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Important disclosure from retired FBI Agent J. Richard Kiper

Rick Kiper <info@kipertekusa.com>
To: cawray@fbi.gov

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Dear Director Wray,

This is Dr. Rick Kiper, retired FBI agent and CART examiner. You may recall I was the agent who in March 2015 testified before the Senate Judiciary Committee about the FBI's retaliation against whistleblowers such as myself. As a result of the testimony of myself and others, Congress unanimously passed the FBI Whistleblower Protection Enhancement Act of 2016, which included giving FBI whistleblowers the ability to make protected disclosures directly to Congress.

The WPEA was an important step towards FBI accountability, but that's not the reason I'm writing to you today.

Today I would like to share with you startling information about the FBI that will soon make national news headlines. I trust this information will enable you to "get ahead of the problem" and take actions that demonstrate to the American people that the FBI is still worthy of their trust.

Today I am the lead digital forensic examiner on the Keith Raniere/NXIVM investigation (50A-NY-2233091). This is the investigation where the FBI claimed to have "discovered child pornography" on an external hard drive belonging to Raniere. The alleged "discovery" had the immediate result of causing all of Raniere's co-defendants to take guilty pleas, and ultimately Raniere was convicted and sentenced to 120 years in prison.

At the time of Raniere's trial I had no knowledge of the investigation, as I was leading FBI instructor teams in delivering several cybersecurity training courses overseas. After retiring in July 2019, however, I was asked to take a look at the digital evidence in this case and how the FBI handled it. What I found shocked me.

I have attached my full report of technical and process findings, which is pending a response from the DOJ (more on that later). What is important is that **six** other digital forensic experts – including **three other former FBI CART examiners** – agreed with my findings. We found overwhelming proof that digital evidence used in court, which the prosecution said was "at the heart" of their case, had been mishandled, misrepresented, and even altered while in FBI custody. Specifically, we found that DOJ/FBI employees willfully and unlawfully acted to deny Raniere due process by:

- Misrepresenting how the evidence was discovered,
- Mishandling the evidence and breaking chain of custody,
- Reviewing the evidence without being authorized to do so,
- Delaying transfer of the evidence to the FBI Computer Analysis Response Team (CART) for preservation and analysis,
- Providing the evidence to an unauthorized third party,
- Failing to document the transfer of evidence to an unauthorized third party,
- Accessing the evidence without a write blocker,
- Modifying the evidence,
- Violating the FBI's own policies and procedures,
- Violating well established critical forensic protocols,
- Making material misrepresentations, under oath, minimizing the violation of critical forensic protocols,
- Withholding evidence from defense counsel,
- Presenting demonstrably manipulated evidence in trial,
- Providing technical statements during sworn testimony which knowingly conflicted with testimony previously established by the FBI and DOJ in prior litigation, and
- Providing technical statements during sworn testimony which can be empirically demonstrated to have been false.

You should know that prosecutors on this case, AUSA Kevin Trowel, since retired, and AUSA Tanya Hajjar, have repeatedly called these claims “frivolous” and “entirely meritless,” while asking for two extensions (totaling more than seven weeks so far) to a court order requiring them to respond to a motion to compel discovery.

After my 20 years of faithful service to the FBI, including my service as a CART examiner, a CART instructor, a developer of CART curriculum, and trainer of CART instructors, I was extremely disappointed – actually, *outraged* – about how the FBI handled the digital evidence in the case. You should feel the same way.

The difference is that you can do something about it, before it becomes the biggest FBI evidence scandal since the FBI Laboratory trace evidence fiasco in the 1990s.

That said, nationally recognized, career attorneys and judges have already expressed dismay after learning the facts of this case.

“I’ve never [before] seen an instance where the system threw away its credibility purely for the purpose of convicting a defendant.” --*Former Arkansas State Supreme Court Justice Richard Mays*

“In the face of this alarming evidence, there is really no excuse for the court or for the prosecutor to hide behind procedural delays in waiting to get to the bottom of this. They should take immediate action. And if they can’t, or they won’t, the United States Attorney General should appoint an independent prosecutor. If an independent investigation determines this tampering occurred, there must be accountability. People have to be criminally prosecuted. This is very serious.” --*Bud Cummins, former United States Attorney in the Eastern District of Arkansas*

Just last month, renowned Harvard Professor Alan Dershowitz proposed a “9/11 type commission” headed by former Director Louis Freeh to look at systemic problems with the FBI, especially in the case of Keith Raniere. Professor Dershowitz has read my report and he said the Raniere case “has the potential of exposing real problems with the FBI... We need to have congressional hearings.”

If high profile figures such as Judge Mays, former USA Bud Cummins, and Professor Dershowitz are risking their professional reputations to call for investigating how the FBI handled this case, then you should also take it very seriously.

Director Wray, you once said, “In the end, actions speak louder than words. It sounds simple, but there’s real strength in remembering that.” That was a quote I included in my FBI e-mail signature line, because I believed you were sincere when you said it.

I hope you will take this opportunity to investigate, and hold accountable, those responsible for mishandling and altering evidence in the prosecution of Keith Raniere. I stand ready to help you and other FBI leaders understand exactly what happened and how such malfeasance may be prevented in the future.

Thank you,

Rick

J. Richard "Rick" Kiper, PhD, PMP

GSEC | GCIH | GCIA | GCFE | GCFA | GASF | GCPM | GCCC

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