

Dear Alex:

Consistent with Mr Epstein's commitment to maintain full compliance with the terms of the Non-Prosecution Agreement, we write to inform you of new information we have just received from the Palm Beach County Sheriff's Office. As part of a facility reorganization and in keeping with their policy of normal step down processes customarily implemented by the Sheriff's Office with respect to inmates similarly situated to Mr. Epstein, the Sheriff's Office has informed Mr. Epstein of its desire to implement the next step down in the progression of Mr. Epstein's incarceration from work release to in-home incarceration under 24 hour a day, 7 day a week GPS monitoring by Sheriff's deputies.

We believe that the continued incarceration of Mr. Epstein by the Sheriff's Office under this next step of the process would not violate the terms of the Non-Prosecution Agreement. However, in an abundance of caution, we write to inform the United States Attorney's Office of this new information in order to make certain that this step would not be considered a breach of our agreement. Although you recently informed us that you have previously recused yourself from participation in Mr. Epstein's case, as you negotiated the terms of the Non-Prosecution Agreement, we thought it would be appropriate to inform you of these new developments. As we have agreed in the past, regardless of the prior positions taken during negotiations, the agreement should speak for itself. We believe the agreement allows for this Sheriff initiated step, however as we have had misunderstandings in the past, we are pre-emptively seeking your consent.

As you and your staff consider these new developments, the following points will clarify why we believe that this next phase of Mr. Epstein's incarceration does not violate the provisions of the Non-Prosecution Agreement:

1. Under the terms (2) of the Non-Prosecution Agreement, Mr. Epstein was required to "make a binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:

(a) Epstein shall be **sentenced** to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control **in lieu of imprisonment.**"

Moreover, Mr. Epstein was obligated "to use his best efforts to convince the Judge of the 15th Judicial Circuit to accept Epstein's binding recommendation regarding the sentence to be imposed . . ." Clearly, Mr. Epstein has done both. On the basis of Mr. Epstein's binding recommendation, "a Judge of the 15th Judicial Circuit accepted and executed the sentence", as required by Item 3, page 3 of 7 of the Non-Prosecution Agreement, and Mr. Epstein is currently serving precisely the sentence required under the terms of the Non-Prosecution Agreement.

Not only has Mr. Epstein been serving this sentence, but the conditions of his incarceration have exceeded even that which the Non-Prosecution Agreement and, indeed, the Judge, herself, required. The Judge did not order that Mr. Epstein serve his sentence in solitary confinement for the first three months of his incarceration, nor that he receive no hot water for the first two months,, nor that his visitation be limited to onl a maximun of two hours per week. or recreation be limited to an average of 3 hours per week. Yet those additional terms, which were within the exclusive purview of the Sheriff's Office, were imposed on Mr. Epstein. Mr. Epstein accepted those terms without complaint. Certainly, the United States Attorney's Office made no objection to the manner in which the Sheriff's Office administered Mr. Epstein's sentence.

2. The United States Attorneys Office has already agreed that under the terms of the Non-Prosecution Agreement, Mr. Epstein was eligible to participate in the Sheriff's alternative custody program through work release, so long as Mr. Epstein is treated like any other similarly situated inmate in the county system. We have established that Mr. Epstein qualified for and was granted work release on exactly the same terms applicable to similarly situated county inmates.

3. Work release is granted by the Sheriff's Office as part of a program of alternative custody arrangements, administered, implemented and monitored exclusively by the Sheriff's Office, separate and apart from any sentences or programs administered by the Florida State Department of Corrections, including the sentence of community control (discussed in point 5 below). Among the phases of the alternative custody program administered by the Palm Beach County Sheriff are work release and home confinement, also known as "In-House Arrest." Both work release and home confinement are granted by the Sheriff's Office pursuant to identical eligibility requirements. Mr. Epstein has already satisfied the eligibility requirements for work release, and is therefore also eligible for the home confinement phase of county incarceration under the alternative custody program. Inasmuch as the United States Attorney's Office has agreed that the admission of Mr. Epstein to the county's alternative custody program on the same terms as similarly situated county inmates does not violate the terms of the Non-Prosecution Agreement, Mr. Epstein's participation in the next progressive step down under that same alternative custody program should also not be deemed a violation of the Non-Prosecution Agreement.

4. Home confinement is a normal part of the usual and customary progressive step down used to reintegrate inmates back into society. Presently approximately 200 county inmates serve their county sentences in home confinement. But home confinement is itself, only one step in the overall progression from institutional incarceration to alternative custody (including home confinement), to community control or probation. This is a well-established State regimen that has been in existence for years. You have confirmed on several occasions your agreement that once Mr. Epstein was convicted, sentenced and began serving the sentence imposed by the State of Florida, the United States

Attorney's Office would not involve itself in the administration of Mr. Epstein's sentence by county and state officials. Holding Mr. Epstein in violation of the Non-Prosecution Agreement for serving the remainder of his county incarceration in home confinement would clearly interfere with the County's administration of its customary step down process contrary to your agreement.

5. Home confinement in the Sheriff's alternative custody program is demonstrably not the same thing as community control, which is exclusively administered by a different authority, namely the Florida State Department of Corrections. In fact, the two are quite distinct. Home confinement in the Sheriff's "In-House Arrest" program is an alternative form of county incarceration administered exclusively by the Sheriff's Office. It requires no court order and, in Palm Beach, is subject to the discretion of the Sheriff's Office. Home confinement requires the inmate's continued presence within the confines of the four walls of the home, [except when the inmate travels to and from a pre-approved work location]. The inmate's continued presence within the confines of the home [and exact location while traveling to and from the pre-approved work location] is continuously monitored 24 hours a day, 7 days a week by Sheriff's deputies through the use of an ankle bracelet and a GPS monitoring system. If the inmate leaves the confines of the home [or departs from the designated route to and from the work location] without prior authorization, deputies are instantaneously alerted. They are authorized to immediately arrest the inmate on the spot and return the inmate to institutional detention without the need for any court proceedings.

Community control on the other hand is a court ordered enhanced form of probation administered by the Florida Department of Corrections and monitored by a select group of case officers i.e. those with less than 25 cases. Community control is a much broader sentence than the strict in-house arrest administered by the Sheriff's Office. Community control is "an individualized program in which the freedom of the offender is restricted in the community" as well as the home. Unlike the Sheriff's Office's in-house arrest program, in which inmates are subject to constant GPS monitoring by Sheriff's deputies, an offender serving a "community control" sentence voluntarily reports to his case officer once a week (as opposed to once a month in the case of ordinary probation). Although violation of any of these conditions could result in the revocation of community control, the violation must first be discovered and reported by the case officer, and the offender must be located before he can be detained. Even then, revocation of community control is not automatic; the offender is entitled to a court hearing, and only a judge can impose sanctions.

Similarly, the community control sentence that Mr. Epstein is to serve after completing his county sentence is clearly distinct from in-home confinement under the Sheriff's alternative custody program. Under the court ordered terms of Mr. Epstein's community control sentence, Mr. Epstein will be free from the constant scrutiny of 24 hour a day / 7 day a week GPS monitoring, and instead will be

required to report to his case officer once a week. The sentencing judge has imposed additional conditions on his community control sentence.

.

We look forward to receiving your comments and consent as soon as possible,, as always, thank you for you time, and we hope that this difficult period for all of us, is behind us, and sincerely appreciate your time.