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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 considering exceptions to your travel notification protocol for individuals whose ordinary course of employment or business requires that they travel outside of the Territory more than 6 times a year. This would affect many gainfully employed individuals such as pilots, fishermen, boat captains, cruise ship workers, merchants and international businessmen. Guidelines issued by the Office of the United States Attorney General to implement the Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. §16911 et. seq., specifically contemplate these types of exceptions.

These guidelines permit flexibility in travel notification requirements in cases where registered individuals frequently are required to travel to multiple jurisdictions on a recurring basis, including students residing in one jurisdiction but enrolled in another, long-haul truckers who regularly travel through dozens of jurisdictions, and employees who in the ordinary course of their employment regularly commute between jurisdictions, including jurisdictions outside of the United States. In such types of cases, individuals may be required to register in several jurisdictions, as is Mr. Epstein, but they are not required to notify their home jurisdiction every time they leave and re-enter. The guidelines recognize that it is

appropriate for there to be flexibility in the manner and content of notification for frequent and recurring travelers. In addition, I hope you will consider the fact that standard practice regarding travel notification in other jurisdictions, where it is substantially easier for registrants to leave and re-enter such jurisdictions, is substantially less demanding than the protocol referred to in your letter. I would respectfully urge you to consider the reasons below as to why the same flexibility recognized for employees, students and businessmen in these circumstances should be afforded to Mr. Epstein.

First, for the more than 18 months which have transpired since July of 2010, through me as his counsel, Mr. Epstein has diligently 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 in his travel plans. Mr. Epstein has followed this same procedure in the State of Florida, the jurisdiction of Mr. Epstein's conviction which gave rise to his registration requirement, where Mr. Epstein is permitted to provide email notification of his arrival and departure. Mr. Epstein provides email notification to the State of New Mexico when he travels to and from his vacation home in that jurisdiction, and the State of New York does not require Mr. Epstein to inform it of his arrival and departure to his New York vacation home, unless Mr. Epstein remains in New York for 10 days or more.

Communication between the Department of Justice and Mr. Epstein and his counsel during this period has remained regular and open. This practice has been successful. The Department knows when Mr. Epstein is both departing and arriving in the Territory, whose notification requirements are already more rigorous than other jurisdictions where Mr. Epstein is registered, and there has been absolutely no incident in any jurisdiction, domestic or foreign, that would indicate a need for greater supervision. In short, I believe, as do the States of Florida, New Mexico and New York, that there is no public safety necessity in requiring Mr. Epstein to notify the Department "in person" each time he travels to or from the jurisdiction.

Second, in other jurisdictions, unlike in the Territory, where travel to or from the Territory cannot occur except by boat or aircraft, registered individuals 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. In fact, the SORNA guidelines are clear that SORNA itself requires "in-person" notification only in a narrow set of circumstances. "[T]he 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, among other things, covers foreign travel] are matters that jurisdictions may determine in their discretion". **The National Guidelines for Sex Offender Registration and Notification**, p. 54. Moreover, the SORNA guidelines provide for travel notification in such jurisdictions only when an individual is away from his residence for seven or more days. **Id.**, p. 29. The Department's requirement that Mr. Epstein provide notification whenever he leaves the Territory

to stay in another jurisdiction, whether for less or more than seven days, has been far more demanding than SORNA requires and than other jurisdictions have required of Mr. Epstein or any other registrants.

The SORNA guidelines recognize that there are cases where flexibility in the application of SORNA's notification procedures is necessary. For example, the SORNA guidelines discuss the cases of an individual who is a "long haul trucker" who regularly drives thousands of miles through "dozens of jurisdictions in the course of his employment", a home-improvement contractor, and a day laborer -- see **The National Guidelines for Sex Offender Registration and Notification**, pp. 39 and 43 -- or an individual "who lives in a northern border state and who commutes to Canada for work on a daily basis" -- see **Supplemental Guidelines for Sex Offender Registration and Notification**, Federal Register, Vol. 76, No. 7 (January 11, 2011), p. 1638. These cases are analogous to any number of possible situations in the Territory, including, pilots, fisherman, boat captains, boat workers, cruise ship workers, merchants and international businessman, all of whom travel to and from the Territory on a frequent and regular basis in the ordinary course of their employment or business. The administrative burden to the Department to require each such worker to report in person each time they enter and leave the Territory and to confirm every location and address included in such worker's travel notification would be substantial. Consider the case of boat captain chartering trips to various Islands in the British Virgin Islands on a daily basis. Without the flexibility afforded by SORNA, the Territory might have to require that boat captain to appear at the Department every day before he left for the days' charter. With the currently proposed amendments to the Virgin Islands Sex Offender Registration and Community Protection statutes, 14 V.I.C. §§1721, et seq., that same boat captain would be required to book his charters at least 21 days in advance to comply with the proposed legislation's 21-day advance travel notification requirement. The supplemental SORNA guidelines have specifically stated that such requirements could be "pointlessly burdensome" and "unworkable". ***Id.*** In situations such as these, 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." **The National Guidelines for Sex Offender Registration and Notification**, pp. 39 and 43.

Mr. Epstein's case is no different from any of these cases where SORNA expressly permits flexibility in the manner and content of travel notification. Moreover, unlike in virtually every other jurisdiction where travel is relatively unrestricted, Mr. Epstein cannot leave the Territory except by aircraft or boat. Thus, there is even less of a need from a public safety perspective to require in-person notification with respect to Mr. Epstein's travel.

Mr. Epstein engages in frequent and recurring domestic and international travel several times a month for business and professional purposes. Oftentimes, he travels to locations in the United States where he maintains vacation homes for which he has provided to the Department all of the necessary information, including addresses, telephone numbers and the like. In numerous other cases, Mr. Epstein must travel internationally and has little advance notification of the meeting locations (including cities, states and countries), dates and times. Whether traveling domestically or internationally, his plans frequently change, sometimes hourly, on little or no notice, to accommodate the busy and evolving business schedules of others over whom he has no control. In addition, Mr. Epstein frequently meets with and stays as the personal guest of dignitaries and business people to which privacy is of paramount concern. Consequently, Mr. Epstein cannot always know in advance just when and where he must travel or the specific address of his travel accommodations. 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.

As would be true for the frequent and recurring travels of the long-haul trucker, the boat captain, the cruise ship worker, and the merchant, in person travel notification for Mr. Epstein would be required to be repeated over and over in the course of each month given the frequency and regularity of Mr. Epstein's travel demands. Moreover, the frequent changes to his travel plans including the specifics of just when he must depart the Territory could require Mr. Epstein to make multiple in person appearances before he ever left the Territory on a specific trip. In addition, as stated above, Mr. Epstein cannot always know in advance just when he must travel, 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 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 timely and accurate notification by Mr. Epstein without creating unnecessary and substantial administrative burdens on the Department and its staff.

In short, Mr. Epstein, who is a mature business leader that travels with substantial frequency and regularity, has already demonstrated unerring diligence in keeping the Department of Justice informed of his travel. He has fully abided by the law without any incident in this or any other jurisdiction since his arrival in the Territory. Consistent with the SORNA guidelines, Mr. Epstein respectfully requests that the same flexibility be provided in this jurisdiction to him and other registrants as is afforded to law-abiding registrants in other jurisdictions. The proposed amendments to the Territory's Sex Offender Registration and Community Protection statutes obviously have valid and legitimate purposes, which must be served. Those same purposes can be well served by adopting travel notification protocols both now and in the pending legislation that provide reasonable travel notification exceptions to enable those law abiding registrants who travel frequently to continue earn a living. For that reason and the other reasons discussed above, I would

respectfully request that you consider the following exceptions to the Department's travel notification protocols:

- Consistent with the SORNA guidelines, travel notification be required only for travel away from the Territory for seven or more days.
- Registrants who travel outside of the Territory more than 6 times during any 12-month period be permitted to report by fax or email each time they plan on departing the Territory and each time they return; provided that (consistent with the pending legislation) they report in person (including as part of their registration reporting requirements) to the Department twice a year to review and discuss their travel.
- In the case of Mr. Epstein, he will provide such fax or email notification himself, rather than through me as legal counsel, if the Department of Justice believes that this is necessary.
- Each travel 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 any registrant will be traveling to a temporary address of which the registrant has already provided all the necessary information, including address, telephone number, and the like, the registrant's statement in the travel notification that he will be traveling to such temporary address would provide sufficient notification of his travel location. The registrant must also confirm a telephone number, whether landline or cellular, at which he can be contacted by the Department throughout the period of his travel. In Mr. Epstein's case, Mr. Epstein will remain continuously available by cell phone, the number of which has already been provided to the Department of Justice.
- To the extent that a registrant who travels frequently travels to locations other than to previously reported temporary addresses, the registrant should provide the general areas of the locations and contact information at which the registrant may be reached by the Department. In the circumstances of Mr. Epstein's frequent and recurring travel, it is respectfully requested that Mr. Epstein be permitted to provide general areas of intended travel, and will 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 the Department wished to determine his precise whereabouts.

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