

(“FBI”).

DEFENDANT

4. Defendant U.S. Department of Justice (“DOJ”) is a federal agency headquartered in Washington, DC. Defendant is a federal agency within the meaning of 5 U.S.C. § 552(f)(1), located at 950 Pennsylvania Avenue NW, Washington, DC, 20530. The DOJ Criminal Division and Executive Office of U.S. Attorneys (“EOUSA”) are components of Defendant DOJ. Thus, upon information and belief, DOJ, through its components, has possession, custody, and control of the records, within the meaning of 5 U.S.C. § 552(f)(2), to which the Plaintiff seeks access.

FACTS

I. INVESTIGATION OF HARRY J. MOREL JR. AND DECLINATION OF PROSECUTION IN 2013.

5. The subject of the Plaintiff’s FOIA requests was the investigation and prosecution of Harry J. Morel, Jr., who was the elected district attorney in Saint Charles Parish, Louisiana from on or about January 1, 1979, until May 31, 2012, in the Eastern District of Louisiana. Thereafter, he became an assistant district attorney in Saint Charles Parish until January 11, 2013. *United States v. Morel*, No. 16-00050-KDE-MBN (E.D. La. Apr. 20, 2016) (Factual Basis) [ECF Doc. 22] (“Factual Basis”) at 1.

A. Two Federal Investigations Initiated Into Morel.

6. The FBI briefly opened an investigation into Morel in 2001 after a female witness said she believed Morel wanted sexual favors from her in return for help with a driving while intoxicated (“DWI”) charge. When no further evidence was developed, the 2001 investigation was closed. Operation Twisted Justice PowerPoint Brief for Saint Charles Parish Sheriff’s Office, FBI (2016) (“Twisted Justice Brief”)¹ at 5 *available at*

¹ Obtained by the Plaintiff from Saint Charles Parish Sheriff’s Office through a public records

https://www.nola.com/news/crime_police/article_f4f4453d-08fa-51f9-89d8-49d4bf97c8d9.html
(last visited Nov. 14, 2022).

7. The FBI opened a second investigation into Morel in 2009 when a female witness came forward who said she met with Morel to ask him for assistance in his position as district attorney. While she was asking for help, Morel asked her to go to his camp in Mississippi on one occasion and said they could go “play” on another occasion. Twisted Justice Brief at 6. The Plaintiff was employed as an FBI special agent at the time and was assigned as the lead case agent of the investigation opened in 2009.

B. Cooperation of Danelle Keim in Morel Investigation.

8. On April 16, 2010, Danelle Keim, aka Danelle McGovern (hereinafter “Keim”) called 911 in Saint Charles Parish. She said, “I need to make a sexual harassment charge on Harry Morel...the District Attorney.” Keim 911 Call, Saint Charles Parish Sheriff’s Office (Apr. 16, 2010)² at 0:52. Keim said Morel “grabbed me, he kissed me, and he touched me in my private areas, he touched me in my ass, he um he wanted me to take off my clothes, he, um, wanted to, he wanted me to take my pants off...so he can please me.” *Id.* at 2:00.

9. Keim was interviewed by the Plaintiff in his capacity as an FBI agent the night of April 16, 2010. However, she broke off contact with the FBI shortly afterwards. Twisted Justice Brief at 9, 11.

10. During the summer of 2011, while not cooperating with the FBI, Keim began meeting with Morel seeking leniency for her then boyfriend. Morel told Keim to meet him at the district attorney’s office in the parish courthouse on July 4, 2011, when the courthouse was closed.

request pursuant to the Louisiana Public Records Law, La. R.S. 44:31.

² Obtained by the Plaintiff from Saint Charles Parish Sheriff’s Office through a public records request pursuant to the Louisiana Public Records Law, La. R.S. 44:31.

Keim later told the FBI that Morel asked her how far she was willing to go and whether she was on “the pill.” Morel also felt her breast and kissed her. Concerned that someone may be in the courthouse, Morel and Keim left the courthouse and met at a satellite office of the district attorney’s office. There, Morel told Keim that she could ask him questions, but he would be allowed to touch her for every question he answered. After the first question, he touched her chest. When Morel told Keim in response to the second question that her then boyfriend was going to jail, she said Morel could not touch her anymore. After Morel said he would not put her then boyfriend in jail until later, he proceeded to touch her and put his hands in her pants. Keim could feel Morel’s erect penis against her body. Keim claimed that she was on her period. Morel told her that he wanted to smell her. Morel unbuttoned her pants. Morel said that when they had sex he would be quick. He asked if she wanted to get a hotel room. Keim used the excuse that she needed to pick up her son to leave. Twisted Justice Brief at 12, 14-15; Factual Basis at 2-3.

11. During the meetings on July 4, 2011, at the courthouse and satellite office, Keim’s then boyfriend took photographs of Keim’s and Morel’s cars at each location. Twisted Justice Brief at 13, 16; Factual Basis at 2-3.

12. After Keim was arrested on other charges, the FBI and Saint Charles Parish Sheriff’s Office arranged for her to attend a residential drug treatment program. During that program, she began cooperating with investigators from the FBI and sheriff’s office. *Id.* at 18. Morel assisted Keim with charges in Saint Charles Parish before he stepped down as district attorney and became an assistant district attorney on May 31, 2012. His daughter, Michele Morel, had been elected to be one of three judges in Morel’s district. *Id.* at 23-26; Factual Basis at 3. Ostensibly, Morel stepped down as district attorney so his daughter could preside over cases prosecuted by the district attorney’s office.

13. After Morel offered to assist Keim with her last remaining charge, a DWI in

Lafourche Parish, which is adjacent to Saint Charles Parish, Keim pleaded guilty to the charge on June 22, 2012. Keim was sentenced to perform sixty-four hours of community service. Morel offered to assist Keim with her community service and told her not to worry about the community service hours. Twisted Justice Brief at 25-27; Factual Basis at 3-4.

14. On July 23, 2012, Morel came to Keim's apartment with two bottles of wine. Factual Basis at 5. FBI agents made audio and video recordings of the meeting. *Id.*

- a. When Keim asked if she could smoke a cigarette, Morel told her not to smoke, touched her shoulder, and motioned her to move closer to him on the couch. Keim Apartment Recording, FBI (Jul. 23, 2012)³ at 25:25. Morel told Keim, "Cause I don't want to leave here smelling like smoke. Huh? I'll kiss you." *Id.* at 25:36.
- b. When Keim asked about the community service papers for Lafourche Parish, Morel told her that he was working on them. Keim told Morel that she was "scared" because she would have to spend five months in jail if she did not perform the community service. *Id.* at 30:25.
- c. Keim mentioned obtaining letters of recommendation to go to college. Morel offered to write one for her, although he said it may say "assistant DA now." *Id.* at 31:30.
- d. After discussing the letters of recommendation, Keim said to Morel, "I come to you with everything." Morel then told her, "Alright, come give me a kiss. I know you gotta go." Morel kissed Keim and felt her back and buttocks. *Id.* at 32:50. The following conversation then took place:

KEIM: I'm just gonna give you a little peck cause I smell like smoke.

³ Obtained by the Plaintiff from Saint Charles Parish Sheriff's Office through a public records request pursuant to the Louisiana Public Records Law, La. R.S. 44:31.

MOREL: Well, I'll kiss you. I mean, I can go through that.

KEIM: You usually do.

MOREL: Hmm?

KEIM: You usually do go through it.

MOREL: So, anyway, what time you got to leave here? Ten minutes?

KEIM: Probably so, yeah.

MOREL: You're just doing that to get me out of here huh?

(Morel reached for Keim and felt her neck and shoulder under her hair.)

KEIM: No. You already know I'm nervous.

MOREL: Kiss me.

KEIM: I'm always nervous...

MOREL: Well, I am too.

KEIM: ...when you come over to see me.

MOREL: Come kiss me.

(Morel pulled Keim towards him. Keim pulled back.)

KEIM: I'm only gonna give you a peck.

MOREL: Kiss me.

KEIM: Peck.

MOREL: Ok.

KEIM: Peck.

MOREL: I'll peck back.

(Morel pulled Keim towards him and appeared to kiss her.)

KEIM: Just a peck.

MOREL: Hm?

(Kiss sound)

(Keim pulled back.)

KEIM: That's it. That's it.

MOREL: That's it forever?

KEIM: Of course not forever.

MOREL: Huh?

KEIM: Of course not forever.

MOREL: Come here. We got ten minutes. Come kiss me.

(Morel pulled Keim towards him.)

KEIM: I'll I'll hug you.

(They embraced. Morel felt Keim's back and buttocks.)

MOREL: Huh?

KEIM: Let me hug you.

- e. While Keim and Morel embraced, Morel told Keim to tell him if she did not want him there. Keim said that she did want him there, but said that he's the "DA." Morel later asked, "So, I'm an important guy?" Keim responded, "Important? Um, yeah." Morel then said, "Well, I need, then I need to order you to kiss me." Morel then reached for Keim's neck and attempted to hug her. *Id.* at 33:58.
- f. After Morel suggested that he needed to order Keim to kiss him, Keim brought up a "deal." She asked Morel what he wanted from her. Morel said he wanted to spend time with her. Keim disputed that. Morel answered, "Well, I think about making love to you but then, you know, it's gets me nervous too. And I don't-but that's not why I'm helping you. So I just sort of back off." *Id.* at 34:48.
- g. Later, Morel asked Keim what she wanted. *Id.* at 36:15. Keim said to Morel, "If I-

if you can promise me that-I'm scared because-I'm not scared, I'm just nervous because if I don't get my community service done. And you're the only person that can do it. I'm scared that if I don't get that done that I'm gonna to jail." *Id.* at 36:50.

- h. After they discuss the mechanics of creating the community service records, the following conversation took place. *Id.* at 40:22:

KEIM: If you wanna see me, I mean, just tell me. I can-I'm not. I-I do want you here. It's it's not that at all.

MOREL: Well, think about it.

KEIM: It's just-no, I'm just saying. You know, it's just I don't ever see you. The only time I see you is in the office.

MOREL: Here I am.

KEIM: And now you're here again.

(Morel reached for Keim and hugged her. He felt her back and buttocks.)

MOREL: Come here, give me (Unintelligible).

KEIM: So, I, um...it's, um...oh how about I see the papers first. Once all my community service is started.

- i. After Keim asked to see the community service papers first, Morel began laughing. *Id.* at 40:58. Keim told Morel that she trusted him, but Morel said, "No, you don't, if you want that."
- j. After Morel explained that the community service hours have to be spaced out and cannot be in one week, Keim said to Morel, "I'm not saying in a week. I'm just saying just let me see, once all this is done, let me see the papers so I'll know that I'm ok." Morel responded, "Whatever you want." Keim said, "And then..." Morel then told Keim that he was leaving. He hugged her and patted her buttocks. *Id.* at

41:15.

- k. As Morel was departing, when Keim asked Morel if he would come see her at the bar where she worked, Morel said, “I gotta stay away until I got the papers.” *Id.* at 42:12.

15. On October 11, 2012, Morel met with Keim in his office at the district attorney’s office. The meeting was recorded and monitored by the FBI. After the meeting, Keim told the FBI, including the Plaintiff, that when Morel first greeted her, he hugged her, kissed her on the mouth, and felt her buttocks.

- a. During the meeting, Morel showed Keim letters that falsely claimed she performed community service. Morel explained to Keim what community service the letters purported that she performed. In Keim’s presence, Morel called a public official in Lafourche Parish responsible for supervising community service and said he would submit the community service papers via facsimile and U.S. Mail. Community Service Letter Meeting Recording, FBI (Oct. 11, 2012)⁴ at 49:30 - 58:11. After the meeting, Keim told the FBI that Morel kissed and hugged her after showing her the community service papers, and Morel hugged her and felt her buttocks after he spoke with the Lafourche Parish official.
- b. After Morel caused the letters to be sent by facsimile and U.S. Mail to authorities in Lafourche Parish, he asked Keim if she had any wine left and said he could get some more. While Keim was writing something down, Morel said to her, “Showing off your butt...cute little butt.” Keim responded that Morel always liked her “butt.” Morel then said, “I always liked you, butt and all.” *Id.* at 1:04:01 – 1:07:10. After the

⁴ Obtained by the Plaintiff from Saint Charles Parish Sheriff’s Office through a public records request pursuant to the Louisiana Public Records Law, La. R.S. 44:31

meeting, Keim told the FBI that she and Morel were both seated when Morel talked about her buttocks.

- c. After Morel told Keim that he needed to leave, he said to her, “Huh. Yeah. Nice little butt.” Keim then said, “You like to touch it, huh?” Morel responded, “Yeah.” *Id.* at 1:10:51. After the meeting, Keim told the FBI that, when Morel said goodbye to her, he hugged her, felt her buttocks, kissed her, and stuck his tongue in her mouth.

16. On November 29, 2012, Keim met with Morel in his office. The meeting was recorded and monitored by the FBI. She told him that a former boyfriend had asked her about a camera memory card she had in her possession which could help confirm Morel’s and her meeting on July 4, 2011, when Keim had met with Morel to ask for leniency for the former boyfriend. Morel told Keim to destroy the card and offered to take the card from her so he could destroy it. When Keim asked Morel what to tell investigators who came to her looking for the card, Morel told her to tell them that she did not have any card. Keim agreed to bring the card to Morel the next day. Factual Basis at 7-11.

17. On November 30, 2012, Keim met with Morel in his office. The meeting was recorded and monitored by the FBI. She gave Morel a copy of the memory card, claiming it was the original. Morel told her he would throw the memory card in the garbage or hit it with a hammer. He also said he might see what was on it. Morel told Keim to deny knowing anything about photographs if investigators spoke with her. *Id.* at 11-13.

C. Scandal at the U.S. Attorney’s Office for the Eastern District of Louisiana, First Assistant U.S. Attorney’s Conflict of Interest, and Declination of Morel Case.

18. On December 6, 2012, then U.S. Attorney for the Eastern District of Louisiana James Letten resigned ending an eleven-year tenure. He reportedly resigned after an online commenting scandal including his First Assistant was exposed. His interim replacement was Dana

Boente, who had been the First Assistant U.S. Attorney for the Eastern District of Virginia. Gordon Russell and John Simerman, *Online commenting scandal ends Jim Letten's 11-year run as U.S. Attorney*, NOLA.COM (Dec. 7, 2012) available at https://www.nola.com/news/crime_police/article_5ccaa3b2-ef6c-5db9-9c7c-45f6cca89e88.html (last visited Nov. 14, 2022).

19. On December 10, 2012, the Plaintiff and another FBI agent attempted to interview Morel. A few days later, the Plaintiff submitted an affidavit for a proposed warrant to search Morel's office for the memory card Morel had received from Keim on November 30, 2012. The Assistant U.S. Attorney ("AUSA") on the case, Brian Klebba, said that his chain of command had reviewed the affidavit and said there was no probable cause to search Morel's office. AUSA Klebba told the Plaintiff that he had spoken with First Assistant U.S. Attorney ("First AUSA") Fred Harper and Interim U.S. Attorney Boente about the affidavit, but they had provided no specifics.

20. Despite the denial of the search warrant by the U.S. Attorney's Office for the Eastern District of Louisiana ("USAO"), the district attorney who had replaced Morel gave consent to the FBI to search Morel's office on January 11, 2013. Agents did not find a memory card, but they did find a memory card reader with cardboard backing. Factual Basis at 13; Twisted Justice Brief at 52.

21. On February 9, 2013, Keim died of a drug overdose. Her then boyfriend was charged with her death and later pleaded guilty in state court to distributing the drugs that killed her. Twisted Justice Brief at 54.

22. On February 15, 2013, AUSA Klebba called the Plaintiff and told him he had spoken with Interim U.S. Attorney Boente and First AUSA Harper. Klebba said that the case against Morel that had been difficult was now impossible after Keim's death. The Plaintiff disagreed and pointed out that former U.S. Congressman William Jefferson from New Orleans had

been convicted even though the witness who recorded conversations with him had not testified.

23. On February 18, 2013, the Plaintiff ran into AUSA Klebba and discussed the Morel case. When the Plaintiff suggested meeting with Morel's defense attorney, Ralph Capitelli, to discuss the evidence in the case, Klebba said that he did not want to "bluff" the defense attorney and was concerned about having to work with Capitelli for the next twenty years. When the Plaintiff said Morel was recorded telling a witness to lie and destroy evidence, Klebba opined that he did not believe there was an underlying federal violation for Morel to obstruct. When the Plaintiff said the possible violation was Interstate Travel in Aid of Racketeering ("ITAR"), 18 U.S. § 1952, Klebba made what the Plaintiff perceived to be a dismissive gesture. AUSA Klebba then instructed the Plaintiff to bring him something "good" in the Morel case to bring his chain of command by the time he got back from a trip the following week.

24. The Plaintiff did not understand the time constraints, particularly since he and other investigators suspected that Morel had sought sexual favors from multiple women over several years and it would take time and resources to find those witnesses.

25. After discussing the matter with his supervisor, the Plaintiff learned that First AUSA Harper owned property with Morel's defense attorney, Capitelli. The Plaintiff checked property records in Baldwin County, Alabama and confirmed the financial relationship. *See* Baldwin County, Alabama Warranty Deed for Lot 14, The Retreat, May 10, 2005; Baldwin County, Alabama Warranty Deed for Unit H-201, The Links Golf Villas, Jul. 15, 2005.

26. When the Plaintiff reported this financial relationship between the First AUSA and Morel's defense attorney to his chain of command, FBI officials told him that Harper had previously been investigated for his relationship with Capitelli and that the previous U.S. Attorney had forbade Harper from taking part in any cases with him. An FBI official told the Plaintiff that the Special Agent in Charge of the New Orleans FBI office would address the matter with Interim

U.S. Attorney Dana Boente.

27. During the week of March 25, 2013, the Plaintiff provided a PowerPoint presentation to AUSA Klebba on the existing evidence in the Morel case.

28. On March 28, 2013, AUSA Klebba told the Plaintiff that he had spoken with USAO managers, including First AUSA Harper, and that those managers had spoken with Interim U.S. Attorney Boente. They had decided to decline the case against Morel.

29. The Plaintiff did not understand why the case had been declined. He had not asked that it be prosecuted. He wanted to obtain records to identify potential victims for interviews. At the time, investigators were aware of three women, including Keim, and believed that there could be more victims. The Plaintiff believed the sudden declination was designed to stop the overt investigation before it had the opportunity to start.

30. FBI officials, including the Plaintiff, met with USAO officials on April 17, 2013, to ask them to reconsider declining the Morel case. Even though First AUSA Harper's potential conflict of interest had been reported to the FBI chain of command and, ostensibly, Interim U.S. Attorney Boente, Harper participated in the meeting and argued against keeping the case open. The USAO did not re-open its file on Morel but said the FBI could continue its investigation. The Plaintiff was perplexed that the case had been declined before the overt phase of the investigation had fully started. He was concerned that without investigative assistance from the USAO, such as obtaining subpoenas, court orders, and search warrants, it would be substantially more difficult to obtain records needed to identify more victims/witnesses.

II. CONFLICT WITH USAO, APPROVAL OF RICO CHARGE AGAINST MOREL, AND LENIENT PLEA AGREEMENT.

A. OIG Complaint Against First AUSA, Retaliation, and Efforts to Reopen Morel Case at USAO.

31. During June 2013, the Plaintiff submitted an affidavit to the U.S. Department of

Justice Office of the Inspector General (“OIG”) in support of a complaint against First AUSA Harper regarding his participation in matters with Morel’s defense attorney when Harper had a financial relationship with the defense attorney.

32. After the Plaintiff filed his complaint with the OIG, an OIG agent notified the Plaintiff that Harper had exchanged the property he owned with Capitelli. The Plaintiff reviewed public records and saw that Harper had transferred portions of properties he owned with Capitelli to a woman believed to be his live-in girlfriend, Laura Jean Todaro. Jefferson Parish, Louisiana Act of Exchange between Fred Harper and Laura Jean Todaro, dated Mar. 21, 2013, regarding Baldwin County, Alabama Properties Lot 14, The Retreat and Unit H-201, The Links Golf Villas, filed in Baldwin County, Alabama.

33. In return for his portion of the properties with Capitelli, Harper received Todaro’s portion of a property that she and Harper owned together. Baldwin County, Alabama Warranty Deed for Lot 17, The Boulevard, Phase Two, Mar. 14, 2005.

34. Public records showed that Harper lived in property owned by Todaro. *See* Jefferson Parish, Louisiana Cash Sale of 75 McKinley, dated Jun. 2, 1997; Jefferson Parish, Louisiana Act of Exchange and Assumption of Debts between Laura Jean Todaro and Mark Lamere, dated Sep. 9, 1997; Jefferson Parish, Louisiana Assessor Records regarding 75 McKinley, dated Aug. 10, 2017; Harper v. Harper, No. 534-160 (La. 24th JDC Jan. 16, 2012) (Fred Harper’s rule to show cause for change in child support) (showing Harper using 75 McKinley as his address); Harper v. Harper, No. 534-160 (La. 24th JDC Feb. 14, 2012) (consent judgment) (showing Harper using 75 McKinley as his address).

35. A review of public records showed that Harper lost approximately two thirds of the value of his portions of the properties in the act of exchange with Todaro. The properties he received in the exchange were worth about one third of what he transferred to her. *See* Baldwin

County, Alabama Revenue Commissioner Report for 529 Retreat Lane, 2013; Baldwin County, Alabama Revenue Commissioner Report for Unit H-201, The Links Golf Villas, 2013; Baldwin County, Alabama Revenue Commissioner Report for Lot 17, The Boulevard, Phase Two, 2013.

36. The date of the property exchange was March 21, 2013, shortly after the Plaintiff was told that the head of the FBI New Orleans field office would notify Interim U.S. Attorney Boente of Harper's co-ownership of property with Capitelli.

37. During August 2013, shortly after the Plaintiff learned that OIG officials were interviewing AUSAs about the Plaintiff's allegations against Harper, AUSA Matthew Chester became more resistant to prosecuting a separate case investigated by the Plaintiff. (The Plaintiff had reported Chester to the OIG as well. Specifically, he reported Chester citing the need to maintain a good relationship with Capitelli, when Chester told an FBI agent and USAO financial analyst to withhold records from U.S. Probation during a pre-sentence investigation to reduce a defendant's relevant conduct without notifying the court.) Ultimately, Chester declined the case despite clear evidence of payments between a contractor and a public official through a third party and official acts performed by the official favoring the contractor. Chester went so far as to miscite case law to justify not prosecuting the case.

38. Also, after the Plaintiff's OIG complaint against Harper became known at the USAO, an FBI agent reported to the Plaintiff that an AUSA had asked when the Plaintiff was going to transfer. The AUSA said that no one at the USAO would work with him.

39. During the OIG investigation, Morel's attorney, Capitelli, publicly reported that his client had been cleared by the USAO. Kyle Barnett, *Former D.A. cleared in investigation, attorney says*, ST. CHARLES HERALD-GUIDE, Aug. 29, 2013, available at <http://www.heraldguide.com/details.php?id=12997>.

40. During September 2013, Kenneth Allen Polite Jr. became the U.S. Attorney for the

Eastern District of Louisiana. Shortly after Polite became U.S. Attorney, the Plaintiff was notified by FBI managers that he would be briefing Polite on the Morel case. Knowing that Harper was still the First AUSA, the Plaintiff asked his supervisor if Harper would be at the brief. When his supervisor said that Harper would be present for the brief, the Plaintiff refused to conduct it. The brief was later presented on November 7, 2013, with Polite as the sole member of the USAO present.

41. During February 2014, the Plaintiff briefed Polite and a new First AUSA he had hired to replace Harper. Polite had taken no action on the Morel case since the last brief.

42. During March 2014, AUSA Mark Miller was assigned to review whether the Morel case should be reopened at the USAO. Ultimately, AUSA Miller decided to reopen the case.

43. Around this time, FBI management offered to send the Plaintiff to the USAO as a Special Assistant U.S. Attorney (hereinafter “SAUSA”) to prosecute FBI cases. The Plaintiff was later told that USAO management had refused to accept him as a SAUSA. USAO management had told FBI officials that the Plaintiff’s assignment there as a SAUSA would be “too much too soon” for the USAO.

44. USAO management also reported that it could not compel AUSA Chester to prosecute the case he had with the Plaintiff. FBI management quoted the new First AUSA hired by Polite as saying he did not have the “political capital” in the USAO to make AUSAs prosecute it.

B. Preparation of RICO Charge Against Morel.

45. With prosecutorial resources on the Morel case, a total of twenty-two victims were identified, including five women who had oral sex with Morel—Morel had used some amount of physical force for one victim to perform oral sex on him, essentially orally raping her—eight women who suffered some sort of sexual battery by him, and nine others who had been asked for

sexual favors in some manner. Twisted Justice Brief at 61. All of the sexual behavior and requests had been in connection with matters before Morel's office. The investigation determined that Morel had victimized women through most of his career as district attorney from 1986 through 2012.

46. During the fall of 2015, the Plaintiff drafted a memorandum to obtain permission from the DOJ Organized Crime and Gang Section ("OCGS") to charge Morel with violating the Racketeer Influenced and Corrupt Organizations ("RICO") Act, 18 U.S.C. § 1962 ("RICO memo"). On November 25, 2016, a new AUSA assigned to the case, James Baehr, notified the Plaintiff that the RICO memo and proposed charges had been submitted to OCGS for review. The RICO memo also detailed other potential charges against Morel, including several counts of Interstate Travel in Aid of Racketeering ("ITAR"), 18 U.S.C. § 1952, Mail and Wire Fraud, 18 U.S.C. §§ 1341, 1343, and two counts of Obstruction of Justice, 18 U.S.C. § 1512 (tampering with evidence and witness tampering). After the Plaintiff answered a few questions from OCGS for Baehr during December 2016, Baehr notified the Plaintiff that OCGS tentatively approved the RICO charge pending the submission of a final draft from the USAO.

C. USAO Avoided Charging Morel with RICO.

47. Around this time, while discussing the resistance at the USAO to prosecuting Morel, Baehr told the Plaintiff that an AUSA had described Morel's behavior as "just an old guy having fun."

48. During January 2016, an FBI supervisor told the Plaintiff that she had spoken with the First AUSA, who had notified her the USAO had held a review committee on the Morel case. (Harper was no longer First AUSA). According to the First AUSA, U.S. Attorney Polite had removed himself from the committee because he was in favor of prosecuting the case and did not want to prejudice the committee. However, the Plaintiff was notified that former First AUSA, now AUSA, Harper participated in the review committee, despite his financial relationship with Morel's

defense attorney (now through his live-in girlfriend) and a potential conflict since the Plaintiff, the FBI case agent on the Morel investigation, had filed a complaint against Harper with the OIG. The Plaintiff was also notified that other AUSAs who had participated in the 2013 decision to decline the Morel case participated in the review committee. Although the First AUSA claimed that Polite had held the review committee to “appease” his office, the committee decided to continue plea negotiations with Morel. A senior AUSA was assigned to conduct the negotiations.

49. The Plaintiff had been the lead case agent on cases resulting in almost thirty convictions by that time in his career. The Morel case was the first and only case in which the USAO held a review committee.

50. On February 10, 2016, AUSA Baehr notified the Plaintiff that OCGS had approved charging Morel with RICO. Before that, an FBI supervisor told the Plaintiff that an OCGS attorney had expressed an interest in assisting the USAO in prosecuting the case.

D. Lenient Plea Agreement Contrasted Sharply With Charges Approved by OCGS and Charge/Sentence of a Similar Defendant, and USAO Minimized Morel’s Misconduct in Factual Basis.

51. After weeks of negotiations, on March 30, 2016, the day before the Plaintiff was scheduled to testify in the case, Morel and the USAO entered into a plea agreement. On April 20, 2016, Morel pleaded guilty to one count of obstruction of justice, 18 U.S.C. § 1512(d)(1) on April 20, 2016, in the U.S. District Court for the Eastern District of Louisiana. *United States v. Morel*, No. 16-00050-KDE-MBN (E.D. La. Apr. 20, 2016) (minute entry regarding Morel’s guilty plea) [ECF Doc. 21]; *United States v. Morel*, No. 16-00050-KDE-MBN (E.D. La. Apr. 20, 2016) (Morel Plea Agreement) [ECF Doc. 23].

52. A violation of 18 U.S.C. § 1512(d)(1) (“Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—(1) attending or testifying in an official proceeding”) carries a maximum term of imprisonment of three years, while

a violation of RICO carries a maximum term of imprisonment of twenty years. 18 U.S.C. § 1963. Other potential charges against Morel also carry longer maximum prison terms. ITAR carries a maximum sentence of five years. 18 U.S.C. § 1952. Mail and wire fraud each carry a maximum sentence of twenty years. 18 U.S.C. §§ 1341, 1343. The other obstruction of justice charges that had been described in the RICO memo carry maximum sentences of twenty years. 18 U.S.C. § 1512(b),(c).

53. Morel's lenient maximum sentence also contrasted sharply with another defendant prosecuted by the USAO around the same time. Former New Orleans Saints football player Darren Sharper was sentenced to eighteen years in prison by U.S. District Court Judge Jane Triche Milazzo of the U.S. District Court for the Eastern District of Louisiana on August 18, 2016. Previously, Judge Milazzo had rejected a multijurisdictional plea deal where USAO prosecutors requested a sentence of nine years' imprisonment after Sharper raped sixteen women in four states. Also, unlike Morel, in addition to charges by the USAO, Sharper was prosecuted by state prosecutors in four states. Janet McConnaughey, *Judge to Ex-NFL star: Can't ignore the damage you inflicted*, THE ASSOCIATED PRESS (Aug. 18, 2016) *available at* <https://apnews.com/article/1764f28bf54b41158264ec4f6dca614b> (last visited Nov. 14, 2022). No other jurisdiction was pursuing charges against Morel.

54. The agreed factual basis for Morel's charge contrasted with the substantial sexual abuse uncovered by the FBI investigation (twenty-two women from 1986 to 2012, including five who had oral sex with Morel, eight women who suffered some sort of sexual battery by him, and nine others who had been asked for sexual favors in some manner). The only reference to Morel's sexual abuse in the factual basis was

MOREL, on other occasions, between 2007 and 2009, has solicited sex from other individuals who were defendants or who had family members who were defendants in the St. Charles Parish criminal justice system. While soliciting sex from these

individuals, **MOREL** likewise used the office of the District Attorney to provide benefits to these other individuals, including falsifying community service reports.

Factual Basis at 14.

55. The one victim who was essentially orally raped by Morel told the Plaintiff when she learned how the abuse she had suffered had been removed from the court record, “I was erased.”

56. The factual basis also selectively edited transcripts of recorded conversations between Morel and Keim, minimizing Morel’s requests for sex before Keim offered him a “deal.” Regarding the July 23, 2012, meeting, the factual basis described Morel’s repeated requests for Keim to kiss him, as well as his physical contact with her, including feeling her buttocks, described in subparagraphs 14.a-e above, as “Morel again attempted to engage in inappropriate behavior.” This was followed by a quote of Keim saying to Morel, “I’ve got a deal for you though. Let’s see if we can make a deal.” *Id.* at 5-6.

57. The factual basis also did not include Morel’s subsequent physical contact with Keim when he felt her buttocks, his agreement to Keim’s request to see the community service papers first, his move to depart after that agreement, and his statement that he had to stay away from Keim until he had the papers.

58. Because the Plaintiff believed the plea agreement was the result of ethical failings by the USAO, he asked his FBI chain of command about sending a letter to then U.S. District Court Judge Kurt D. Engelhardt of the U.S. District Court for the Eastern District of Louisiana, to notify the court of his concerns. An FBI official told the Plaintiff that the USAO may dismiss the charge against Morel if the Plaintiff sent a letter to the judge before Morel pleaded guilty. The Plaintiff responded that he would not send the letter then.

III. DOJ AND FBI OFFICIALS MADE PUBLIC STATEMENTS ABOUT THE MOREL CASE AND A FORMER DOJ OFFICIAL CLAIMED THE PLAINTIFF'S ALLEGATIONS AGAINST THE USAO WERE "COMPLETELY FALSE" WHILE THE FBI PREVENTED THE PLAINTIFF FROM DISCLOSING THE BASIS FOR HIS ALLEGATIONS.

A. Public Statements by FBI and DOJ Officials About Morel Case at Press Conference.

59. At a press conference after Morel's guilty plea, despite the limited description of Morel's solicitations of sex in the factual basis, then FBI Special Agent in Charge of the New Orleans Division Jeffrey Sallet stated, "This joint investigation uncovered more than twenty victims spanning twenty years. Harry Morel is nothing short of a sexual predator." Press Conference, Harry Morel Guilty Plea, U.S. Department of Justice, U.S. Attorney's Office for the Eastern District of Louisiana (Apr. 20, 2016) at 7:07 *available at* <https://vimeo.com/163586549> (last visited Nov. 15, 2022). Sallet further stated

Harry Morel was a district attorney in St. Charles Parish for thirty years. He was a chief law enforcement officer for that parish and as such held the freedom and sometimes the lives of all those charged with criminal offenses in his hands. And what did he do with that tremendous privilege and responsibility? He used it to prey on some of the most vulnerable individuals to satisfy his own sexual interests.

Id. at 6:35.

60. At the press conference, then U.S. Attorney Polite specifically identified Keim as a witness and stated that she "stands at the center of [Morel's] acknowledged wrongdoing today." *Id.* at 2:04. Then Special Agent in Charge Sallet said, "One victim in particular, Danelle Keim should be singled out for her tremendous bravery and resolve during the course of this investigation. Ms. Keim cooperated with the FBI and St. Charles Parish Sheriff's Office by facing her assailant Harry Morel in-person and gathering invaluable evidence, which proved to be the basis of this current charge. Her efforts and bravery will not be forgotten." *Id.* at 5:48.

61. After the officials' opening statements at the press conference, a reporter asked Polite, "We hear twenty, more than twenty victims in more than twenty years, he was called a

sexual predator here today, a three-year obstruction charge. How, how do you tell victims who had to go through this that that is justice?" *Id.* at 16:00.

62. In response to that question, Polite responded in part that

In many of these circumstances, we are dealing with very significant evidentiary concerns. We are dealing with vulnerable victims that if exposed to the scrutiny of the media or the scrutiny of the courtroom would prove to be very difficult witnesses and may ultimately lead to no justice for this defendant.

Id. at 16:25.

B. Inconsistencies Between U.S. Attorney's Press Conference Remarks and Approval of RICO and Other Charges by OCGS.

63. The Plaintiff was disturbed by then U.S. Attorney Polite's public comments suggesting that the quality of the witnesses necessitated the plea agreement with Morel. This issue had been addressed in the RICO memo to OCGS.

64. The Plaintiff was also concerned that Polite had not acknowledged his office's substantial resistance to prosecuting Morel in response to the reporter's question about the discrepancy between the severity of Morel's conduct and the offense charged.

65. Regarding evidentiary concerns, earlier in the press conference, Polite claimed there had been significant "hearsay concerns" because of Keim's death. *Id.* at 2:32. However, the Plaintiff had addressed that issue in the RICO memo. The recordings Keim made were likely still admissible after her death under U.S. Court of Appeals for the Fifth Circuit precedent. *See United States v. Gutierrez-Chavez*, 842 F.2d 77, 81 (5th Cir. 1988). Also, the sole evidence for the harassment of a witness charge to which Morel had pleaded guilty was the recorded conversations made by Keim. Factual Basis at 3-13.

66. Polite had also claimed his office had concerns about whether the quid pro quo was explicit enough and whether certain acts constituted property or things of value under federal law, ostensibly referring to whether the false community service letters could be prosecuted under the

mail or wire fraud statutes and whether sex was a thing of value. *Id.* at 2:39. However, the Plaintiff had addressed those issues in the RICO Memo or communications with OCGS, or the issues only applied to a few of the many charges available.

67. Thus, the Plaintiff concluded that approval of the RICO charge by OCGS contradicted Polite's public statements explaining the lenient plea agreement with Morel. In light of that inconsistency, Polite's statement claiming the quality of witnesses was insufficient to prosecute Morel, and his failure to acknowledge the ethical failings of his office, the Plaintiff decided to continue his efforts to notify the court of these ethical issues before Morel's sentencing.

C. Plaintiff's Letter to Presiding Judge and Public Release of Morel Investigative Materials by Sheriff's Office.

68. After the FBI and DOJ refused to give the Plaintiff permission to send a letter to the court, the Plaintiff submitted it to the FBI's prepublication review program for release as a private citizen under the First Amendment. The FBI refused to review the letter, claiming its disclosure to a judge would be in the performance of his official duties, even though he had no permission in his official duties to send the letter to the judge. The Plaintiff believed the FBI's refusal was an unlawful attempt to prevent him from notifying the court. On August 15, 2016, he sent the letter to Judge Engelhardt without permission from the FBI.

69. Judge Engelhardt discussed the Plaintiff's letter at Morel's sentencing on August 17, 2016. The New Orleans Advocate reported the existence of the Plaintiff's letter on September 8, 2016. Jim Mustian, *FBI agent's 'unauthorized,' unusual letter remains sealed, raises questions in Harry Morel case*, THE NEW ORLEANS ADVOCATE (Sept. 8, 2016) available at https://www.nola.com/news/courts/article_1974cd52-906f-5909-b871-e4aa6c4ac81a.html (last visited Nov. 14, 2022).

70. On September 19, 2016, the Saint Charles Parish Sheriff's Office made records

from the Morel investigation available to the public under Louisiana's Public Records Law. La. R.S. 44:1 *et seq.* The sheriff's office had conducted the investigation jointly with the FBI, and the FBI had provided records to it to allow the sheriff's office to consider potential charges under state law. When a final decision was made that no further state charges would be prosecuted, the sheriff's office made the records available. The records included the Operation Twisted Justice Brief PowerPoint presentation, as well as audio and video recordings of Morel and transcripts of those recordings. Littice Bacon-Blood, *Here's what the FBI had on Harry Morel, St. Charles' corrupt DA*, NOLA.COM (Sept. 21, 2016) available at https://www.nola.com/news/crime_police/article_f4f4453d-08fa-51f9-89d8-49d4bf97c8d9.html (last visited Nov. 14, 2022).

71. On September 30, 2016, the FBI suspended the Plaintiff's security clearance, resulting in his immediate, indefinite suspension without pay.

72. On October 5, 2016, the Plaintiff submitted a public records request to the Saint Charles Parish Sheriff's Office, pursuant to La. R.S. 44:31, for the Morel case materials. He later received the records from the sheriff's office.

73. The Plaintiff continued the prepublication review process to release his letter outlining the mishandling of the Morel case by the USAO. During January 2017, he received authorization from the FBI to release a heavily redacted version of the letter. The FBI censored approximately seventeen pages of the Plaintiff's thirty-one-page letter, virtually the entire factual basis for his allegations.

D. Former U.S. Attorney Polite Publicly Claimed the Plaintiff's Allegations Were False, While the FBI Prevented the Plaintiff from Publicly Releasing What His Allegations Were.

74. On March 10, 2017, then U.S. Attorney Polite announced his resignation effective March 24, 2017. John Simerman, *U.S. Attorney Kenneth Polite announces resignation effective*

later this month, THE ADVOCATE (Mar. 10, 2017) available at https://www.nola.com/article_2bcf5924-10c7-5719-9a3a-06a9bb2709fe.html (last visited Nov. 14, 2022).

75. In a televised interview aired on March 14, 2017, Polite publicly commented about the Plaintiff's allegations of wrongdoing by Polite's office in the Morel case. Polite said, "The allegations in the letter suggesting that there was some improper influence from past AUSAs that had been involved in the case or in supervision—completely false." *Polite touts higher-impact prosecutions*, WWL-TV (Mar. 14, 2017) at 2:51 available at <https://www.wwltv.com/article/news/crime/polite-touts-higher-impact-prosecutions/289-422576454> (last visited Nov. 14, 2022).

76. In a televised interview aired on March 21, 2017, Capitelli referred to Polite's interview in claiming that Harper had nothing to do with the Morel case. Capitelli said, "This has been handled in fact recently you had an interview with, with Ken Polite where he acknowledged again that Fred Harper had nothing to do with that, with that decision, wasn't involved in the case in any way." *N.O. FBI agent accuses Justice Dept. of 'systemic corruption'*, WWL-TV (Mar. 21, 2017) at 2:08 available at <https://www.wwltv.com/article/news/investigations/no-fbi-agent-accuses-justice-dept-of-systemic-corruption/289-424349390> (last visited Nov. 14, 2022).

77. On March 21, 2017, the Plaintiff released his letter to the media, even though the factual allegations of misconduct were censored by the FBI. *See Michael Zummer's Letter*, THE ADVOCATE (Mar. 21, 2017) available at https://www.theadvocate.com/pdf_89fa61ea-0e79-11e7-912b-4bab358b983d.html (last visited Nov. 14, 2022).

78. As part of a news report on the Plaintiff's letter, one television station aired additional comments by Polite about the Morel case. Despite Polite's previous claim that the Plaintiff's allegations were "completely false," Polite nonetheless took credit for reopening the

Morel case and appeared to acknowledge resistance by members of his own office to prosecuting Morel. He said, “I made the decision, uh, kind of risking my own political capital within the office to reopen a case that a past administration had passed on.” *N.O. FBI agent accuses Justice Dept. of ‘systemic corruption’* at 1:30.

79. Because the Plaintiff’s letter had been censored by the FBI, he could not release to the media what he was specifically alleging the USAO had done.

IV. OTHER SEX ABUSE CASES MISHANDLED BY DOJ AND FBI.

80. Publicly available information shows that the DOJ and FBI have mishandled sex abuse cases in other jurisdictions.

A. Larry Nassar Case.

81. Around the time of Morel’s sentencing, the Indy Star reported that former USA Gymnastics doctor Larry Nassar had been accused of sexual abuse. Tim Evans, Mark Alesia, and Marisa Kwiatkowski, *Former USA Gymnastics doctor accused of abuse*, INDY STAR (Sept. 12, 2016) *available at* <https://www.indystar.com/story/news/2016/09/12/former-usa-gymnastics-doctor-accused-abuse/89995734/> (last visited Nov. 14, 2022).

82. After journalists questioned the FBI about its handling of allegations it received about abuse by Nassar in 2015, the OIG conducted an investigation. It determined that FBI managers’ misconduct allowed Nassar to abuse approximately seventy young female athletes during the fourteen months between when USA Gymnastics first reported allegations to the FBI’s Indianapolis field office in 2015 and when Nassar was finally removed from his position in 2016. While those young women and girls were being abused by Nassar, instead of taking action to prevent it, the Special Agent in Charge of the FBI’s Indianapolis field office was seeking assistance from a USA Gymnastics official to get a job with the U.S. Olympic Committee. During those discussions, the USA Gymnastics official expressed concern about how his organization was being

portrayed in the media, and the Special Agent in Charge proposed putting out a public statement from the FBI to put USA Gymnastics in a positive light. U.S. Dep't of Justice Office of the Inspector General, *Investigation and Review of the Federal Bureau of Investigation's Handling of Allegations of Sexual Abuse by Former USA Gymnastics Physician Lawrence Gerard Nassar 21-093* (Jul. 2021) at ii-iii available at <https://oig.justice.gov/sites/default/files/reports/21-093.pdf> (last visited Nov. 14, 2022).

B. Jeffrey Epstein Case.

83. More than a year after the Plaintiff's redacted letter was released, the *Miami Herald* exposed the U.S. Attorney's Office for the Southern District of Florida's non-prosecution agreement ("NPA") with Jeffrey Epstein. Julie K. Brown, *How a future Trump Cabinet member gave a serial sex abuser the deal of a lifetime*, MIAMI HERALD (Nov. 28, 2018) available at <https://www.miamiherald.com/news/local/article220097825.html> (preserved Aug. 19, 2021).

84. Although Epstein was found to have abused more than thirty young girls between 1999 and 2007, DOJ prosecutors failed to confer with the victims before entering into the NPA with Epstein. *In re Wild*, 994 F.3d 1244, 1247-48 (11th Cir. 2021) (en banc). The DOJ attorneys not only passively failed to disclose the NPA to the victims but actively misrepresented that the investigation was ongoing several months after the NPA was finalized. *Id.* at 1248-49. The U.S. Court of Appeals for the Eleventh Circuit described the facts of the Epstein case as "beyond scandalous—they tell a tale of national disgrace." *Id.* at 1248.

C. Failure to Address the Sexual Abuse of Native American Children.

85. In addition to high-profile cases like Epstein and Nassar, media reports indicate failures to address sexual abuse allegations in Indian Country. Based on an analysis of DOJ records by the Howard Center for Investigative Journalism, "U.S. attorneys pursued charges less than half the time in child sexual abuse cases from Indian Country — about one-third less often than they

filed charges in other crimes.” Brendon Derr, Rylee Kirk, Anne Mickey, Allison Vaughn, McKenna Leavens and Leilani Fitzpatrick, *Little justice for child sex abuse victims in Indian Country*, HOWARD CENTER FOR INVESTIGATIVE JOURNALISM (Aug. 16, 2021) available at <https://indiancountrytoday.com/news/little-justice-for-child-sex-abuse-victims> (last visited Nov. 14, 2022).

V. NOMINATION OF FORMER U.S. ATTORNEY TO ASSISTANT ATTORNEY GENERAL AND FORMER AUSA STATEMENTS ABOUT MOREL CASE DURING NOMINATION PROCESS.

86. On April 1, 2021, the Plaintiff settled a portion of his lawsuit against the FBI. As part of that settlement, the FBI authorized him to release his letter to the public without any redactions, more than four years after he sent it to Judge Engelhardt. The settlement was filed on April 9, 2021.

87. Three days after the settlement was filed—finally allowing the Plaintiff to release his allegations of misconduct in the Morel case—on April 12, 2021, former U.S. Attorney Polite was nominated by President Biden to serve as the Assistant Attorney General for the U.S. Department of Justice’s Criminal Division. *Kenneth Polite tapped for top spot in Biden’s Justice Department*, WWL-TV (Apr. 12, 2021) available at <https://www.wvlv.com/article/news/politics/kenneth-polite-gets-tapped-for-top-spot-in-bidens-justice-department/289-7dada52c-8b51-40a7-afb7-6b4e30abd4d5> (last visited Nov. 14, 2022).

88. On April 21, 2021, the Associated Press published an article about the Plaintiff’s criticism of Polite as well as criticism by Keim’s mother, Tammy Glover, and one of Morel’s sexual assault victims. Jim Mustian, *Biden pick for key DOJ job criticized over deal in sex case*, THE ASSOCIATED PRESS (Apr. 21, 2021) available at <https://apnews.com/article/politics-government-and-politics-5c9a0cc6cbf12ea7e46e8c5730d81ade> (last visited Nov. 14, 2022). Later, the Plaintiff and five women affected by Polite’s decisions as U.S. Attorney publicly opposed his

nomination. Kimberly Curth, *Former FBI agent turned whistleblower and 5 women oppose Kenneth Polite's nomination to lead the DOJ's criminal division*, FOX 8 LIVE (May 27, 2021) available at <https://www.fox8live.com/2021/05/28/former-fbi-agent-turned-whistleblower-and-5-women-oppose-kenneth-polites-nomination-to-lead-the-dojs-criminal-division/> (last visited Nov. 14, 2022).

89. In a letter dated May 17, 2021, to Senator Richard Durbin, Chairman of the U.S. Senate Judiciary Committee, former AUSA Baehr, the final AUSA assigned to the Morel case, submitted a letter supporting Polite's nomination. (According to Baehr's LinkedIn page, after leaving the USAO, Baehr served as a Special Assistant to the President in the White House during the Trump Administration from August 2019 to January 2021. He was "[l]ead policy advisor on Veterans' and DOJ issues. Led Policy Coordinating Committees; drafted and edited executive orders, proclamations, reports, and policy documents, and worked with congressional committees to pass critical legislation." See <https://www.linkedin.com/in/james-baehr/> (last visited and preserved Oct. 14, 2022). In his letter, Baehr discussed the Morel case, writing in part

The case was not easy....Morel had picked his victims carefully: many had prior records that he could point to in a cynical attempt to undermine the truth of their testimony. The key witness in the case, who had worn a wire to expose his wrongdoing, had died unexpectedly. Many of the acts had occurred well beyond any statute of limitations. And several legal issues remained contested, potentially dragging the case on for years of appeals.

Letter from James Baehr to Senator Richard Durbin, Chairman, U.S. Senate Judiciary Committee, p. 1 (May 17, 2021) available at <https://www.judiciary.senate.gov/imo/media/doc/5.17.21%20-%20James%20Baehr%20Letter%20for%20Polite1.pdf> (last visited Nov. 14, 2022).

90. Baehr's letter to Senator Durbin was inconsistent with the fact that OCGS had approved a RICO charge against Morel. The RICO memo, which the Plaintiff had drafted for Baehr, had described how many of the witnesses had records, the potential legal issues associated

with Keim’s death, and the other legal issues which could possibly be appealed. However, despite these issues, Baehr had notified the Plaintiff that OCGS approved the RICO charge against Morel in 2016, indicating that they were not a bar to prosecution.

91. Also, if OCGS had approved a RICO charge against Morel, it would directly contradict Baehr’s claim in his letter that “[m]any of [Morel’s] acts had occurred well beyond any statute of limitations.” When the Plaintiff drafted the RICO memo, *all* of Morel’s acts occurred *within* RICO’s statute of limitations, which allows racketeering acts to be included in a charge as long as there has been another act within ten years. *See* 18 U.S.C. § 1961(5).

92. On July 20, 2021, the U.S. Senate confirmed Polite’s nomination to be an Assistant Attorney General by a vote of 56 to 44. *See* https://www.senate.gov/legislative/LIS/roll_call_votes/vote1171/vote_117_1_00270.htm (last visited Nov. 14, 2022).

VI. FOIA REQUESTS.

A. FOIA Request to DOJ Criminal Division.

93. On August 17, 2021, recognizing that records of an approved RICO charge against Morel would contradict Polite’s claims about the quality of the case against Morel and Baehr’s claims about the case, particularly his claim that many of the acts occurred “well beyond any statute of limitations,” the Plaintiff submitted a FOIA request to the DOJ Criminal Division for records as follows:

Memorandum from U.S. Attorney’s Office, Eastern District of Louisiana submitted to the U.S. Department of Justice Criminal Division for approval to charge Harry Morel (Harry J. Morel, Jr., date of birth [redacted], former District Attorney, Louisiana 29th Judicial District, Hahnville, Louisiana) with violating the Racketeer Influenced and Corrupt Organizations Statute (18 U.S.C. §§ 1961-1968), known as the “RICO” statute, and any e-mails, other memoranda, or any other documents regarding the proposed prosecution of Morel in the custody of the Criminal Division. Documents would have been created between October 1, 2015 and August 30, 2016.

94. On September 21, 2021, the DOJ Criminal Division denied the Plaintiff's FOIA request as follows:

To the extent that non-public responsive records exist, without consent, proof of death, or an overriding public interest, disclosure of law enforcement records concerning an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C. § 552(b)(7)(C). Because any non-public records responsive to your request would be categorically exempt from disclosure, this Office is not required to conduct a search for the requested records.

95. The Plaintiff timely filed an administrative appeal of the DOJ Criminal Division decision with the DOJ Office of Information Policy ("DOJ OIP") on October 15, 2021.

96. On February 7, 2022, DOJ OIP affirmed DOJ Criminal Division's decision.

B. FOIA Request to EOUSA for Morel Prosecution Files.

97. On November 4, 2021, recognizing the records regarding the Morel case held by the USAO could contradict claims made by Polite and Baehr, the Plaintiff submitted a FOIA request to EOUSA as follows:

Request any and all files, case files, prosecution files, or any other records regarding the investigation, potential prosecution, or prosecution of Harry J. Morel Jr., date of birth [redacted], former District Attorney and Assistant District Attorney, Louisiana 29th Judicial District, Hahnville, Louisiana in the Eastern District of Louisiana. Morel was prosecuted by the U.S. Attorney's Office for the Eastern District of Louisiana in the U.S. District Court for the Eastern District of Louisiana, court case number 16-00050-KDE-MBN. Besides the 2016 prosecution of Morel, there may have been a separate case file opened in 2009, but the case was declined in 2013. That case file may or may not have been included in the case file for the 2016 prosecution. Also, there was a previous investigation of Morel in 2001, which may have a separate file.

98. On November 9, 2021, EOUSA denied the Plaintiff's request for the following reasons:

You have requested records concerning a third party. To the extent that non-public responsive records exist, without consent, proof of death, or an overriding public interest, disclosure of law enforcement records concerning an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C. § 552(b)(6) & (b)(7)(C). Because any non-public records responsive to your request would be categorically exempt from disclosure, this Office is not required to

conduct a search for the requested records.

99. The Plaintiff timely filed an administrative appeal of the EOUSA decision with the DOJ OIP on November 13, 2021.

100. On February 17, 2022, DOJ OIP affirmed EOUSA's decision.

C. FOIA Request to EOUSA for Records Regarding USAO Review Committee of Morel Case.

101. On November 4, 2021, recognizing that records held by the USAO regarding who attended the January 2016 review committee meeting about the Morel case could contradict Polite's claims that the Plaintiff's allegations of improper influence, particularly by AUSA Harper, but also by other AUSAs involved in the decision to decline the Morel case in 2013, were "completely false," the Plaintiff submitted a FOIA request to EOUSA as follows:

Any and all documentation regarding any and all meetings held by the U.S. Attorney's Office for the Eastern District of Louisiana (USAO EDLA) regarding the prosecution of Harry J. Morel Jr., date of birth [redacted], between 01/01/2016 and 03/01/2016, including e-mails, calendar entries, and/or appointment books of the following personnel assigned to the USAO EDLA at the time: U.S. Attorney Kenneth Polite, AUSA Fred Harper, AUSA Maurice Landrieu, AUSA James Baehr, AUSA Michael McMahan, AUSA Patrice Sullivan, AUSA Duane Evans, and AUSA Mark Miller. At least one meeting was held during that period regarding potential prosecution of Morel for violating the Racketeer Influenced Corrupt Organizations Act.

102. On November 9, 2021, EOUSA denied the Plaintiff's requested for the following reasons:

You have requested records concerning a third party. To the extent that non-public responsive records exist, without consent, proof of death, or an overriding public interest, disclosure of law enforcement records concerning an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. *See* 5 U.S.C. § 552(b)(6) & (b)(7)(C). Because any non-public records responsive to your request would be categorically exempt from disclosure, this Office is not required to conduct a search for the requested records.

103. The Plaintiff timely filed an administrative appeal of the EOUSA decision with the DOJ OIP on November 13, 2021.

104. On March 22, 2022, DOJ OIP affirmed EOUSA's decision.

COUNT ONE

Violation of FOIA, 5 U.S.C. § 552

105. The foregoing allegations are re-alleged and incorporated herein by reference.

106. Considering:

a) the third party whose records are sought by the Plaintiff (Morel) pleaded guilty to a crime as a result of the FBI investigation/DOJ prosecution;

b) DOJ and FBI officials publicly described the extent of Morel's wrongdoing and called him a "sexual predator" even though the information they released was substantially more than what was in the factual basis for Morel's guilty plea;

c) details of Morel's wrongdoing that were uncovered by the FBI and sheriff's office investigation have been released to the public by the Saint Charles Parish Sheriff's Office, pursuant to the Louisiana Public Records law, including an extensive brief and audio and video recordings;

d) recent public records have shown DOJ and FBI mishandling investigations into sexual abuse;

e) the records sought will likely shed light on inconsistent public statements by current and former high-level federal officials (a DOJ Assistant Attorney General and a former AUSA who became a Special Assistant to the President) concealing DOJ wrongdoing and unfairly blaming sexual abuse victims;

the Defendant's denial of the Plaintiff's three requests under 5 U.S.C. § 552(b)(6) or (7)(C) was improper, because any privacy interest in the records is outweighed by an overriding public interest.

RELIEF

WHEREFORE, Plaintiff respectfully requests relief as follows:

107. An injunction requiring the Defendant to: 1) conduct a search for any and all records

responsive to Plaintiff's one FOIA request to DOJ Criminal Division and two FOIA requests to EOUSA; and 2) produce, by a date certain, any and all records responsive to Plaintiff's FOIA requests.

108. Costs and reasonable attorneys' fees.

109. Such other relief as the Court deems just and equitable.

Respectfully Submitted,

November 15, 2022.

/s/ Michael S. Zummer

Michael S. Zummer (La. Bar No. 31375)

Pro Se

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