



U.S. Department of Justice

United States Attorney  
Southern District of New York

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United States District Courthouse  
300 Quarropas Street  
White Plains, New York 10601

October 14, 2009

**BY HAND**

Honorable Stephen C. Robinson  
United States District Judge  
United States Courthouse  
300 Quarropas Street  
White Plains, New York 10601

Re: *United States v. Bernard B. Kerik*,  
SI 07 Cr. 1027 (SCR)

Dear Judge Robinson:

The Government respectfully submits this letter to request that the Court remand the defendant. As set forth below, there is probable cause to believe that the defendant committed an offense while free on bail, namely, criminal contempt in connection with a violation of the protective order in this case. Given this defendant's history of obstruction, and given that the defendant disclosed and caused to be disclosed both non-public and defamatory material in an obvious attempt to prejudice potential jurors on the eve of trial, remand is necessary. There is no condition or combination of conditions short of remand that will ensure the safety of the community, prevent this defendant from continuing to impede the due administration of justice, or otherwise safeguard the integrity of these proceedings.

**I. Factual Background**

**A. Prior relevant proceedings**

On November 9, 2007, the defendant counter-signed Magistrate Judge Yanthis' Order Setting Conditions Of Release in this case. The Order specifically stated that it was a condition of the defendant's release that he "shall not commit any offense in violation of federal, state or local law while on release in this case." The defendant was advised in the order that a violation of his bail conditions could lead to, among other things, the revocation of release and an order of detention. As a condition of his release, the defendant was also directed to have no contact with Government witnesses. The Government requested this condition based on the defendant's prior history

of obstructing justice by contacting witnesses and providing them with his false "recollection" of relevant events. Evidence of the defendant's prior obstructive conduct was presented to the grand jury in this case and is charged in the pending indictment. Indictment ¶ 20(g).

On May 30, 2008, the Government moved to modify the defendant's conditions of release in light of information suggesting that the defendant, yet again, had improper contact with witnesses.

REDACTED

In one such instance, the defendant purportedly hired a non-practicing lawyer -- himself a witness REDACTED -- in exchange for a dollar. That "lawyer" in turn, showed documents and discussed the subject matter REDACTED with other witnesses.

During the bail modification proceeding, the Court clearly warned the defendant of the ramifications of any further misconduct, particularly misconduct committed under the guise of a sham attorney-client relationship:

And I know that there is a temptation to people out there who want to do that by hiring people as attorneys for a dollar but he knows where I am on these kinds of issues now or he should. REDACTED

And he understands, -- and I hope he understands as clearly as he can understand anything -- that if he intentionally does that or if I make a determination that he intentionally does that, I told you before, you didn't ask to have him remanded, I was going to remand him REDACTED

The Court ultimately declined to modify the conditions of release on the ground that the bail order did not clearly specify that the defendant should not have contact with REDACTED witnesses.

#### B. The Protective Order

On March 18, 2008, this Court signed a protective order on consent directing that all Rule 16, 3500, Giglio and Brady materials produced to the defendant shall be deemed confidential.

information and shall not be disclosed ("the Protective Order"). The Protective Order was signed by the Government, Mr. Berke, the defendant, and Your Honor. (Tab C). The Order specifically directs that confidential information disclosed to the defendant and his counsel in "this action" "shall be used by the defendant and his counsel solely for the purposes of this criminal action..." (Emphasis supplied).

C. The Defendant's Violation Of The Protective Order

1. The defendant's dissemination of confidential information to Modafferi

At some time after the return of the initial Indictment in this case and as early as February 2008, the defendant apparently became affiliated with Anthony Modafferi, an attorney licensed to practice law in at least New York and New Jersey. Until recently, Modafferi maintained the Kerik Legal Defense Trust website and wrote/published articles that not only were favorable to Kerik but also made false, defamatory and inflammatory allegations about the Government prosecutors in this case.<sup>1</sup> Among other things:

- On the home page of the Kerik Legal Defense Trust website, Modafferi includes in bold letters a link to the "Breaking News Alert: Prosecutors Engage in Misconduct and Suppression of Evidence in Kerik Case."
- In a letter on the Kerik Legal Defense Trust website, Modafferi declares that Kerik "is the victim of a carefully orchestrated campaign of vilification and harassment by government prosecutors..." who have "suppressed exculpatory evidence," engaged in "abusive" "politically motivated" conduct "in their zeal to destroy this American hero."
- In a letter on the Kerik Legal Defense Trust website, Modafferi warns that "[i]f overzealous prosecutors can indict and convict an innocent man, then any one of us can become a target out of

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<sup>1</sup>The articles in question appear on an array of websites. Many of the various websites and web resources in question contain electronic links available to the reader or are linked by a common IP address.

control, politically motivated prosecutors that have their own self-serving motives."

- In an article on the Draw & Quarter website, Modafferi states that "[i]n a heavy handed attempt to force Mr. Kerik into accepting a plea on federal charges, the prosecutors gave him an ultimatum: plead guilty or they would do everything in their power to destroy him and his family..." "[i]n other words, the prosecution's case is really not about prosecuting crimes but more in the nature of 'destroying' Mr. Kerik..." "[p]lainly, the prosecution by the federal prosecutors of Mr. Kerik was a politically motivated self-serving attempt to enhance their careers and derail Mayor Rudy Giuliani's attempt to run for President."
- In an article on the Conservative Brotherhood website, Modafferi claims that "[i]n a nutshell, for more than four years now, state and federal prosecutors have been on a reckless crusade to keep Kerik under permanent indictment. In their zeal to destroy the man - and more so his former friend and colleague Rudy Giuliani - they have stretched the laws, bent the rules, violated attorney/client privilege, deceived a judge, and illegally leaked privileged information to the press and media."<sup>2</sup>

The defendant himself has also made inflammatory extra-judicial statements about this case, as he admits in his affidavit. Kerik Aff. ¶ 44 (Tab I); see also Tab D at Tab 9 (using Twitter to write "In DC Federal Court today. Indicted for a third time on the same charge. Unprecedented, selective, and overreaching prosecution? You tell me").

On September 14, 2009, the Government submitted its Motions in Limine to the Court in an informal letter brief which, consistent with the Court's February 2007 directive, was not formally filed. At a pretrial conference on September 29, 2009, Your Honor directed that the letter brief not be filed and that the defendant's opposition - which had not yet been submitted to the Court - also not be filed. The defendant's opposition to the

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<sup>2</sup> A representative sample of Modafferi and Kerik's website postings and communications is attached as Tab D.

Government's *Motions in Limine* was replete with references to Rule 16, 3500, and alleged *Giglio* information. The defendant's opposition was also accompanied by a declaration of defense counsel attaching significant 3500 material that had been turned over to the defense. (A copy of the Government's *Motions in Limine* and the defendant's opposition are attached as Tabs E & F).

On September 25, 2009, the Government forwarded to the Court a letter attaching an email sent by Modafferi to the Washington Times. That email contained false and inflammatory statements and described (1) certain 3500 material previously provided to the defense by the Government, (2) alleged *Giglio* material, and (3) material and arguments contained in briefs not publicly filed. (Tab G). On that date, the parties appeared before Your Honor and the Court directed the defense to respond no later than September 29, 2009, with an explanation of how the information came into Mr. Modafferi's possession, the nature of the relationship between Modafferi and the defendant and whether any information contained in the email was false.

On September 29, 2009, the parties appeared before the Court, and defense counsel advised that (1) counsel had not provided the information to Modafferi, and (2) the defendant had provided to Modafferi a draft of the defense opposition to the Government's *Motions in Limine*. In his October 7, 2009 Declaration, Mr. Berke further stated that on September 22, 2009, Kramer Levin provided Kerik with a draft copy of its reply to the Government's *In Limine* motions with the written warning that it was "NOT FOR DISTRIBUTION." Berke Decl. at ¶ 35 (Tab H). It is undisputed that the Government's motion and the defendant's reply were not publicly filed at the direction of the Court and contained 3500 material and alleged *Giglio* information.

In his October 7, 2009 affidavit (Tab I), the defendant admitted that he "likely" read and discussed confidential 3500 material with Modafferi in connection with several matters that do not directly concern this case, namely, certain (never filed) Section 1983 actions against unnamed state officials, a (never filed) motion to set aside the defendant's Bronx guilty plea, and an executive clemency petition allegedly filed with the White House in the fall of last year. *Id.* ¶ 45. Additionally the defendant admitted that he "may" have provided documents to Modafferi, including the defendant's opposition to the Government's *in limine* motions. *Id.* ¶ 46. The defendant acknowledged that he did so despite the fact that he: (1) was aware of Modafferi's writings, had read "some" of them and agreed with "some" of them, *id.* ¶ 39; (2) had expressed his feelings

about this case in the internet through Facebook and Twitter, *id.* ¶ 44; (3) had talked with Modafferi about the purported unfairness of the media coverage in this case, *id.* ¶ 38; and (4) was aware that Modafferi was in touch with the Washington Times, Newsmax and "perhaps other media outlets" and that those media outlets were specifically inquiring about the motions in *limine*, *id.* ¶ 34. Additionally, the defendant admitted that his own personal website is connected to Modafferi controlled websites, *id.* ¶ 40-43.

## II. Pertinent Authority

### A. The Legal Standard for Bail Revocation

Section 3148(b) of the Bail Reform Act, 18 U.S.C. §3141 *et seq.*, provides that a defendant's bail may be revoked, and he may be detained pending trial, if the defendant either commits a crime while on pretrial release or violates any condition of release. Section 3148(b) provides, in pertinent part, as follows:

The attorney for the Government may initiate a proceeding for revocation of an order of release by filing a motion with the district court . . . . The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer --

(1) finds that there is --

(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

(B) clear and convincing evidence that the person has violated any other condition of release; and

(2) finds that --

(A) based on the factors set forth in section 3142(g) of this title, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

(B) the person is unlikely to abide by any condition or combination of conditions of release.

Probable cause "under Section 3148(b)(1)(A) requires only a 'practical... probability' that the evidence support a finding 'that the defendant has committed a crime while on bail.'" *United States v. LaFontaine*, 210 F.3d 125, 133 (2d Cir. 2000) quoting *United States v. Gotti*, 794 F.2d 773, 777 (2d Cir. 1986).

#### B. Criminal Contempt Under 18 U.S.C. § 401(3)

Title 18, United States Code, Section 401(3) (a part of the criminal contempt statute) reads as follows:

A court of the United States shall have the power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as --

(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

A violation of the above statute is a federal crime. See *United States v. O'Neal*, 190 U.S. 36, 38 (1903) (holding that a criminal contempt finding is in effect "a judgment in a criminal case"); *United States v. Cutler*, 58 F.3d 825, 834 (2d Cir. 1995) (lawyer convicted of criminal contempt for making extrajudicial statements in violation of local rule after warnings); *United States v. Gracia*, 755 F.2d 984, 988 (2d Cir. 1985) (referring to a violation of Section 401 as "the crime of contempt"); *United States v. Morales*, 566 F.2d 402, 404 (2d Cir. 1977) (holding that grand jury may indict for criminal contempt under Section 401(3) with or without judicial referral); *United States v. Grisanti*, 4 F.3d 173, 174-75 (2d Cir. 1993) (upholding indictment for violation of Section 401(3) in face of double jeopardy attack where violation had already served as basis for revocation of bail).

### III. Argument

#### A. The Defendant Violated The Court's Protective Order And Is Guilty Of Contempt

The following facts are undisputable:

- This Court issued a Protective Order signed by the defendant which prohibits the disclosure of confidential information including discovery, Giglio and 3500 material;

- Modafferi had previously written a number of stories which contained highly improper and inflammatory statements about this case such that the defendant was clearly on notice of the high probability that he would improperly disclose the confidential information contained in the briefs and make improper extrajudicial statements;

- The defendant himself made inflammatory extra-judicial statements about this case;

- The defendant was aware of and participated in the dissemination of Modafferi's false and misleading propaganda;

- The defendant discussed confidential 3500 material with Modafferi;

- The defendant provided to Modafferi, among other things, a draft of the defendant's brief in opposition to the Government's *in limine* motions;

- The defendant's brief in opposition to the Government's *in Limine* motions contained extensive reference to and discussion of 3500 material and other confidential information; and

- The defendant's brief was not publicly filed.

The evidence in this case demonstrates far more than a "practical probability" that the defendant violated the clear meaning of the Protective Order, when he knowingly and unlawfully disseminated confidential information to Modafferri. The defendant has already conceded that he discussed the substance of 3500 material with and disclosed nonpublic information to him, including the defendant's opposition to the Government's motions *in limine*. Mr. Berke has corroborated the defendant's statement, telling the Court that the defendant did, in fact, share the defense opposition to the Government's motions with Modafferi.

There are only two circumstances in which the defendant even conceivably could be found not to have willfully violated the protective order: (1) if Modafferi was a part of the defense

team in this case or (2) if Modafferi falls within the exception to the protective order permitting disclosure to "independent expert witnesses or advisers." The facts clearly demonstrate that Modafferi was neither a member of the defense team in this case nor an expert advisor.

**1. Modafferi was not part of the defense team**

During the September 29, 2009 Court appearance, defense counsel explained that: (1) there was no written retainer agreement between Kerik and Modafferi; (2) Kerik did not pay Modafferi; and (3) Kramer Levin, Kerik's actual attorneys in this case, did not find the alleged legal work Mr. Modafferi performed useful and essentially ignored it. Further, Mr. Berke's October 7 declaration left no doubt that Modafferi was decidedly not a member of the defense team in this case ("We have never considered Mr. Modafferi to be a part of Kramer Levin's 'defense team.'" Berke Decl. at ¶ 48 (Tab H)). Since it was and is clear even in the absence of Mr. Berke's declaration that Modafferi is not a principal of Kramer Levin and is not employed by that firm either as an associate or in an "of counsel" capacity, the assertion that he is not "a part of Kramer Levin's 'defense team,'" can mean only one thing: Modafferi is not part of the team representing the defendant on this case. That conclusion is bolstered by the defendant's admission that Modafferi was not a replacement for Kenneth Breen, the defendant's former counsel in this case. Kerik Aff. ¶ 7 (Tab I).<sup>1</sup>

Further, Modafferi's own statements in his various web postings demonstrate that he is not part of the defense team in this case and is not an attorney to whom confidential information should have been disseminated. On his various websites, including the Kerik Legal Defense Trust website, Modafferi never provides even the slightest hint that he was/is part of the defense team in this case or that he had an attorney-client relationship with Kerik. To the contrary, in the Kerik Legal Defense Trust website, Modafferi strongly suggests that he has taken up Kerik's cause because of his deeply held view of Kerik's innocence and a pattern of egregious misconduct committed by the "wayward," "politically motivated" and "overzealous prosecutors." As for how the relationship began, Modafferi states that he has

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<sup>1</sup>Modafferi's purported representation of the defendant on other matters discussed above does not make him counsel for "this" action.

"taken an interest in the case" and has "become a friend of the defendant and his family." Modafferi further states that he "has been a practicing lawyer for over 20 years, and over those years, [he has] handled an array of complex legal cases and despite all of the defendant's heroics, if [he] believed for a moment that he was guilty of the charges brought against him, [he] would not be writing this letter...."

## 2. Modafferi was not an expert or advisor

Likewise, the disclosure of confidential information to Modafferi does not fit within the exception for expert witnesses or advisors in paragraph 2(ii) of the Protective Order, as Kramer Levin suggests. Berke Decl. ¶ 55. The attempt to justify the defendant's breach of the Protective Order -- made in Mr. Berke's declaration, but not in the defendant's affidavit -- ignores the plain wording of the Protective Order.

Paragraph 2(ii) of the Protective Order authorizes the disclosure of confidential information to "(ii) independent expert witnesses or advisors retained by the defendant or his counsel in connection with the criminal case." The exception is directed to non-legal "expert witnesses or advisors," and only those non-legal "expert witness or advisors" who have been "retained" by the defendant.

It is obvious that Modafferi is plainly neither an expert witness nor an expert advisor within the meaning of the order. Further, and perhaps more significantly, Modafferi was never retained by either Kramer Levin or the defendant. Mr. Berke argues at length that Modafferi was providing legal advice and even cites cases supporting the position that a retainer is not required to form an attorney-client relationship. Those cases, however, have no relevance to whether disclosure was authorized here. Paragraph 2(ii) does not authorize disclosure to attorneys who are not part of the "defense team," particularly where the attorney who is not part of the defense team endeavors primarily to assist the defendant's efforts to disseminate false and misleading propaganda. The Protective Order merely authorizes disclosure to "retained" non-legal experts who are providing legitimate services to the defendant in this case.

Kramer Levin's creative interpretation of the Protective Order would render it meaningless. Under Kramer Levin's interpretation, a criminal defendant could simply hire a public relations firm as an "expert advisor" to "advise" on the case and turn over to the firm all of the confidential information gathered in discovery, knowing that the material

would then be disseminated.

3. **The Defendant's claim that he "forgot" about the Protective Order should not be credited by the Court.**

Finally, the defendant's self-serving excuse for his blatant violation of the Protective Order is that he "forgot" he had signed it. The circumstances surrounding the issuance of Your Honor's Order demonstrate that the defendant's excuse is no excuse at all. The defendant no more needed to be reminded of the Protective Order that he signed than he needed to be reminded again not to engage in obstructive conduct through a sham attorney-client relationship. The circumstances surrounding the defendant's relationship with Modafferi plainly demonstrate that he willfully violated the Protective Order in this case and did so with the specific intent to disseminate information to the media and cause immeasurable prejudice to these proceedings.

- B. **No Bail Conditions Will Assure The Defendant Will Not Pose A Danger, Nor Is He Likely To Abide By Any Conditions Of Release**

The Second Circuit has held that under Section 3148(b)(2), once the Government has established probable cause that the defendant has committed a crime while on release, the Government must further prove by a preponderance of the evidence that no condition of release will prevent danger to the community. *LaFontaine*, 210 F.3d at 134. But where, as here, there is probable cause to believe that the defendant has committed a felony while on release, a presumption arises that no set of conditions will assure that the defendant will not pose a danger to the community. *Id.* That presumption arises even in cases involving a white collar defendant's non-violent attempt to tamper with witnesses and otherwise impair the fairness of the proceedings. *Id.*

Given the defendant's history of obstruction and given that the defendant ignored the Court's express directive not to enter into sham attorney-client relationships, the defendant cannot overcome the statutory presumption that he is a danger to the community. *LaFontaine*, 210 F.3d at 135, (Court affirmed finding that no conditions would assure safety of community given defendant's disregard of previous orders). Remand is the only option which will ensure that the defendant will not further seek to undermine these proceedings. *Id.* ("the sort of electronic

surveillance suggested by the defendants ... can be circumvented. Home detention and electronic monitoring at best elaborately replicate a detention facility without the confidence of security such a facility instills." quoting *United States v. Millan*, 4 F.3d, 1038, 1048-49 (2d Cir. 1993).

Alternatively, the defendant should be remanded because there is probable cause to believe that he committed a federal crime while on release, and he "is unlikely to abide by any condition or combination of conditions of release." 18 U.S.C. Sections 3148(b)(1)(A) and (2)(B).

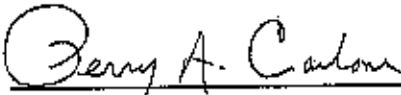
#### Conclusion

The defendant's prior conduct in purportedly "engaging" an attorney for a dollar -- a subject already addressed by the Court -- was blatantly improper. He was clearly warned by the Court that any such future conduct would result in his remand. Despite the Court's clear and unequivocal warning, the defendant engaged in virtually identical conduct, this time violating the Protective Order in the process. The defendant endeavored to prejudice jurors against the Government on the eve of trial and once trial begins and jeopardy has attached, will likely become even more desperate to undermine these proceedings.

For the reasons stated above, the Government respectfully requests that the Court grant the relief requested herein.

Respectfully yours,

Preen Bharara  
United States Attorney

By:   
Asst. U.S. Attorney Michael S. Bosworth  
Asst. U.S. Attorney Perry A. Carbone  
Asst. U.S. Attorney Elliott B. Jacobson

cc: Michael Bachner (By Fax and FedEx)

REDACTED

B

REDACTED

C

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA :

:  
: PROTECTIVE ORDER ON CONSENT

-v- :

:  
: 07 Cr. 1027 (SCR)

BERNARD B. KERIK, :

Defendant. :  
:-----X

Upon the application of the United States Attorney for the Southern District of New York and Bernard B. Kerik, the defendant herein, for the entry of a protective order having the consent of both parties and for good cause,

IT IS HEREBY ORDERED THAT:

1. Documents provided by the Government to the defense pursuant to Federal Rule of Criminal Procedure 16; Title 18, United States Code, Section 3500; *Brady v. Maryland*; or *United States v. Giglio*, to the defense in this action are deemed confidential. Confidential information disclosed to the defendant and his counsel during the course of proceedings in this action:

a. Shall be used by the defendant and his counsel solely for purposes of this criminal action; and

b. Shall not be disclosed in any form by the defendant or his counsel except as set forth in paragraphs 2 and 4 below.

2. Confidential information may be disclosed by the defendant or his counsel only to the following designated persons: (i) all personnel employed by the defendant's counsel, either full-time or part-time; (ii) independent expert witnesses or advisors retained by the defendant or his counsel in connection with the criminal case; (iii) transactional witnesses, to the extent deemed necessary by defense counsel for trial preparation; and (iv) such other persons as hereafter may be authorized by the Court upon motion by the defendant. Copies of documents containing confidential information may not be given to or remain in the custody of transactional witnesses.

3. The defendant agrees that he has no ownership or proprietary interest in the materials subject to this Protective Order. The defendant further agrees that all such materials are to be returned to the Government at such time as they are no longer needed in this action, at the end of the criminal proceeding, or upon Order of the Court, whichever occurs first.

4. The provisions of this Order shall not be construed as preventing the disclosure of any information in any motion, hearing, or trial held in this action or to any Judge or Magistrate Judge of this Court for purposes of this action.

5. This Order is in addition to and does not supersede any prior protective order or stipulation.

Dated: White Plains, New York  
March 19, 2008

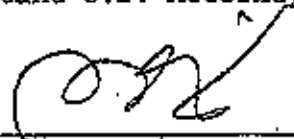
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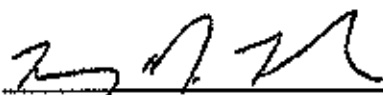
UNITED STATES ATTORNEY  
MICHAEL J. GARCIA

BY:


  
Perry A. Carbone

~~Elliott B. Jacobsen~~  
Assistant U.S. Attorneys

  
Defendant Bernard B. Kerik

  
Barry H. Berke, Esq.  
Eric A. Tirschwell, Esq.  
(Counsel for Bernard B. Kerik)

SO ORDERED:

  
HONORABLE STEPHEN C. ROBINSON  
UNITED STATES DISTRICT JUDGE

**D**

## Contents

### Tab

1. The Bernard Kerik Legal Defense Trust (IP address 64.147.113.34 [Same as Draw & Quarter and Pillar of Strength]): Contains articles by A. Modafferi and links to various sites including Newsmax; Breaking News Alerts on the Prosecutor's Misconduct.
2. Bernard B. Kerik Facebook page: Under Contact information, contains links to the Kerik Legal Trust Website, Twitter and Newsmax.
3. The Draw & Quarter (IP address 64.147.113.34 [ Same as The Kerik Legal Defense Trust and Pillar of Strength]): Contains articles such as The Rules Don't Apply to us; Kerik's Hiccup; Bernard Kerik: The Trial of an American Hero; A Mountain of an American Hero; The Persecution of an American Hero.
4. Newsmax: Contains Articles such as Bernie Kerik: The Trial of an American Hero; Link to The Kerik Legal Trust, and Articles authored by B. Kerik.
5. Secure.yourpatriot.com: Article by A. Modafferi similar to Kerik Legal Defense Website accusing "overzealous" prosecutors of misconduct and political persecution.
6. The Conservative Brotherhood: Article by A. Modafferi re: "Exclusive: Timothy Geithner's vs. Bernard Kerik's Hiccup - Whose is Worse?"
7. Grand Central Political: Contains Article by A. Modafferi: "Kerik's Hiccup."
8. Anthony Modafferi Twitter page: Contains links to The Draw and Quarter and the Kerik Legal Trust.
9. Bernard Kerik Twitter Page: Contains links to Newsmax; Kerik uses Twitter to accuse the government of selective, overreaching prosecution.
10. The Pillar of Strength: The official Voice of Bernard Kerik." (IP address 64.147.113.34 Same as Draw & Quarter and Kerik Legal Defense Trust) Website homepage contains links to Kerik Facebook, The Kerik Legal Defense Trust and Newsmax and Articles, such as Support a True American Hero (attached).
11. Family Security Matters: Contains Modafferi Article.

# THE BERNARD KERIK LEGAL DEFENSE TRUST

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Welcome to The Bernard Kerik Legal Defense Trust

The Bernard Kerik  
Legal Defense Trust  
Anthony K. Modafferi, III, Esq.  
Trustee  
Carriage House Law Center  
647 Ramapo Valley Road  
Oakland, NJ 07436

[jk@keriktrustee@modafferi.us](mailto:jk@keriktrustee@modafferi.us)

## NEWSmax.com

9-8-2009 - BREAKING NEWS ALERT: PROSECUTORS ENGAGE IN MISCONDUCT AND SUPPRESSION OF EVIDENCE IN KERIK CASE

Dear fellow Americans:

When federal prosecutors first charged former New York City Police Commissioner Bernard Kerik in 2007, I did not know him personally. However, I did know the law and I knew of Mr. Kerik's service to our country and his heroism.

On September 11, 2001, we all watched him respond to the World Trade Center with Rudy Giuliani and the men and women of the NYPD as he coordinated the investigation and disaster response, as the U.S. suffered in the midst of the worst attack on American soil since Pearl Harbor.

In the aftermath of 9/11, Mr. Kerik was a pillar of strength during our nation's darkest hour.

Americans soon became familiar with his story – a high school dropout with an underprivileged background that became a New York City police detective – to his heroism as an undercover narcotics cop – to his meteoric rise as New York City's 40th Police Commissioner.

I have been a practicing lawyer for over 20 years, and over those years I have handled an array of complex legal cases and despite all of Mr. Kerik's heroics, if I believed for a moment that he was guilty of the charges brought against him, I would not be writing this letter.

As a lawyer, I have dedicated my life to the rule of law. But I also believe in confronting injustice, and after careful review of the government's case against Mr. Kerik, I believe he is the victim of a carefully orchestrated campaign of vilification and harassment by government prosecutors.

When President George W. Bush nominated Bernard Kerik for Secretary of Homeland Security in December 2004, detractors of the President and Rudy Giuliani quickly seized the moment to

Live Updates from the Trustee

# THE BERNARD KERIK LEGAL DEFENSE TRUST

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## Welcome to The Bernard Kerik Legal Defense Trust

### ABOUT THE BERNARD KERIK LEGAL DEFENSE TRUST

The Bernard Kerik Legal Defense Trust has been established to allow Mr. Kerik's friends and supporters to assist him in defending himself against charges that have been brought against him by the United States Attorney's Office in the Southern District of New York.

In June, 2006, Mr. Kerik settled an investigation by the Bronx District Attorney's Office. He accepted responsibility by pleading guilty to two New York City ethics violations (unclassified misdemeanors) and paid a substantial financial penalty. Shortly after he settled the Bronx case, the U.S. Attorney's Office began a new investigation. The Assistant U.S. Attorneys assigned to the investigation have charged Mr. Kerik, based in large part on conduct that was already addressed and resolved in the Bronx case. As a result of these two investigations and news and media reports, Mr. Kerik has been the focus of more than three years of intense publicity that has negatively impacted his business and personal life.

In his 33 year career, he earned more 100 awards for meritorious and heroic service, including commendations from Her Majesty Queen Elizabeth II, President Ronald Reagan for heroism, and many others. He earned international recognition for turning the New York City Jail System into an International role model and as the New York City Police Commissioner; his tenure was marked with historic reductions in crime and innovative management. The world witnessed his stoic leadership during and after the attacks on the World Trade Center on 9/11 and today he is seen as an outspoken patriot for our government in the fight against global terror and enemies against the United States. But now, his heroic career and service to our country continues to be overshadowed by this investigation and allegations that must be put to rest.

Having incurred legal fees in the course of the Bronx and federal investigation and paid a substantial financial penalty when he settled the Bronx case, and having had his business impacted by the intense publicity, he is not in a position to fund a proper defense to this federal case.



The Bernard Kerik  
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keriktrustee@modafferi.us

Live updates from the Trustee

attack Mr. Kerik. Soon after, he became the target of politically charged prosecutors who alleged that a New Jersey construction company attempting to do business with the City of New York had paid for renovations on Mr. Kerik's home.

After an intensive 18-month grand jury probe, although local prosecutors disputed the value of renovations on Mr. Kerik's home, they publicly admitted at the end of their investigation, "there is no direct evidence of an agreement between Kerik and the New Jersey construction firm."

After the case against Kerik was closed in the state court, a New York City Inspector General filed a federal lawsuit against the City of New York alleging that the Commissioner of the Department of Investigation directed her subordinates to falsely testify in Mr. Kerik's grand jury proceeding to implicate Mr. Kerik in a crime.

Now, the federal prosecutors seeking to convict Kerik for the same charges raised in the state court have attempted to suppress the Inspector General's claims, knowing that if the truth were to get out, it would destroy their case.

I strongly believe that the federal prosecution against Mr. Kerik has nothing to do with evidence of criminal wrongdoing, and everything to do with an attempt to pulverize Kerik for self-serving and political motives.

Even the federal judge overseeing Mr. Kerik's case expressed surprise at what federal prosecutors had done, noting in his decision to dismiss several aspects of Kerik's case, that the prosecutor's case was more like "a day in the life" of Kerik, than vindicating any government objective to pursue criminal conduct.

This did not stop these wayward prosecutors who after being chastised by the federal judge in an eloquent opinion, took the unusual step of going to Washington, D.C. to indict Mr. Kerik again, for a third time on substantially the same charges.

Since I have taken an interest in this case, I have become a friend of Mr. Kerik and his family,

I cannot tell you the living hell the government has put this American hero through. The government has destroyed his business and his finances have been decimated and yet he still maintains his faith in God and country.

Mr. Kerik faces a trial in October in which I believe he will be acquitted of all charges. I am also certain that Americans will be stunned to learn of the abusive conduct by government prosecutors in their zeal to destroy this American hero.

Bernard Kerik, a man once catapulted to fame for his heroism and dedicated public service has now found himself in the crosshairs of a grave injustice.

He is one of us and must fight back. His story must be told because it is about more than Bernard Kerik. It is about justice in America.

If overzealous prosecutors can indict and convict an innocent man, then any one of us can become a target of out of control, politically motivated prosecutors that have their own self-serving motives.

This is why I am asking you today to contribute to Bernard Kerik's legal defense fund.

Please give whatever you can. You can do so online by clicking on the donation button below or mailing a check to:

**The Bernard Kerik Legal Defense Fund**  
**The Carriage House Law Center**  
647 Ramapo Valley Road  
Oakland, New Jersey 07436

To support the Bernard Kerik Legal Defense Trust, click here:



Mr. Kerik and his family are deeply grateful for the support that you and the American people have shown them.

Thank you and God Bless You.

Sincerely,

**Anthony K. Modafferi, III, Esq.**  
Trustee, Bernard Kerik Legal Defense Trust

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Therefore, we have established the Trust, so that his friends and supporters may contribute funds to assist in his legal defense to prove his innocence and allow him and his family to move on with their lives.

To support the fund by contributing on line, [please click here](#).

If you would like to contribute by check, please make checks payable to The Bernard Kerik Legal Defense Trust and mail them to:

**Anthony K. Modafferi, III, Esq.**  
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**647 Ramapo Valley Road**  
**Oakland, NJ 07436**

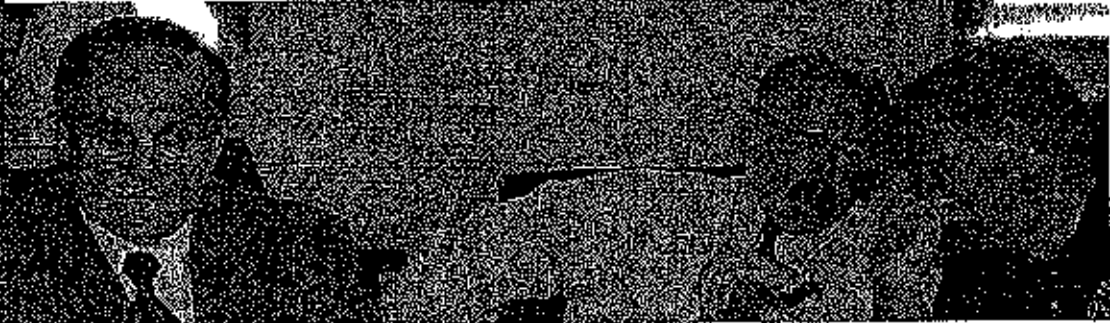
Trustee: Anthony K. Modafferi, III, Esq.  
Email: [keriktrustee@modafferi.us](mailto:keriktrustee@modafferi.us)

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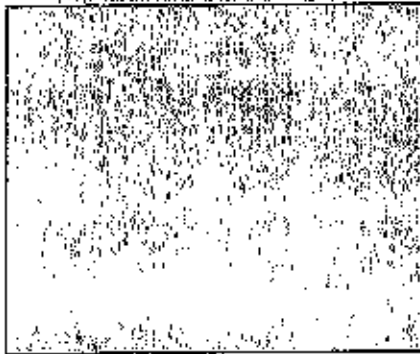
### ABOUT BERNARD B. KERIK

On December 3, 2004, Bernard B. Kerik, the Chairman of The Kerik Group, LLC, was nominated by President George W. Bush to serve as the second Secretary of the U.S. Department of Homeland Security. Mr. Kerik's qualifications for the post span his entire career, but most recently he served as Iraq's interim Minister of Interior and the Senior Policy Advisor to the U.S. Presidential Envoy to Iraq's Coalition Provisional Authority. Arriving in Baghdad just days after coalition forces invaded, Mr. Kerik was responsible for beginning the reconstitution and reinstatement of Iraq's interior ministry including the national police service and borders enforcement. Prior to his service in Iraq, Mr. Kerik served as the 40th Police Commissioner of the City of New York. Appointed by Mayor Rudolph W. Giuliani and responsible for 55,000 uniformed and civilian employees and a 3.2 billion dollar annual budget, his sixteen-month term was marked by dramatic reductions in crime, innovative and creative management and his oversight of the rescue, recovery and investigation of the World Trade Center attack of September 11, 2001. He also served as Commissioner of the New York City Department of Correction where he was responsible for an 830 million dollar budget, a uniformed and civilian workforce of 13,000 and approximately 125,000 annual inmate admissions. He earned international recognition after creating a management and accountability program that received accolades from the Innovations In American Government Award Program sponsored by Harvard University's John F. Kennedy School of Government.



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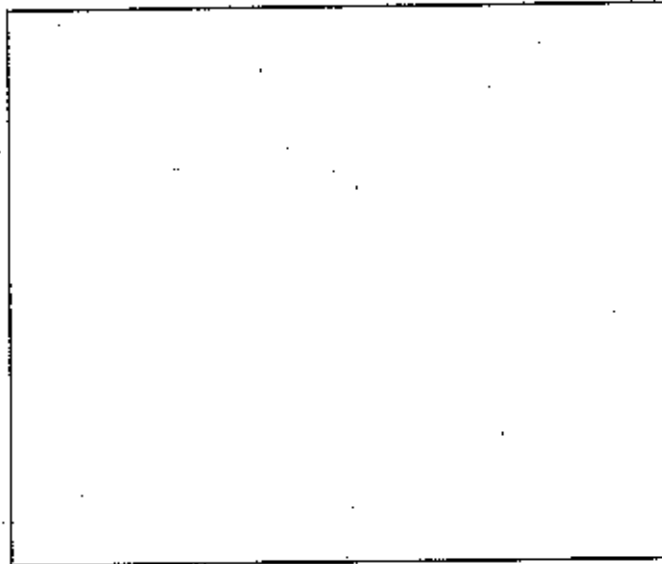
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Mr. Kerik began his professional career in the U.S. Army's Military Police Corps, serving in Korea. He was also assigned to the 18th Airborne Corps, at Ft. Bragg, North Carolina, where he trained Special Forces and Special Operations personnel at the JFK Unconventional Warfare Center and spent four years working on various security assignments in the Middle East. He also served as the Commander of Special Weapons and Operations and Warden of the Passaic County Jail in New Jersey before accepting an appointment to the NYPD where his meteoric rise through its ranks is legendary. As a New York City Police Detective assigned to the US Drug Enforcement Administration, he was responsible for overseeing one of the most substantial drug investigations in

United States history against the Cali Cartel. He has earned more than 100 awards for meritorious, heroic and public service throughout his career, including the New York City Police Department's Medal for Valor, a Presidential Commendation for heroism from President Ronald Reagan and an appointment as Knight Commander of the Sacred Military Constantinian Order of Saint George by the Duke of Calabria, Italy. On February 13th 2002, Her Majesty, Queen Elizabeth the Second, also honored him with an honorary appointment as Commander of the Most Excellent Royal Order of the British Empire (CBE).



He presently consults on national and international security and counter-terrorism, and speaks around the world on topics such as the threat of international terror, crisis management and disaster recovery and crime reduction through management accountability. He is the best selling author of "THE LOST SON: A Life in Pursuit of Justice." He is a 5th degree master black belt and has studied both Korean and Japanese Karate, served on the Terrorism Committee of the International Association of Chiefs of Police, and as Chairman of the New York State Athletic and Boxing Commission. He holds a B.S. in Public Administration from the State University of New York (Empire State College), and has attended the John F. Kennedy School of Government's Leadership Program for the 21st Century at Harvard University.

Mr. Kerik has served as a member of the Academe and Policy Research and Emergency Response Senior Advisory Committees for the U.S. Department of Homeland Security and the Criminal Justice Advisory Council of St. John's University in New York City. He has been awarded Honorary Doctorates from Iona College, New York Institute of Technology, Manhattanville College, College of New Rochelle, and Michigan State University for his public service to the City of New York and the United States of America. Mr. Kerik was also a founding member of the Board of Trustees of the Twin Towers Fund which raised and distributed all of the \$216 million dollars to over 600 families related to emergency services workers killed on 9/11.

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### A 33 YEAR CAREER OF COURAGE, HEROISM AND DISTINGUISHED SERVICE

#### AWARDS, HONORS, TRIBUTES AND ACCOMPLISHMENTS

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Trustee  
Carriage House Law Center  
647 Ramapo Valley Road  
Oakland, NJ 07436

email: [keriktrustee@modafferi.us](mailto:keriktrustee@modafferi.us)

- U. S. Presidential Letter of Commendation, (Heroism – President Ronald Reagan)
- Appointed Honorary Commander of the Most Excellent Royal Order of the British Empire (CBE), by Her Majesty Queen Elizabeth II
- Appointed Knight Commander, Military Constantinian Order of St. George
- Golden Star Leadership Award, Los Angeles, California
- Special Achievement Award, Special Narcotics Prosecutor's Office, City of New York
- Man of the Year Award, Honor Legion, Police Department – City of New York
- Man of the Year Award, Detective's Endowment Association, Police Department – City of New York
- Brooklyn Law School, LELSA – "Man of the Year Award"
- DEA Administrator's Award, U.S. Department of Justice, Drug Enforcement Administration
- Distinguished Person of the Year, NYC Correction Captains Association
- Distinguished Service Award, New York Shields
- Distinguished Service Award, New York City Retired Detective's Association
- Distinguished Service Award, US Department of Homeland Security
- Distinguished Service Award, US Department of Homeland Security
- Dedication and Commitment Award, New York City Correction Officer's Association
- NYC Correction Guardians Association, President's Appreciation Award
- International Association of Chiefs of Police (member and former member of Terrorism Committee)
- Criminal Justice Advisory Board, St. John's University (Former Member)
- Detective's Endowment Association, NYPD (Member)
- Mayor's Medal of Honor (Heroism – City of Paterson, New Jersey)
- Mayor's Meritorious Commendation (Heroism – City of Passaic, New Jersey)
- Medal of Merit, New Jersey State Police Benevolent Association (PBA – Heroism)
- Medal of Valor, International Narcotics Enforcement Officers Association
- Police Department – City of New York (30 medals for excellent, meritorious and heroic service)
  - The Medal for Valor
  - Honorable Mention
  - 5 Commendations
  - 10 Meritorious Police Duty
  - 13 Excellent Police Duty
- New Jersey State PBA Silver Card (Life Member)
- Honor Legion, Police Department – City of New York (Member)
- Honor Legion, State of New Jersey (Member)

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- National Council of Columbia Societies in Civil Service, Honorary Member
- Narcotics Enforcement Officers Association of New York (Former Member and 2nd Vice President)
- International Narcotic Enforcement Officers Association (Member)
- Vice Chairman, Boy Scouts' Greater New York Council Law Enforcement Exploring Division
- Michael John Buczek Foundation (Former Chair - Awards Committee)
  
- Honorary Doctorate, Michigan State University
- Honorary Doctorate, New York Institute of Technology
- Honorary Doctorate, Manhattanville College
- Honorary Doctorate, College of New Rochelle
- Honorary Doctorate, Iona College
- President's Medal, Hunter College
  
- A 5th Degree Master Instructor in the Martial Arts, Korean and Japanese Karate
- The Centurion Black Belt Hall of Fame

### Tributes and Headlines

**"You are an inspiration to all of us"**

Tony Blair, former Prime Minister of the United Kingdom

**"Blacks, Latinos hail Kerik was Best Commish bar none"**

The New York Daily News

**"One of most accomplished and effective leaders of law enforcement in America"**

President George W. Bush

**Under Kerik's Command of the NYPD "Crime show the biggest drop in five years"**

The New York Times

**"A hero to New York City and to our country"**

Rudolph W. Giuliani

**"Kerik's "Iron hand dramatically reduces violence on Rikers"**

The New York Times

**"America is lucky to have a patriot such as yourself"**

His Majesty King Abdullah II, Kingdom of Jordan

**"Kerik, a comic book hero come to life"**

The New York Times

**"A true leader and hero for the people of my country"**

Ahmed Khadim Ibrahim, Deputy Ambassador to the United Nations for Iraq

**"He was born to Protect and Serve" and "The Man that tamed Rikers Island"**

The New York Post

**"An excellent Police Commissioner and Courageous Leader on 9/11"**

Rudolph W. Giuliani

### Accomplishments Under His Command

#### Police Department – City of New York

- 4.3% Reduction in Murder (66.7 % In Mayor Giuliani's 8 Year Term)
- 12.2% Reduction in Major Felony Crimes (62.5% In Mayor Giuliani's 8 Year Term)
- 74% Reduction in Felony Shootings
- 16% Reduction in Response Times (First Decrease in 10 Years)
- 11% Increase in Gun Seizures

- 13% Reduction in Officer Shootings
- Re-Organized the Gang Division
- Revised a Stop and Frisk Policy to Flag Civil Rights Abuses
- Re-Organized the Criminal Intelligence Division, merging all NYPD data bases in addition to intelligence by the FBI, DEA and other federal agencies
- Overseeing the NYPD response to the attacks of 9/11
- Enhanced Community Relations and Officer Morale
- Managed a \$3.2 Billion Dollar Budget

**Department of Correction - City of New York**

- 94% Reduction in Inmate Violence (Slashing and Stabbings)
- 72% Reduction in Serious Use of Force Incidents
- 33% Reduction in Overtime Spending
- 31% Reduction in Staff Sick Abuse
- 48% Reduction in Assaults on Staff
- 164% Increase in Searches Conducted
- 50% Increase in Weapons Seized
- Established TEAMS, a performance measurement and accountability system, a finalist in Harvard University's Innovations in American Government award program
- Reduced Federal Court Ordered Consent Decrees
- Managed a \$900 Million Dollar Budget

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- > [KERIK ASKS FEDS TO FLIP ON 'SNITCH' - New York Post](#)
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Carriage House Law Center  
647 Ramapo Valley Road  
Oakland, NJ 07436

all: kerik trustee@modafferi.us

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## Donor Guide

### 1. How Do I Contribute to the Trust?

If you would like to help support Mr. Kerik, you may send your donation by check to the following address:

**The Bernard Kerik Legal Defense Trust**  
Mr. Anthony K. Modafferi, III, Esq., Trustee  
The Carriage House Law Center  
647 Ramapo Valley Road  
Oakland, NJ 07436

Alternatively, you may contribute to the Trust on line by clicking here.

The trust may accept unlimited personal contributions.

### 2. How Will the Funds Be Used?

Any contribution you make to the Trust will be treated as a gift to Mr. Kerik to be used at his discretion. All funds collected will be deposited with the trustee of the Trust, and it is Mr. Kerik's intention that any funds contributed to the Trust will be used to defray legal expenses incurred by him during any civil or criminal investigations or court proceedings to which he may be a witness, subject or party, to reimburse him for any income taxes he incurs as a result of contributions to the Trust and income derived there from, and to pay any costs incident to creating, managing, and encouraging contributions to the Trust. In the event of Mr. Kerik's death prior to the conclusion of any such investigation or proceeding, it is his intention that the funds in the Trust be used to defray any legal expenses incurred by his family. If any funds are left in the Trust once Mr. Kerik's legal expenses have been paid in full, it is Mr. Kerik's intention to donate the remainder of the funds in the Trust to a charity or charities to be determined at his discretion.

### 3. Are There Any Potential Tax Implications?

Your contribution to the Trust is not tax-deductible, and you may incur federal gift tax liability. However, an individual donor can make an annual tax-free gift of up to \$12,000, and a married couple can make an annual tax-free gift of up to \$24,000. However, you should consult your own accountant or tax advisor regarding your personal financial situation and any potential tax liability before making a contribution to the Trust.

**IRS Circular 230 Disclosure:** To ensure compliance with requirements imposed by the IRS, I inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any matters addressed herein.

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Anthony K. Modafferi, III, Esq.  
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Carriage House Law Center  
647 Ramapo Valley Road  
Oakland, NJ 07436

Email: [keriktrustee@modafferi.us](mailto:keriktrustee@modafferi.us)

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## Bernard Kerik: Why charge me on nanny taxes, but not others?

BY THOMAS ZAMBITO  
DAILY NEWS STAFF WRITER

Tuesday, September 23rd 2008, 11:03 PM

Disgraced former NYPD boss Bernard Kerik doesn't think it's fair for him to face criminal charges for not paying nanny taxes when other top officials skirted for similar offenses.

Kerik's lawyers cited one-time U.S. attorney general nominee Zoe Baird and former New Jersey Gov. Christie Whitman as high-profile tax deadbeats in a 94-page document that seeks to quash perjury, tax fraud and illegal payoff charges.

"It is a matter of public record that prospective appointees to high political office are rarely if ever charged criminally for such issues," Kerik lawyer Barry Berke wrote.

Kerik is set to go on trial next year in White Plains Federal Court. Aside from Baird and Whitman, Berke cited former Commerce Secretary Ron Brown and deputy attorney general candidate Charles Ruff as others who've sidestepped criminal charges for domestic tax lapses.

Berke accused federal prosecutors of "overreaching" by bringing federal charges that echo those he pleaded guilty to in 2006 after a probe in the Bronx.

Kerik has admitted lying on city disclosure forms about renovations to his Bronx apartment done by a mob-linked contractor seeking city work.

"This is an extraordinary prosecution," Berke charged.

Kerik also said it's unfair to charge Kerik for lying to White House officials vetting his background for several high-ranking administration positions from 2002 to 2004 because their questions were too vague.

Kerik was forced to withdraw his nomination for homeland security czar.

Asked in one interview if he knew of anything embarrassing he wouldn't want the public to know, Kerik answered: "None! It's all in my book."

Kerik revealed in "The Lost Son" that he fathered a daughter while serving as a soldier in Korea. He was reunited with her after appearing on the Oprah Winfrey show. Kerik's mother, an alcoholic prostitute, was murdered.

The feds say Kerik conveniently forgot to mention his association with the mob-linked contractor who wanted his help to land city work.

Kerik also wants to know more about why his former lawyer Joseph Tacopina agreed to talk with the feds to determine if he violated the attorney-client privilege.

Tacopina told the feds the renovations to the Bronx apartment cost \$30,000 to \$50,000 and that Kerik paid the tab.

"Mr. Kerik had no prior knowledge that his former attorney would be giving an interview to the government and was never asked to and never did consent to any such interview," Berke wrote.

tzambito@nydailynews.com

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### Discuss this Article

15 comments so far. Add your comment below. [Discussion Guidelines]

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mrmike Sep 24, 2008 6:37:59 AM Report Offensive Post  
kerik is a bad as bad can be ! how did he ever get such a top job the real cops say he never made any real quality arrests ?

Joseberuz Sep 24, 2008 7:00:05 AM Report Offensive Post  
Bernie, when are you going to be a Man? Take what you deserve. Be Thankful, that you live in the United States because in other countries, you would be executed for abusing the position that you had. You know I love the fact that I was born in this great nation, but there are times I wish we were like some of these other countries.

DISCUSS | EMAIL | PRINT | SHARE

**Former top cop Bernard Kerik faces up to 14 1/2 years in jail if convicted. Prosecutors say he:**

Lied to city investigators when asked whether a New Jersey contractor secretly doing renovations on his Riverdale co-op had mob ties.

Fibbed to White House officials conducting background checks for high-ranking positions that he applied for from 2002-2004.

Committed tax fraud by lying to the IRS about some \$75,000 he received for writing a foreword to a book on 9/11 heroes. He's also accused of paying a nanny off the books.



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Browse Pre-Screened Profiles, Free Background Checks, Safe & Easy.  
(www.Care.com/nanny)

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Breedlove & Associates provides payroll and tax services for household employers nationwide. Since 1992, we've been dedicated to helping busy families with their payroll and tax obligations.  
(www.breedlove-online.com)

**Nanny Taxes Made Easy**  
The Nanny Tax Company makes paying Nanny Taxes easy.  
(www.nannytaxprop.com)

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twatson26 Sep 24, 2008 7:12:11 AM Report Offensive Post  
What a great Gullant pick he was.

tluv241 Sep 24, 2008 7:58:17 AM Report Offensive Post  
Gullant sure could pick em, Kerik was probably the worst PG in history, along with Von Essen as Fire Commissioner, another empty sull.

navy Sep 24, 2008 7:58:47 AM Report Offensive Post  
Bernie should be in a cell along with his equally unseparable mentor... Rudy the phony loser!

clearlytheman66 Sep 24, 2008 0:12:00 AM Report Offensive Post  
that guy is and always was a TOOL. What's amazing is that he had the @\$\$%\*s to think he would get over on a background check for homeland security chief!!!!

WonkaVision Sep 24, 2008 9:02:05 AM Report Offensive Post  
At Least THE MOB loved him. This guy should be renamed "cash & carry."

Always Think Sep 24, 2008 9:29:52 AM Report Offensive Post  
This guy never did a thing for New York. He hired a mob lawyer in Joe Topolino. He is as corrupt as they come. I hope he spends many years in jail.

mrmike Sep 24, 2008 0:31:48 AM Report Offensive Post  
Hey Navy your right but justice was served to his boss he spent millions to get that big job & now he's lost a power hungry control freak now has nothing to do they wont even let him play Baci Ball I yep what goes around comes around the Boss & his driver ..... today just burn

BerryBerry Sep 24, 2008 9:45:27 AM Report Offensive Post  
Bernie is indeed an arrogant criminal. Hundreds of prison inmates are awaiting his appearance in their homes next year.

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## KERIK ASKS FEDS TO FLIP ON 'SNITCH'

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By **BRUCE GOLDING**  
Posted 3:51 am  
September 24, 2008

Ex-city top cop Bernard Kerik wants the feds to tell him how they got his big-shot former lawyer, Joseph Tacopina, to allegedly flip on him - and what the legal eagle may have coughed up on the former commish.

In a sweeping, pretrial motion filed in Manhattan federal court yesterday, Kerik's lawyers charged, "Mr. Tacopina discussed with the government... what Mr. Kerik told Mr. Tacopina and his co-counsel in confidence."

Tacopina had repped Kerik in an earlier case involving charges tied to the current 16-count indictment against him for alleged tax fraud and corruption.

"Let me be clear. There was no client-lawyer-protected communications discussed," Tacopina said yesterday.

In the filing, Kerik's camp also whined that at least some of the counts against him are repetitive - because even if he lied to various government officials during several grilling interviews after he was nominated to be Homeland Security secretary, it was always about the same thing.

Those counts refer to Kerik's responses to White House officials when asked whether there was "anything embarrassing [he] wouldn't want the public to know."

At one point, Kerik allegedly responded, "Nope! It's all in my book," apparently referring to his illegitimate daughter and the fact that his birth mother was a prostitute.

Pressed at other times, Kerik allegedly again responded, "No" - although he had employed a nanny without paying her employment taxes.

Additional reporting by Kate Sheehy



**BERNARD KERIK**  
Filing tax-fraud tangle.

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Lance - Attorney wrote:
I find Joe Tacopina's behavior quite disturbing. As an attorney, I certainly wouldn't want this kind of attention. Perhaps he should reconsider his decision. Why would any attorney want a reputation as a "snitch"? How much are you getting paid Joe?
9/24/2008 10:58 AM EDT
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Danica wrote:
Shame on Joe Tacopina! He can claim all he wants about not disclosing attorney-client information, but the truth of the matter is... Tacopina opened his mouth... and he shouldn't have. As a matter of fact, I very highly doubt his information supplied to the feds is even credible. Tacopina is merely looking to be in the spotlight once again. I certainly wouldn't hire him as my attorney! He can't be trusted.
9/24/2008 10:24 AM EDT
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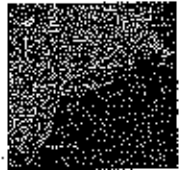
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# Defense seeks dismissal of Bernard Kerik charges

September 23, 2008

WHITE PLAINS, N.Y. - A defense lawyer says many of the charges against former New York City police Commissioner Bernard Kerik should be dismissed because they're too old.

Attorney Barry Berke has filed a motion for dismissal that says the 16-count indictment violates rules "intended to protect private citizens from facing stale accusations."

Berke says a five-year statute of limitations applies to some tax charges and to the accusation Kerik accepted a gift in 2000 in exchange for his influence.

Berke also notes Kerik faces charges for not paying nanny taxes although several other prominent people were never prosecuted for the same charge.

Prosecutors haven't returned a call seeking comment on the motion.

Kerik's trial is scheduled for January.

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Mr. Kerik was the 40th New York City Police Commissioner and in command of the NYPD on September 11, 2001. He was later appointed by President George W. Bush as Iraq's interim Minister of Interior.

Information

Websites:

- <http://www.keriklegaltrus.com>
- <http://www.flickr.com/photos/bernar>
- <http://www.youtube.com/BBKerik>
- <http://www.twitter.com/keriklegaltrus>
- <http://www.thekerikgroup.com>
- [http://www.NEWSMAX.com/bernard\\_](http://www.NEWSMAX.com/bernard_)
- <http://twitter.com/BernardKerik>
- <http://www.thepillarofstrength.com>

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Basic Information

Sex:	Male
Birthday:	September 4, 1955
Hometown:	Paterson, NJ
Relationship Status:	Married
Political Views:	Republican Party
Religious Views:	Roman Catholic

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"Desecrating or displacing the symbols of 9/11, is a contemptuous assault on the patriots that died on that day - and in the war since."  
- BERNARD B. KERIK, 40th Police Commissioner of the City of New York

"Any citizen can be convicted if prosecutors are hell-bent on ignoring the Constitution and willing to present false evidence."  
- BRENDAN SULLIVAN and ROBERT CARY, Attorneys for former U.S. Senator Ted Stevens

"A man who is good enough to shed his blood for his country is good enough to be given a square deal afterwards. More than that no man is entitled, and less than that no man shall have."  
- President THEODORE ROOSEVELT

Real heroes are men who fall and fail and are flawed, but win out in the end because they've stayed true to their ideals and beliefs and commitments.  
- KEVIN COSTNER

"It is not the critic who counts; not the man who points out how the strong man stumbles or where the door of deeds could have been done better. The credit belongs to the man who is actually in the arena, whose face is marked by dust and sweat and blood, who strives valiantly, who errs and comes up short again and again, because there is no effort without error or shortcoming, but who knows the great enthusiasms, the great devotions, who spends himself for a worthy cause; who, at the best, knows in the end, the triumph of high achievement, and who, at the worst, if he fails, at least he fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat."  
- President THEODORE ROOSEVELT

About Me:

Bernard B. Kerik is one of the most accomplished public servants in the United States. For more than thirty years, Mr. Kerik has served his country - most notably as the 40th Police Commissioner of the City of New York. Appointed by Mayor Rudolph W. Giuliani and responsible for 55,000 uniformed and civilian employees and a \$3.2 billion annual budget; his term was marked by dramatic reductions in crime, innovative and creative management and his oversight of the rescue, recovery and investigation of the World Trade Center attack on September 11, 2001.

Mr. Kerik's career includes and is a testimony of his exemplary work and leadership skills starting in the U.S. Army's Military Police Corps, serving in Korea. He was also assigned to the 18th Airborne Corps, at Fort Bragg, North Carolina, where he trained Special Forces and Special Operations personnel at the JFK Unconventional Warfare Center and spent four years working on various security assignments in the Middle East.

He served as the Commander of Special Weapons and Operations and Warden of the Passaic County Jail in New Jersey before accepting an appointment to the NYPD where his meteoric rise through its ranks is legendary. As a New York City Police Detective assigned to the US Drug Enforcement Administration, he was responsible for overseeing one of the most substantial drug investigations in United States history against the Cali Cartel.

He also served as Commissioner of the New York City Department of Correction where he was responsible for an \$290 million dollar budget, a uniformed and civilian workforce of 13,000 and approximately 125,000 annual inmate admissions. He earned international recognition after creating a management and accountability program that received accolades from the Innovations in American Government Awards Program sponsored by Harvard University's John F. Kennedy School of Government.

Mr. Kerik has earned more than 100 awards for meritorious, heroic and public service throughout his career, including the New York City Police Department's Medal for Valor, a Presidential Commendation for heroism from President Ronald Reagan and an appointment as Knight Commander of the Sacred Military Constantinian Order of Saint George by the Duke of Calabria, Italy. On February 13th 2002, Her Majesty, Queen Elizabeth the Second, also honored him with an honorary appointment as Commander of the Most Excellent Royal Order of the British Empire (CBE).

In 2003, served as Iraq's interim Minister of Interior and the Senior Policy Advisor to the U.S. Presidential Envoy to Iraq's Coalition Provisional Authority. Arriving in Baghdad just days after coalition forces invaded, Mr. Kerik was responsible for beginning the reconstruction and re-instatement of Iraq's interior ministry including the national police service and borders enforcement.

Contact Information

Website:

<http://www.keriklegaltrust.com>  
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**Education and Work**

**Colleges:** SUNY Empire State '02  
Public Administration  
Harvard '98  
John F. Kennedy School of Government  
**High School:** Eastside High School '79

**Employer:** The Kerik Group LLC  
**Position:** Chairman  
**Time Period:** March 2005 - Present

**Employer:** Giuliani - Kerik LLC  
**Position:** CEO  
**Time Period:** February 2002 - December 2004

**Employer:** United States Department of Defense  
**Position:** Senior Advisor to the Presidential Envoy of Iraq  
**Time Period:** May 2003 - September 2003  
**Description:** Served at the Interim Minister of Interior of Iraq

**Employer:** New York City Police Department  
**Position:** Police Commissioner  
**Time Period:** August 2000 - December 2001

**Employer:** New York City Department of Correction  
**Position:** Correction Commissioner  
**Time Period:** January 1998 - August 2000

**Employer:** New York City Department of Correction  
**Position:** First Deputy Commissioner  
**Time Period:** January 1995 - January 1998

**Employer:** New York City Police Department  
**Position:** Detective  
**Time Period:** July 1986 - May 1994

**Employer:** Passaic County Sheriff's Department  
**Position:** Chief  
**Time Period:** 1984 - July 1986  
**Location:** Paterson, NJ

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