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Attorney General  
The United States Virgin Islands  
Department of Justice  
Office of the Attorney General  
34-38 Kronprindsens Gade  
GERS Bldg., 2nd Floor  
St. Thomas, U.S.V.I. 00802

Re: Jeffrey Epstein

Dear Mr. Attorney General Frazer:

I am grateful for the opportunity you have afforded me to respond to your July 13, 2012 letter to me regarding Mr. Jeffrey Epstein. I am hopeful that the points raised in this response will result in your reconsidering the imposition of an in-person reporting requirement each time Mr. Epstein intends to depart from the Territory. I would respectfully urge you to consider the reasons below as to why such a directive is neither legally required nor practically necessary. In addition, I hope you will consider the fact that this is not standard practice in other jurisdictions, even though it is substantially easier for registrants to leave and reenter such jurisdictions, and why imposition of this directive would result in a significant and unique burden on Mr. Epstein, a law-abiding resident of the Virgin Islands.

First, for the more than 18 months which have transpired since July of 2010, through me as his counsel, Mr. Epstein has faithfully provided notification by email (and by telephone and fax when the Department of Justice's email server has been down) of his travel, as well as the changes to the same. Communication between the Department of Justice and Mr. Epstein and his counsel during this period has remained regular and open. The practice has been successful. The Department

knows when Mr. Epstein is both departing and arriving in the Territory, and there has been absolutely no incident in any other jurisdiction, domestic or foreign, that would indicate a need for greater supervision. In short, I believe there is no public safety necessity in requiring Mr. Epstein to notify the Department in person of his intention to travel.

Second, the burden of imposing an in-person notification requirement would be substantial given the frequency and nature of Mr. Epstein's business-related travel. Mr. Epstein frequently meets with high-profile business and government leaders around the world, but must remain flexible in order to accommodate their busy and evolving schedules. Consequently, Mr. Epstein cannot always know in advance just when he must travel to meet with these leaders, and often the travel plans he makes (including the cities, states and countries he is to visit) must change (sometimes hourly), on little or no notice, as a result of such schedule changes over which Mr. Epstein has no control. Moreover, as a personal guest of these high profile business and government leaders, Mr. Epstein is frequently not in a position to know the specific address of his travel accommodations; nor would it be appropriate for him to provide the personal contact information of his high profile hosts. For that reason, whenever Mr. Epstein travels, he carries his cell phone with him at all times, remains in regular contact with his staff and myself and keeps his staff and myself updated regarding his locations.

In-person appearances by Mr. Epstein to the Department of Justice generally require Mr. Epstein first to travel by boat from Little St. James to St. Thomas, and then from the East End of St. Thomas to the GERS Building, often taking over an hour and a half each way. This practice would be required to be repeated over and over in the course of each month given the regularity of Mr. Epstein's travel demands. Moreover, the frequent changes to his travel plans could require Mr. Epstein to make multiples of such trips to and from the GERS Building before he ever left the Territory on a specific trip. He would lose many hours of time he could be working in order to notify the Department of Justice, in person, each time he needs to leave the Territory. Moreover, as stated above, Mr. Epstein cannot always know in advance just when he must travel to meet with business and government leaders around the world, and, frequently, the decision to travel needs to be made at night or on weekends or during a holiday when the Department of Justice is not open. The current practice of providing timely notification by email or fax of Mr. Epstein's travel plans and any changes to the same has not only worked in the past, but it is a practical and reasonable solution to ensure notification by this rare resident whose business requires an extraordinary amount of travel (in contrast to the discrete number of trips most other residents of the Territory make on a yearly basis).

Third, the in-person reporting requirement is neither mandated by law nor warranted by the practice in other jurisdictions. Neither the current Virgin Islands Sex Offender Registration and Community Protection statutes, 14 V.I.C. §§ 1721, et seq., nor the Federal Sex Offender Registration and Notification Act ("SORNA")

require by their express terms any “in-person” notification for travel. As to the practice elsewhere, unlike in the Territory, where travel to or from the Territory cannot occur except by boat or aircraft, registered individuals in other jurisdictions travel easily, often daily if not weekly, between states in the United States (say New York to New Jersey or within New England) without any in-person notification obligation. Even in Florida, the jurisdiction of Mr. Epstein’s conviction, the registration authorities have only required Mr. Epstein to inform them by email of his arrival and the expected duration of his stay in that jurisdiction. As to the SORNA guidelines issued by the Office the United States Attorney General, there is no requirement that the notification of “temporary lodging” be made in person. “Rather, the in-person appearance requirement of SORNA § 113(c) relates to changes in name, and to changes in residence, employment, or school attendance . . . The means by which sex offenders are required to report other changes in registration information discussed in this Part [which covers foreign travel] are matters that jurisdictions may determine in their discretion”.

The SORNA guidelines recognize that there are cases where flexibility in the application of SORNA’s notification procedures is appropriate. For example, the SORNA guidelines discuss the case of an offender who is a “long haul trucker” who regularly drives thousands of miles through “dozens of jurisdictions in the course of his employment”. The SORNA guidelines specifically state that registration is not required in each location, that the jurisdiction responsible may simply require the traveling registrant to provide a most likely itinerary of “normal travel routes” and “general areas” of work and that such jurisdictions “may treat such cases in accordance with their own policies.” See **The National Guidelines for Sex Offender Registration and Notification**, pp. 30 and 43. The SORNA guidelines do not require any notification for changes in temporary residence of less than 7 days (**Id.**, p. 29) and the supplemental SORNA guidelines also recognize it would be “pointlessly burdensome” and “unworkable” for advance notification for foreign travel in cases where there is frequent travel between the borders of the U.S. and neighboring countries. Thus, in the case of a registrant who lives in a “northern border state and commutes to Canada for work on a daily basis”, the supplemental guidelines make it clear that jurisdictions may accommodate such situations. See **Supplemental Guidelines for Sex Offender Registration and Notification**, Federal Register, Vol. 76, No. 7 (January 11, 2011), p. 1638.

In the case of Mr. Epstein, it would seem “pointlessly burdensome” to require Mr. Epstein to report in person every time he wishes to leave the territory for a day trip to the British Virgin Islands, for example. Moreover, Mr. Epstein cannot leave the Territory except by aircraft or boat, which for the most part would require him to appear in person before government authorities in any event to travel anywhere other than for short island day trips.

In short, there are no legal or policy straitjackets that restrict the Territory from exercising responsible discretion and permitting Mr. Epstein, who is a mature business leader that travels with such frequency, and who has already

demonstrated diligence in keeping the Department of Justice informed of his travel without any incident in this or any other jurisdiction, **[who has been determined to be a low risk of recidivism ---- NOTE: the only "determination" made of recidivism is by NY, so I would delete this bold section if you agree]**, to continue to regularly notify the Department of Justice of his travels in or out of the Territory by email or fax. Nor is there any such legal or policy restriction preventing the Territory from permitting Mr. Epstein to continue to provide generally the information he has been providing through such email or fax notifications.

In light of the foregoing, I would respectfully request the following:

- Mr. Epstein be permitted to continue to report by fax or email each time he plans on departing the Territory and each time he returns. Mr. Epstein will provide such faxes or emails himself, rather than through me as legal counsel, if the Department of Justice believes that this is necessary.
- Notification would include a date of departure and expected return date, subject to email or fax notification of any changes to those dates.
- To the extent that Mr. Epstein will be traveling to one of his vacation homes (for example, New York or Paris), Mr. Epstein's statement that he will be traveling to such homes would provide sufficient information of his location, as he has already provided the Department of Justice with the addresses and telephone numbers of these locations and is required to ensure that this information remains current. Mr. Epstein will also remain continuously available by cell phone, the number of which has already been provided to the Department of Justice and this information too must be updated to ensure that it remains current.
- To the extent that Mr. Epstein is traveling to other destinations, Mr. Epstein be permitted to provide general areas of intended travel and be continuously available through his own cell phone (and through myself and his St. Thomas office), so that there would never be a meaningful delay if there was any reason you wished to determine his precise whereabouts.
- Finally, Mr. Epstein will report in person, not just the current one time a year, but a second time to discuss any issues resulting from his unusual travel imperatives.

I thank you for your consideration of this matter and welcome your response (whether by telephone or by letter) to this communication.

Respectfully,

Darren K. Indyke