



COMMONWEALTH OF PUERTO RICO  
*Department of Justice*

ROBERTO J. SÁNCHEZ RAMOS  
SECRETARY

April 24, 2008

Luis S. Fraticelli  
Special Agent in Charge  
San Juan Field Office  
Federal Bureau of Investigation  
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Dear Mr. Fraticelli:

During your press conference of March 27, 2008, you publicly indicated that you would refer to the Puerto Rico Department of Justice ("PRDOJ") evidence and information which might be used by the PRDOJ in the prosecution of criminal offenses under Puerto Rican criminal law. You implied that these offenses would have been committed by, among others, the Governor of the Commonwealth of Puerto Rico.

When the press asked me about these widely-publicized statements, I stated that the PRDOJ was eager to receive any such evidence but, at the same time, that I doubted that the PRDOJ would ever, in fact, receive it. At the same time, I sent you a letter, dated April 8th, requesting that you follow through as expeditiously as possible on your public representation that referrals would be made to the PRDOJ. I emphasized, in that letter, that the referrals should be promptly made so as to ensure that effective action may be taken by the PRDOJ and any *clouds of ambiguity* be dispelled from matters of such high public concern.

You then contacted me by email on Friday, April 11th, and requested a personal meeting to hand over the "referrals". On Monday, April 14th, I asked you to visit me the following day. On Tuesday, April 15th, we met and you provided me with a two-page "referral."

I am disappointed (but not surprised) both by the substance of the "referral" and by the manner in which you chose to make this matter public. As to substance, it is clear that my publicly-stated fear that no referrals would be forwarded to the PRDOJ was entirely warranted.

Your "referral" consists of a two-page letter that does not contain specific information about the alleged schemes used in the political campaigns of the named candidates, and does not specify

any names of alleged suspects or even of witnesses that would be made available to the PRDOJ by the Federal Bureau of Investigation ("FBI"). The letter does not even impute illegal conduct to anyone in particular (either by name or by other type of reference), nor does it even state generally that you have evidence in your power that would allow any criminal prosecution against anyone in connection with these alleged illegal acts. Terse and conclusory statements, not based on documentation or testimony admissible in court, can hardly be considered a referral of evidence or pertinent findings, regardless of the eloquence or amplitude of public expressions made by the FBI.

Moreover, as you acknowledged during our meeting, no evidence was referred to the PRDOJ nor do you expect to provide any in the near future. You stated that you were legally foreclosed from sharing this evidence, but you cited to no legal authority which would preclude you from sharing any such evidence with a sister law enforcement agency such as the PRDOJ. On the contrary, even under grand jury secrecy rules, the FBI may disclose matters occurring before a grand jury "if it shows that the matter may disclose a violation of State, Indian tribal, or foreign criminal law, as long as the disclosure is to an appropriate state, state-subdivision, Indian tribal, or foreign government official for the purpose of enforcing that law". Fed. R. Crim. P. 6(e)(3)(E)(iv). Even more lenient rules apply, of course, to information and evidence not subject to grand jury secrecy rules, as would most likely be the case here. In any case, if you, in fact, knew that you would not be able (or willing) to provide any of the evidence that would back up your claims, it was, at the very least, imprudent to state publicly on March 27th that you would make a "referral" to the PRDOJ, implying that evidence would be shared, when you knew full well this would not be the case.

In addition, you stated publicly, and during our meeting, that the illegalities identified in your "referral" could not be prosecuted by the United States because any federal prosecutions were time-barred. However, your letter refers to at least one electoral campaign conducted in 2004. It is unclear why any federal prosecutions relative to this campaign would be time-barred, given your current prosecution of the Governor partly in connection, precisely, with his 2004 gubernatorial campaign. These inconsistencies should be explained.

The manner in which you chose to publicize your referral also raises questions that should be answered. As members of the press confirmed, [REDACTED] an FBI employee, called them in advance of the meeting and instructed them to gather at a gas station near the PRDOJ's headquarters. When our meeting was over (or almost over), you advised the press and asked them to move to the PRDOJ's entrance so that you could conduct a press conference on the very steps of the PRDOJ's headquarters. You did not advise me, ever, that you were going to make your "referral" and our meeting public in this manner.

If you felt it was in the public interest that this "referral" be publicized immediately, the most beneficial course of action, for Puerto Rico's sake, would have been to make a joint announcement. And, even if you thought, for whatever reason, that this was not advisable, the simplest and most basic notions of professional courtesy and intergovernmental deference demanded that you advise me, upon leaving our meeting, that you had invited the press to "cover" our meeting and that you planned to talk to them upon exiting the building, while still, basically, on PRDOJ grounds. Your unannounced and unauthorized use of our facilities for conducting a

press conference is a highly lamentable breach of the respect and mutual trust that should exist between federal and local law enforcement authorities.

Moreover, the manner in which you conducted this "public relations operative", as well as the content and nature of your public statements,<sup>1</sup> fed the notion that the FBI had referred something of substance to the PRDOJ imputing (or even proving) criminal behavior to well-known political figures. Quite aside from the fact that, as stated above, you know this to be patently false, your public statements (together with your March 27th public statements in this regard) only serve to needlessly and unjustifiably aggravate the *cloud of uncertainty* surrounding the conduct of high-profile candidates for office. Your public conduct only serves to reinforce the notion held by some that the federal government, in this matter, is acting, not pursuant to standard investigative and law enforcement practices, which ordinarily demand circumspection regarding pending investigations, but pursuant to other motives unrelated to the common good. I again reiterate that misleading the People of Puerto Rico with deceptive public displays will only serve to undermine and erode the public trust in both federal and local institutions; a result ultimately tragic for the citizenry.

As I stated to the members of the press with whom I had, essentially, no choice but to meet after your statements to them, I am, regrettably, not surprised by the lack of substance of the referral. Your most recent actions in this regard, sadly, are consistent with my prior experience with your office. For example, as you are aware, in the [REDACTED] case, the information which the FBI provided to the PRDOJ was also extremely limited. In that case, I personally requested that you provide us with transcripts of the relevant grand jury testimony, after the indictments had been issued, the case had gone to trial, and several convictions had been achieved. You refused to provide such specific and potentially useful evidence, citing the unspecified and unexplained legal advice allegedly given to you. In fact, you have cited to no legal authority which might prevent you from disclosing such evidence to a sister law enforcement agency such as the PRDOJ. As mentioned before, I remind you that, even under grand jury secrecy rules, the FBI may disclose matters occurring before a grand jury "if it shows that the matter may disclose a violation of State, Indian tribal, or foreign criminal law, as long as the disclosure is to an appropriate state, state-subdivision, Indian tribal, or foreign government official for the purpose of enforcing that law". Fed. R. Crim. P. 6(e)(3)(E)(iv). [REDACTED]

There are other examples. With regards to the investigation into [REDACTED], the PRDOJ expediently delivered to the FBI the entire [REDACTED] report prepared by local prosecutors, which included all of the PRDOJ's findings and conclusions. The report was made available to the FBI without any type of redaction or censure. The United States Attorney's Office ("USAO") and the FBI made follow-up requests for information, which the PRDOJ gladly agreed to produce, as long as the FBI also cooperated with

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<sup>1</sup> After our meeting, while still on PRDOJ grounds, you stated to the press: "[D]uring the investigation regarding the Governor, information was distributed of other crimes whose statutes of limitation, at the federal level, have run. In the missive that I delivered to the Secretary of Justice it included specific names, the summary of the schemes perpetrated. I also indicated to him where they can obtain the detailed information regarding that...." (translation ours). When asked by a reporter to specify what criminal charges you were referring to, you answered: "They are several functionaries. They are renowned in Puerto Rico... it is a very sensitive situation which is why I brought it in person." (translation ours).

the corresponding PRDOJ investigations into these issues. The PRDOJ's proposal was never answered. In fact, the requests for information and evidence which the PRDOJ made in this same case were denied by the USAO and the FBI. The PRDOJ's cooperation with the FBI investigation, then, has not been reciprocated.

Similarly, with respect to the PRDOJ's investigation of alleged bribes paid by [REDACTED] to several public employees [REDACTED] the PRDOJ requested that the FBI share the evidence it might have compiled during interviews of [REDACTED]. The PRDOJ sent several letters, via certified mail, to the FBI regarding this matter. However, the PRDOJ never received an answer from the FBI and was, therefore, unable to benefit from any evidence which the FBI might have compiled.

But the most glaring example regards the unsolved case of the murder of [REDACTED]. More than a year ago, you personally told me during a meeting that the FBI had in its possession all the information and evidence the PRDOJ would need to resolve this case and prosecute the individuals responsible, and that the FBI was willing and committed to providing it to the PRDOJ. However, we are still waiting for you to fulfill the commitment you personally made. The PRDOJ has yet to receive any of the relevant information or evidence, including the names of informants, gathered by the FBI regarding this case, despite the fact that we have made several attempts to obtain this information from your office, and despite your continued assurance that it would be provided to us. I have relied on and trusted your past representations to the effect that the FBI is in possession of relevant evidence which would finally resolve the [REDACTED] case and lead to prosecution under Puerto Rican criminal law. The PRDOJ is more than ready to use said evidence in local court. However, your failure to provide it continues to deny justice to the People of Puerto Rico in a case of such high public import.

Now, and especially in light of your public statements of April 15th, it is imperative that you refer specific and reliable information of the alleged illegalities stated in your letter (and any others which you might be unwilling or unable to investigate and prosecute) so we may effectively investigate and prosecute the referred matters. Therefore, consistent with your March 27th public statements, I once again request that the USAO and the FBI make available to us, as soon as possible, all the information *and evidence* regarding possible criminal conduct under Puerto Rican criminal law which the FBI, the Internal Revenue Service and the USAO might have compiled during their investigations. As I have told you before, the PRDOJ remains firmly committed to evaluating, investigating and prosecuting, in the most efficient and expedited manner possible, any violations of the Commonwealth of Puerto Rico's criminal laws.

I am hopeful we will be able to coordinate with your office a meeting next week for your officials and our investigators and prosecutors to meet and discuss the evidence you have obtained in connection with the investigation that led to your March 27th press conference. Please contact [REDACTED] of the Public Integrity, Economic Crimes and Office of the Comptroller Divisions of the PRDOJ, at [REDACTED] to schedule such meeting or arrange for the delivery of the aforementioned evidence.

I remain confident you will assist the PRDOJ so we may seriously and responsibly fulfill our duty to diligently resolve matters involving the public interest. Once again, the PRDOJ is not

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interested in public confrontations with its sister law enforcement agencies and will not allow its legitimacy or credibility to be unjustifiably questioned. I can only hope the FBI may finally understand and accept the PRDOJ's good faith and its corresponding predicament.

Sincerely



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