



U.S. Department of Justice

Federal Bureau of Investigation

18

Office of the General Counsel

Washington, D.C. 20535

July 14, 2005

Honorable William Nelson
United States Senate
Suite 410
225 East Robinson Street
Orlando, Florida 32801

Re: Mr. Steven C. Esdale

Dear Honorable William Nelson:

Your letter of April 14, 2005 (enclosed) has been forwarded to me for review and response.

In the Summer of 2004, the Digital Evidence Section (DES) of what is now the Operational Technology Division (OTD) of the FBI was first contacted by the FBI's National Press Office subsequent to inquiries from Florida press and Mr. Esdale. At that time, Mr. Esdale was seeking results of the examinations that the DES was requested to conduct by the Sarasota County Sheriff's Office. FBI Assistant Director Swecker, Criminal Investigative Division, previously responded to you regarding this matter in a letter dated, November 4, 2004.

Subsequent to the above inquiries, Mr. Esdale continued to contact the DES requesting that the FBI conduct additional forensic analysis on his copies of a Florida 911 recording purportedly relating to the death of Mr. Esdale's father, Mr. Murray Cohen. It was repeatedly explained to Mr. Esdale that the DES is not authorized to conduct forensic examinations of evidence in state investigations absent a formal request from the relevant state law enforcement agency exercising jurisdiction in the matter. This restriction derives from the provisions of 28 C.F.R. §0.85(g) which authorizes the FBI Director to establish laboratories to:

18

The Honorable William Nelson

"serve not only the Federal Bureau of Investigation, but also to provide without cost, technical and scientific assistance, including expert testimony in Federal or local courts, for all duly constituted law enforcement agencies, other organizational units of the Department of Justice, and other Federal agencies, which my desire to avail themselves of the service."

In particular, it was explained that, unless the Sarasota County Sheriff's Office, which was investigating the matter, requested an examination, or unless the FBI opened its own investigation, that the DES could not assist him.

Since that time, Mr. Esdale has called the FBI on numerous occasions and has alleged, *inter alia*, that the Sarasota Sheriff's Office altered the 911 recording before forwarding it to the FBI DES for analysis and that a cover up conspiracy exists within the Sarasota County Sheriff's Office which, Mr. Esdale charges, extends to Florida Governor Jeb Bush's Office. It should be noted that in the Summer of 2004, the FBI completed examinations on the 911 recording submitted by the Sarasota Sheriff's Office. Contrary to Mr. Esdale's expectations, the FBI report did not corroborate Mr. Esdale's allegations.

On or about January 24, 2005, Mr. Esdale contacted the Tampa Field Office of the FBI assumably in an attempt to convince FBI investigators to open an investigation into the alleged cover up conspiracy of the Sarasota Sheriff's Office. Mr. Esdale requested that a private investigator be allowed to provide information to the Sarasota Resident Agency of the FBI pertaining to his father's death.

On February 11, 2005, a meeting was held with Nick Capuano, the private investigator hired by Mr. Esdale. Mr. Capuano presented documents collected by Mr. Esdale regarding his father's death and enhanced tapes of a 911 call placed by the wife of Murray Cohen on the day of his death. Mr. Esdale believes these tapes contain evidence showing that Cohen's wife purposely resisted any attempts to resuscitate Cohen. The tapes were enhanced by a private forensic audio company hired by Mr. Esdale. The tapes were reviewed and for the most part, were found to be inaudible in sections that Mr. Esdale claimed his father was conscious and asking for help. No evidence was found to indicate that a cover up conspiracy existed. As a result, the Tampa Field Office declined to open an investigation into this matter.

18

The Honorable William Nelson

At this time, in the absence of credible evidence of a law enforcement conspiracy to commit a crime of federal jurisdiction, and, in the absence of any formal requests from a state law enforcement agency exercising lawful jurisdiction in this matter, the Digital Evidence Section of the FBI reports that it is unable to provide any further assistance to Mr. Esdale. The FBI's Office of General Counsel concurs in this evaluation. Indeed, the time and resources of DES personnel, particularly those of Mr. Gilmore, have been absorbed on numerous occasions by Mr. Esdale. Despite our best effort, we have been unable to convince Mr. Esdale that his available recourse is not to directly solicit the assistance of the laboratories of the FBI, but to work to convince a law enforcement investigative agency or component with lawful jurisdiction to open an active investigation on this matter. ~~We would appreciate the assistance~~ of your office in convincing Mr. Esdale of the inappropriateness of his contacting the evidentiary/laboratory components of the FBI directly in the future.

Sincerely yours,

Patrick W. Kelley

Patrick W. Kelley
Deputy General Counsel
Office of the General Counsel