

Dear Alex:

Consistent with Mr. Epstein's continued exercise of his best efforts 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 the normal step down process customarily implemented by the Sheriff's Office with respect to inmates similarly situated to Mr. Epstein, and in accordance with the usual and customary progression from the work release phase of incarceration, the Sheriff's Office has informed Mr. Epstein of its desire to implement the next step of home incarceration of Mr. Epstein under 24 hour, 7 day a week GPS monitoring by Sheriff's deputies.

We believe that the continued incarceration of Mr. Epstein by the County Sheriff 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 the Sheriff's desire in order to avoid any misunderstandings that may arise on either side. Although you recently informed us that you have recused yourself from participation in Mr. Epstein's case, inasmuch as you, yourself, personally negotiated the terms of the Non-Prosecution Agreement, we thought it would be appropriate to inform you of these new developments. We believe that your statement that the contract terms of the final document should be our guide, might help clarify any issues that may arise with other members of your staff.

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

1. Under the relevant terms 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, the agreement states that 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. [A] Judge of the 15th Judicial Circuit accepted and executed the sentence",

as required by the third term 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 specifics of his incarceration have exceeded even that which 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 his outside time, be limited to an average of only 4 hours per week. Yet those terms, which were within the purview of the Sheriff's Office, were accepted and served by Mr. Epstein without complaint.

2. The United States Attorneys Office the very next day after the Mr Epstein began serving his sentence notified the sheriff that they acknowledged that the conditions of custody were in the discretion of his office "so long as he is treated like any other similarly situated inmate in the county system".

3. Alternative custody is granted by the Sheriff's Office as part of a long standing program. It is administered, implemented and monitored exclusively by Sheriff's Office Deputies, separate and apart from any program 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. Both work release and home confinement are granted by the Sheriff's Office pursuant to the identical eligibility requirements. As Mr. Epstein has already satisfied the eligibility requirements for work release, he is also eligible for the home confinement phase of county incarceration under the alternative custody program. Inasmuch as we have already agreed that the admission of Mr. Epstein to the county's alternative custody program of incarceration 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 of that same alternative custody program should also not be in violation of the Non-Prosecution Agreement.

4. Home confinement is 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 strictly supervised institutional incarceration to strictly monitored and supervised alternative custody. This is a well established program of the Palm beach Sheriffs Office. You have confirmed to me 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 Attorneys Office would not involve itself in the ordinary administration of Mr. Epstein's sentence by county and state officials.

5. Home confinement in the County's alternative custody program differs dramatically from community control, which is strictly administered by the Florida State Department of Corrections. Home confinement is an alternative form of county incarceration administered exclusively by the County Sheriff's Office and its law enforcement personnel. The inmate is still considered in the custody of the Sheriff. It requires the inmates continued presence within the confines of the four walls of the home, [except when the inmate travels to and from an eligible work location]. The inmates continued presence within the confines of the home is monitored 24 hours and 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 without permission, deputies are authorized to arrest the inmate immediately.

Community Control on the other hand is a form of State administered probation monitored by its probation department and case officers . A person serving community control is not under constant monitoring, but rather must report at least once a week to his case officer (as opposed to once a month for those on regular probation). They are subject to an evening curfew, and a multitude of other restrictions that may be imposed by the judge.

In conclusion , the Sheriff's office has suggested to Mr. Epstein that it was now appropriate for him to begin the next level of alternative custody, and we have advised Mr Epstein that his availing himself of the same opportunity given to other inmates similarly situated would not violate his non- prosecution agreement .

If there are any questions please feel free to contact me .

jay