

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
-----X
UNITED STATES OF AMERICA

- against -

Case No:
1:18-CR-00204

KEITH RANIERE,

Defendant.

-----X

DECLARATION

1. We, the undersigned, are former forensic examiners with the FBI's Computer Analysis Response Team (CART), with a combined 55 years of experience in the FBI. We are experts in the FBI's official procedures for the handling of digital evidence, including the mandatory preservation of electronic devices through forensic imaging prior to any review or analysis.

2. In our February 13, 2024 declaration (Doc. 1235-1), we analyzed the government's disclosure, which it made more than four years after trial, related to the mishandling of Item 1B15, a Canon camera and its internal memory card before it had been sent to CART for preservation. This government disclosure took place in two parts. First, on July 21, 2023, in its opposition to Mr. Ranieri's Rule 33 and Motion-to-Compel, the government wrote:

“This [September 19, 2018] access [without a write-blocker] was not the result of law enforcement ‘tampering,’ as Ranieri’s motion claims. Rather, having no reason to believe that the metadata of the contents of the Canon EOS 20D camera card had any evidentiary value, law enforcement agents directed that a photograph technician copy the photographs from the camera card in order to provide the photographs more expeditiously to defense counsel. Shortly thereafter, on September 25, 2018, the government provided Ranieri with copies of the photographs from the camera.” (Doc. 1213 at 11, n.6)

Second, on January 9, 2024, in its opposition to Mr. Raniere’s Second Motion-to-Compel, the government specified that the unidentified technician was a “**Federal Bureau of Investigation photograph technician.**” (Doc. 1231 at 1) (emphasis added).

3. These previously concealed and improper actions involved the unauthorized access of the unpreserved memory card by an FBI "photograph technician" who was not disclosed before or during trial and was knowingly omitted from the chain of custody and was not disclosed during the underlying prosecution. In that declaration, we also noted that, in our collective experience, "photograph technician" is not an official FBI job title. (Doc. 1235-1 at PageID# 22776-22777)

4. Since then, in its January 27, 2025 appellate opposition (DktEntry 61.1 at 15-16), the government, for the first time, expanded its description of the FBI photograph technician's involvement. A careful review of it reveals a new post-trial disclosure that **one or more unauthorized individuals (“unidentified accessor”) conducted an undocumented access of the unpreserved memory card prior to the technician’s unauthorized and undocumented access on September 19, 2018.** The government wrote:

“The district court thereafter directed the parties to litigate certain discovery issues before a magistrate judge; at subsequent hearings on September 13, 2018 and September 18, 2018, the magistrate judge directed the government to expedite the production of electronic discovery to defense counsel... Several of the devices contained inaccessible media or appeared to contain no relevant data, and the Canon Camera contained primarily nude photographs of Raniere and his sexual partners. (GX:520, 521). At that time, having no reason to believe that the metadata associated with the photographs on the Canon Camera had any evidentiary value, agents with the Federal Bureau of Investigation (‘FBI’) directed that a photograph technician create a copy of the photographs from the Canon Camera's memory card to facilitate their expeditious disclosure to defense counsel.” *US v. Raniere*, 2nd Cir, 24-778, DktEntry 61.1, Page 15-16 of 96

5. This description reveals that an unidentified accessor had seen that the card contained “primarily nude photographs” of adults and then determined that “the metadata associated with the photographs had [no] evidentiary value.” Only then, *after the unauthorized individual’s*

undocumented review, did FBI agents “direct[] [the FBI] photograph technician” to access the memory card.

6. Importantly, since no forensic copy had yet been created by CART and the Canon camera was inoperable¹, the only way for the unidentified accessor to see the photographs would have been to remove the unpreserved memory card and connect it directly to a computer. There was no other means of viewing the photographs or assessing their metadata. This confirms that the unidentified accessor engaged in a previously concealed, unauthorized access of the unpreserved memory card’s contents prior to the September 19, 2018 unauthorized access by the FBI “photograph technician”— yet another direct violation of multiple FBI protocols, including both CART protocols and evidence custody protocols.

7. The government fails to acknowledge that the direct accessing of the unpreserved memory card by the unauthorized, unidentified accessor — as well as the subsequent access by the unauthorized FBI “photograph technician” — were prohibited actions and constitute knowing violations of FBI protocol.

8. In our combined experience handling thousands of cases as FBI forensic examiners, we have **never** observed digital evidence treated in this manner. Moreover, it is contradictory to the prosecution’s repeated representations to the Court that all seized devices were sent to CART for processing “within days” of seizure, which were made in the same week as the FBI photograph technician operation.²

¹ See FBI Senior Forensic Examiner Brian Booth’s testimony, Trial T. (6/13/19) at 4918:7-17, stating that the camera’s battery was dead and could not be charged. Therefore, the photos could not just be reviewed through the camera

² See Gov. Ltr, Doc. 129 at 2 1; Pre-Trial T. (9/18/18) at 36:25-37:12; Gov. Ltr, Doc. 143 at 1 2 (9/24/18).

9. The government represents these violations as a routine part of discovery production. **They are not, and are not only far from routine, but these actions represent such a significant departure from procedure and protocol to have, in the past, been the subject of FBI disciplinary actions.** FBI policy mandates that all digital evidence must first be preserved by CART, regardless of any alleged discovery needs. Neither the United States Attorney's Office nor non-CART personnel have any authority to direct or perform handling of original digital evidence.

10. Moreover, this improper, alleged expediting³ was uniquely applied to the Canon camera and its 2 gigabyte memory card, which represented less than **0.0167% of the overall 12 terabytes of electronic discovery** in this case. More than 70 other devices in this case were processed properly through CART, underscoring that there was no legitimate justification for this singular deviation.

11. Notably, the only documented removal of the Canon camera and memory card from Evidence Control prior to the access by the FBI "photograph technician" – who did not sign the chain of custody – was a 17-day unauthorized custody by Special Agent Maegan Rees, from July 10, 2018 to July 27, 2018.⁴

12. Therefore, it is not known whether the individual who reviewed the memory card was (a) SA Rees herself, (b) a person to whom she improperly transferred the evidence and later retrieved it from without logging either transfer — which would constitute an additional knowing circumvention of the chain of custody and would be similar to what SA Michael Lever

³ "Expediting" is an invalid excuse here. For any significant matter with a prosecutorial timeline, the managing ASAC will always make the CART resources available.

⁴ Neither the prosecution nor the FBI have properly answered why the camera was ever removed from Evidence Control for agent review before a forensic image was made – a serious and known violation of FBI protocol.

did with the FBI “photograph technician”— or (c) someone whose removal of the evidence from Evidence Control was never logged at all, which would represent an even more serious breach.

13. If the government's description of these events is accurate, then there should exist corresponding required documentation — including FD-302s (to report investigative actions), FD-597s (to record transfers of one or more pieces of evidence), FD-1004s (chains of custody), and FD-1023s (internal communications) identifying who accessed the memory card, under whose authority, and for what purpose.


We declare under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing is true and correct.

Signed by:

9B8F4F5049A24DD


J. Richard Kiper, PhD, PMP
FBI Special Agent (Retired)

Executed on: 5/9/2025

DocuSigned by:

0F0676862144440

Mark Daniel Bowling, CISSP
FBI & OIG Special Agent (Retired)

Executed on: 5/12/2025

Signed by:

7E206C7A10C94A2

Stacy R. Eldridge, CFCE, GCFE, LPD
Former Senior FBI Forensic Examiner

Executed on: 5/9/2025

DocuSigned by:

A3E37825AE824DC

William F. Odom, III
Former FBI Special Agent

Executed on: 5/12/2025