

her a victim for purposes of the federal charges, and continued to treat her as a victim because she wanted “to go above and beyond in terms of caring for the victims.”³¹⁸

E. December 19, 2007: Acosta Advises the Defense That the USAO Will Defer to the State Attorney the Decision Whether to Notify Victims of the State Plea Hearing, but the USAO Would Notify Them of the Federal Resolution, “as Required by Law”

On December 11, 2007, Starr transmitted to Acosta two lengthy submissions authored by Lefkowitz presenting substantive challenges to the NPA and to “the background and conduct of the investigation” into Epstein. Regarding issues relevant to victim notification, in his transmittal letter, Starr asserted that the “latest episodes involving [§] 2255 notification to the alleged victims put illustratively in bold relief our concerns that the ends of justice, time and time again, are not being served.” By way of example, Starr complained the government had recently inappropriately provided “oral notification of the victim notification letter” to one girl’s attorney, even though it was clear from the girl’s recorded FBI interview that she “did not in any manner view herself as a victim.”

In his submissions, Lefkowitz argued that the government was not required to notify victims of the § 2255 provision:

Villafañá’s decision to utilize a civil remedy statute in the place of a restitution fund for the alleged victims eliminates the notification requirement under the Justice for All Act of 2004, a federal law that requires federal authorities to notify victims as to any available restitution, not of any potential civil remedies. Despite this fact, [she] proposed a Victims Notification letter to be sent to the alleged federal victims.

Lefkowitz also argued that a victim trust fund would provide a more appropriate mechanism for compensating the victims than the government’s proposed use of 18 U.S.C. § 2255, and a trust fund would not violate Epstein’s due process rights. Lefkowitz took issue with the government’s “assertion” that the USAO was obligated to send a victim notification letter to the alleged victims, or even that it was appropriate for the USAO to do so. Lefkowitz further argued that the government misinterpreted both the CVRA and the VRRRA, because neither applied to a public, state court proceeding involving the entry of a plea on state charges.

In a letter from Villafañá to Lefkowitz, responding to his allegations that she had committed misconduct, she specifically addressed the “false” allegations that the government had

³¹⁸ As noted previously, in April 2007, this victim gave a video-recorded interview to the FBI that was favorable to Epstein. Villafañá told OPR she was instructed by either Sloman or Acosta “not to consider [this individual] as a victim for purposes of the NPA because she was not someone whom the Office was prepare[d] to include in” a federal charging document. Accordingly, the victim who became “Jane Doe #2” was not included on the victim list ultimately furnished to the defense. The attorney who was representing this victim at the time of her FBI interview was paid by Epstein, and she subsequently obtained different counsel.