enforcement officers also found compact discs with hand-written labels including the following: "Young [Name] + [Name]," "Misc nudes 1," and "Girl pics nude." The defendant, a registered sex offender, is not reformed, he is not chastened, he is not repentant;[6] rather, he is a continuing danger to the community and an individual who faces devastating evidence supporting deeply serious charges.

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[5] The redactions above are contained in the publicly filed version of the quoted document.

[6] *See, e.g.*, Amber Southerland, *Billionaire Jeffrey Epstein: I'm a sex offender, not a predator*, N.Y. Post (2011) ("'I'm not a sexual predator, I'm an "offender," the financier told The Post yesterday. 'It's the difference between a murderer and a person who steals a bagel.'"); Philip Weiss, *The Fantasist*, New York Magazine (2007) ("'It's the Icarus story, someone who flies too close to the sun,' I said. 'Did Icarus like massages?' Epstein asked.").

CONCLUSION

As set forth above, in this case, the risk of flight in this case is extraordinarily real. The defendant is extremely wealthy, has extensive foreign contacts, and is charged with serious offenses that carry a potential statutory sentence of up to 45 years' imprisonment—even a fraction of which could result in the defendant, who is 66 years old, spending the rest of his life in jail. In sum, the defendant's transient lifestyle, his lack of family or community ties, his extensive international travel and ties outside the country, and his vast wealth, including his access to and ownership of private planes, all provide the defendant with the motive and means to become a successful fugitive. Further, the nature of the offenses he is alleged to have perpetrated—the abuse dozens of underage, vulnerable girls—along with his demonstrated willingness to harass, intimidate and otherwise tamper with victims and other potential witnesses against him, render his dangerousness readily apparent.

Accordingly, the Government respectfully submits that the defendant cannot and will not be able to meet his burden of overcoming the strong presumption in favor of detention, that there are no conditions of bail that would assure the defendant's presence in court proceedings in this case or protect the safety of the community, and that any application for bail should be denied.

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney

By: [redacted] / [redacted] / [redacted]
Assistant United States Attorney
Southern District of New York
Tel: (212) 637-2415 / 2225 / 2324

Cc: Martin Weinberg, Esq., and Reid Weingarten, Esq., *counsel for defendant*
Hon. Richard M. Berman, United States District Judge

Date: [redacted] PALM BEACH POLICE DEPARTMENT Page: [redacted]
Time: [redacted] Incident Report Program: [redacted]

Case No. . . . : [redacted] (Continued)
Entered By.: [redacted] [redacted]

On [redacted] 2006, I received several phone calls throughout the day from [redacted] who stated he had been followed aggressively by a private investigator. [redacted] stated that as he drove to and from work and running errands throughout the county, the same vehicle was behind him running other vehicles off the road in an attempt not to lose sight of [redacted]'s vehicle.

I explained to him as Mr. Epstein had retained new legal council it was possible it would be new private investigators following him to observe his daily activities. I also explained to him that there was a meeting scheduled with [redacted] and [redacted] at [redacted] scheduled on [redacted] I attempted to call [redacted] to inform [redacted] of the private investigators following [redacted] however; [redacted]

[redacted], I received other phone calls from [redacted] and [redacted] who advised they were able to acquire the private investigators license plate information. The subject following them was again driving very aggressively and caused [redacted] to run off the road. [redacted] stated the vehicle is a green Chevy [redacted] bearing Florida tag [redacted]. The vehicle is registered to [redacted] of [redacted] Florida. [redacted] is employed with [redacted] Investigations from [redacted], Florida. [redacted] is a licensed Private Investigator in the State of Florida.

Since the discovery of the threat made against one of the victims in this case [redacted], I requested subpoenas for all calls made to and received from [redacted] during the month of March 2006 for her cell phone and home phone. I had confirmed with Florida State [redacted] the exact dates of Spring Break [redacted].. The Spring Break was from March 4, 2006 through March 12, 2006. I received a subpoena from [redacted] with all calls made during the month of [redacted]. I reviewed the 989 calls made and received during the month of March 2006. I observed on [redacted], 2006, [redacted] made and received thirty five calls during that day.

Date	Time	Seconds	In/Out	To/From
[redacted]-06	11:03 AM	492	Outbound	[redacted]
[redacted]-06	11:16 AM	6	Inbound	[redacted]
[redacted]-06	11:22 AM	887.2	Inbound	[redacted]
[redacted]-06	11:37 AM	48	Outbound	[redacted]
[redacted]-06	11:39 AM	28.2	Inbound	[redacted]
[redacted]-06	12:02 PM	727.2	Inbound	[redacted]

The table reflects the date of the calls, time of day (EST), duration

Date: [redacted] PALM BEACH POLICE DEPARTMENT Page: [redacted]
Time: [redacted] Incident Report Program: [redacted]

Case No. . . . : [redacted] (Continued)

of call in seconds, inbound or outbound calls and calls made to or from [redacted] phone. On [redacted], 2006, at 11:03 am, [redacted] made a call to the victim [redacted] which lasted 492 seconds (8 minutes and 2 seconds). The victim then returned the call at 11:16 am which lasted 6 seconds. The victim then made contact with [redacted] at 11:22 am for 877.2 seconds (14 minutes and 6 seconds). These sequences of calls were consistent with what the victim had described to me on the date of the intimidation. Immediately after speaking with the victim, [redacted] makes a call to [redacted], Epstein's assistant, which lasts for forty-eight seconds. A call is then immediately received, a telephone number registered to a Corporation affiliated with Jeffrey Epstein located at 457 Madison Ave in New York. An extensive computer check revealed 457 Madison Ave is a business address in which Epstein has his corporations assigned to. Epstein had corporation attorney, [redacted], register the businesses and register himself as an agent. I also observed Epstein has his El Zorro Ranch Corporation, New York Strategy Group, Ghislaine Corporation, J Epstein and Company and the Financial Strategy Group registered to this same address. Finally, a third call is received by [redacted] at 12:02 pm from the same corporate number which lasts 12 minutes and 1 second. It should be noted that there is no further contact with either the victim during the month of [redacted] of 2006. I also noted that there was no further contact with [redacted] or Jeffrey Epstein during the remainder of the month of [redacted] 2006.

On [redacted], 2006, [redacted] telephoned me to inform me of the meeting that occurred with Atty. [redacted] and [redacted] reference this case. [redacted]

Inv Continues.

[redacted]

[redacted]

********** N A R R A T I V E # 42 **********
Reported By: RECAREY, JOSEPH 4/14/06
Entered By.: ALTOMARO, NICKIE A. 4/18/06

The Grand Jury Subpoenas were personally served to the individuals they were issued to. On April 5, 2006, at approximately 7:30 p.m., I personally served the parents of [redacted] who had informed me that the private investigators were still photographing the family. On April

ase No. . . . : 1-05-000368 (Continued)

10, 2006, at approximately 2:30 p.m., I served [redacted] at her residence in [redacted] The subpoena was given to her mother, [redacted]

I learned through one of the victims [redacted] that she was personally contacted through a source that has maintained contact with Epstein. The source assured [redacted] she would receive monetary compensation for her assistance in not cooperating with law enforcement. [redacted] also stated she was told, "Those who help him will be compensated and those who hurt him will be dealt with." I told [redacted] that tampering with a witness/victim is an arrestable offense and very serious. I asked her who approached her during this encounter. [redacted] originally was reluctant to provide the name of the person who approached her to offer her not to testify because she felt they were still friends.

On April 11, 2006, Det Dawson and I traveled to Tallahassee, Florida and met with the victim, [redacted] identified [redacted] W/F, [redacted] as the person who approached her in Royal Palm Beach while she was home during Spring Break in March 2006. [redacted] also stated she did not want to pursue the intimidation charges on [redacted] was concerned that the defense attorney was given a copy of the report as certain things she had told me in confidence were repeated to her by

[redacted]