# INVESTIGATION OF ALLEGATIONS OF LAW ENFORCEMENT MISCONDUCT IN NEW ENGLAND—VOLUME 3

## HEARINGS

BEFORE THE

## COMMITTEE ON GOVERNMENT REFORM

## HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

MAY 11, DECEMBER 5 AND 6, 2002

**Serial No. 107–56**

Printed for the use of the Committee on Government Reform

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# INVESTIGATION OF ALLEGATIONS OF LAW ENFORCEMENT MISCONDUCT IN NEW ENGLAND

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**SATURDAY, MAY 11, 2002**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
*Boston, MA.*

The committee met, pursuant to notice, at 10 a.m., at the J.W. McCormack U.S. Post Office and Courthouse, 90 Devonshire Street, Courtroom 6, 15th Floor, Boston, MA, Hon. Steven C. LaTourette presiding.

Present: Representatives LaTourette, Tierney, Delahunt, Frank, and Lynch.

Staff present: James C. Wilson, chief counsel; Chad Bungard, counsel; Joshua E. Gillespie, deputy chief clerk; Nicholis Mutton, assistant to chief counsel; and Michael J. Yeager, minority deputy chief counsel.

Mr. LATOURETTE. The hearing will come to order.

We are meeting today out of the location of Washington, DC. This is a meeting of the Government Reform Committee for the purposes of having a continuation of hearings into law-enforcement irregularities in the New England area.

The chairman of the full committee, Dan Burton, is unavoidably detained today, and has asked me to chair today's proceedings.

We're lucky to be joined by two members of our committee, Mr. Tierney and Mr. Lynch of the Commonwealth of Massachusetts, and also someone who has been with us all the every step of our proceedings, and who serves capably on the Judiciary Committee.

Good morning.

I want to ask unanimous consent at this time that all Members' and witnesses' statements be included in the record. Without objection, so ordered.

Tabular material referred to be included in the record? Without objection, so ordered.

I ask unanimous consent that the binders of exhibits be included in the record. Without objection, so ordered.

I also ask unanimous consent that Representative Delahunt, who is not a member of the committee, as I indicated before, be permitted to participate in today's hearing. Without objection, so ordered.

Just a couple of brief observations before I yield to my colleagues.

One is that, as I indicated, this is a continuation of a variety of hearings that we've had here. We were also in Boston a couple of

months ago for the purposes of deposing witnesses. All of this relates to the long and unjust imprisonment of Joseph Salvati and others surrounding the murder of Teddy Deegan.

During the course of our investigation, we have discovered information that has led the Chair and committee to believe that the Federal Bureau of Investigation, while a wonderful and honorable institution in our country, engaged in behavior in New England in the 1960's and 1970's of which no one should be proud.

The purpose of these hearings is not to embarrass anyone. The purpose of these hearings is to get to the truth, and, as this committee is engaged in oversight responsibilities, to determine whether or not there are additional legislative items that are needed to be addressed in this or future Congresses to make sure that what happened in New England does not occur again.

A couple sort of procedural notes.

The rules of the committee, since most of you probably don't attend committee hearings on a regular basis—and why would you?—the rules of the committee indicate that, as far as the questioning of witnesses is concerned, all witnesses that come before the committee are sworn.

Second, the time is then divided between the majority and minority party. Even though I happen to be in the minority this morning, I am a Member of the majority party. We will assign half-hour rounds to each party.

At the conclusion of that, we have in our possession a prosecution memo prepared in the Patriarca prosecution by people not here today. It is the committee's desire to question Mr. Zalkind about the contents of that prosecution memo.

It has been the subject of sort of an ongoing discussion between committee counsel and the Department of Justice; and it's my opinion, as well as I think the opinion of Chairman Burton and others on the committee, that there is nothing contained in this memorandum that even comes close to talking about national security, or by which national security would be compromised.

However, the administration has taken the view that this internal Justice Department document is privileged. As a matter of fact, President Bush, much to my dismay, asked this of the Attorney General, and the Department of Justice has caused it to be the subject of executive privilege.

Because of that claim, with which I disagree, we will at the conclusion of the first round of questioning close the hearing for a brief period of time and conduct a hearing in executive session while we talk to Mr. Zalkind about the prosecution memo.

That is not something that we think is necessarily a good idea, but it is the agreement we had with the Department of Justice; and failing that agreement, we would not have the opportunity to ask this very important witness about this very important document.

With that, it is my pleasure to yield to Mr. Tierney from Massachusetts. Thank you.

Mr. TIERNEY. Thank you, Mr. Chairman.

I'm going to be brief, only because I've been through a number of hearings and have had an opportunity to open on many occasions.

The purpose of these hearings, at least in part, is to determine what further oversight is necessary with the Federal Bureau of Investigation, particularly with respect to their use of confidential informants or, as we suspect here, misuse of confidential informants, and the lack of transparency enabling a proper amount of oversight.

Just a brief word on the behavior of the administration here.

Once again, we find a claimed need for secrecy with respect to documents that nobody on this committee believes warrant that type of treatment.

Since September 11th, this is an administration that has sought increasingly to give more and more power to investigative and prosecutorial bodies; and yet we find their desire for secrecy more and more troubling.

If we're going to expand power, I think we need to have better oversight and more transparency, at least between the body that does the oversight and the agencies that are involved.

That's a matter for another day. But I'm glad to note that both parties, minority and majority, are concerned about it; and it's an ongoing controversy that we'll continue to address here and back in Washington.

But for the purposes of these hearings, Mr. Chairman, I look forward to hearing from these witnesses so that we can continue in our efforts to make some determination as to what the best way is for us to deal with the improprieties which have occurred, which seem unfortunately to run broadly and to run deep.

So I thank you for coming up here this morning and conducting these hearings, and look forward to the testimony of the witnesses.

Mr. LATOURETTE. Thank you very much, Mr. Tierney.

Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman.

Good morning; and I want to join my colleagues in thanking you for your good work, and also Chairman Burton. I state the obvious when I say we do have our differences at times, but I have nothing but admiration and commendation for the work handled by the Chair, and also the subcommittee Chair, in this matter.

First and foremost, I would like to just say that we are after the truth in these hearings. We're after whatever justice can be provided to the families that have been so hurt by this, for the lives and the years that have been stolen by misconduct of the FBI.

Today's hearing focuses on the next step in this ongoing investigation to clarify the circumstances around the wrongful prosecution of Mr. Salvati and Mr. Limone, and others, for the murder of Teddy Deegan.

I'm new to this committee, and I'm obviously the caboose on this train; but I must say that Mr. LaTourette and Mr. Delahunt and Mr. Tierney and Mr. Wilson have put in many, many hours and many days and weeks in this investigation, and I'm in a role of just lending support to their efforts, their good work.

I must, however, say that this is the most distressing thing that I have seen since I have come to the Congress.

Sitting in these hearings, and hearing the testimony of current Federal officials and FBI personnel, both current and retired, this

is most heart-wrenching; and I am just heartsick over the loss to the families that have been affected here.

And I think it is our remaining duty, if we cannot find full justice for the families that have been damaged here, that we have to first of all make sure that this never happens again, and that those at fault must be brought to justice.

That will be very difficult; but I think if we are truly to fulfill our responsibilities to protect those rights guaranteed under the Constitution, then we must do so. I think it is inappropriate, at the least, for a thinly veiled defense of executive privilege to be asserted in this case.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Stephen F. Lynch follows:]

STEPHEN F. LYNCH
8TH DISTRICT, MASSACHUSETTS

COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY
VETERANS' AFFAIRS AND INTERNATIONAL RELATIONS
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

COMMITTEE ON VETERANS' AFFAIRS
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**FOR IMMEDIATE RELEASE**
May 11, 2002

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**OPENING STATEMENT OF CONGRESSMAN STEPHEN F. LYNCH**
**HOUSE COMMITTEE ON GOVERNMENT REFORM**
**Boston Field Hearing**

Good morning and thank you Mr. Chairman for providing me with the opportunity to speak.

First and foremost, I would like to commend the leadership of this Committee for conducting this important investigation into the allegations of corruption at the Boston Field Office of the Federal Bureau of Investigation and pursuing the truth of the circumstances surrounding the wrongful prosecution of Joseph Salvati. I would also like to express my appreciation for the leadership being demonstrated here today by Chairman Stephen LaTourette and especially by my colleague from Massachusetts Congressman William Delahunt. Both of you have dedicated a significant amount of time and energy to this investigation in the hopes of achieving some semblance of justice in this case. Please know that your efforts are appreciated both by me personally and by the people of Massachusetts.

Today's hearing focuses on the next step in the Committee's investigation to clarify the circumstances surrounding the prosecution of Joseph Salvati for the murder of Edward Deegan. It is a miscarriage of justice to allow any innocent man to pay for a crime he did not commit. It is my hope that today's hearing will further illuminate any possible corruption that may have contributed to the prosecution of Mr. Salvati and others for murder.

This investigation demonstrates the dedication of the Members of this Committee to address the ways through which the handling of criminal informants could be improved to reduce the risk of future misconduct. Uncovering the truth about past corruption in the Boston Field Office of the FBI will allow us to take a first step towards restoring public confidence in our criminal justice system. Without the confidence of the public, the ability of our law enforcers to pursue justice will be severely compromised.

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Mr. LATOURETTE. Thank you very much, Mr. Lynch.

Also, I see that Congressman Frank of Massachusetts has joined us; and as we did with respect to Mr. Delahunt, I would make the same unanimous request that Congressman Frank, a Member of the Massachusetts delegation, be permitted to participate in today's hearing. Without objection, so ordered.

In introducing Mr. Delahunt, I want to note, I made a wisecrack about being in the majority party, but being in the minority today.

In this particular endeavor, the investigation of the allegations of law-enforcement misconduct in New England, those of you from the New England area can be more than proud of your congressional delegation in the House of Representatives.

Despite their committee assignments, and despite the fact that they may be busy with other things, all of them, to a man—we don't have any women—all of them, to a man, have dropped what they were working on to make sure that this received the full consideration of the Congress; and I give them great credit.

And now it's my privilege to yield to Mr. Delahunt for anything he might want to say.

Mr. DELAHUNT. I'll be very brief, Mr. Chairman.

Let me just say, while we're passing out kudos here, that your effort and your work and your commitment to this exercise has been extraordinary, Congressman LaTourette.

You deserve much credit; as does counsel, Chief Counsel Jim Wilson, who's sitting to my right; as well as Mike Yeager, who is chief counsel for the minority side.

These hearings have gone on for some time now. They have been very exhaustive and intensive, and they have been very informative.

I think it's appropriate for me to note today that in our presence we have with us two of the individuals whose names have been mentioned quite frequently during the course of these hearings; and they are Mr. Joseph Salvati and Mr. Peter Limone.

I don't think it's necessary to go into the history of the Deegan case. Many of us are aware of it; and there's a growing understanding by the public, not just here but I think all over the United States, that certainly justice was not done in their case.

But just to pick up on something that Congressman Lynch said, it is absolutely essential in a healthy democracy to have a justice system that has the confidence of the American people, of the public; and that's what we're here about, to restore that confidence.

There is a key issue that we're looking into; whether law-enforcement officials should have known that certain individuals went to trial and were not provided what clearly was exculpatory information, and that at the same time certain confidential informants were developed. Their conduct was ignored; even protected.

By that I mean that there will be testimony entered into the record today that will establish that the very top of the FBI was aware that in the case of one of these confidential informants there was a likelihood that he would commit murder in the future; and yet they believed that the so-called benefit to the FBI and law enforcement outweighed that risk.

I think it's fair to say that we all find that totally unacceptable. Not only were innocent people convicted, but the public was put at

risk; and in fact innocent people died as a result of the development, or rather the ignoring, of a certain confidential informant.

With that, I yield back to the Chair.

Mr. LATOURETTE. Thank you, Mr. Delahunt.

Mr. Frank, any opening remarks you would like to make?

Mr. FRANK. Thank you, Mr. Chairman.

I am very pleased to be here, although as a general rule staying out of courtrooms is a principle that many people in my profession strive to achieve. I appreciate the opportunity to be available. Being in a courtroom—or the courthouse, I guess—is a little more familiar for my colleague. There are very few courthouses in this area not named for one of his predecessors, so he gets to go to them more often.

I am very grateful to the gentleman from Ohio who is presiding today, to the chairman of the full committee, and to the gentleman from Indiana for his willingness to take on a task that many would shy away from; and that is—and I can't think of any task more important—trying to make sure that law-enforcement people, whom we necessarily trust with enormous power over our lives, discharge those powers responsibly.

Last fall, Congress significantly increased the ability of the FBI and other law-enforcement agencies at the Federal level to pierce the veil of privacy that most people would prefer to have. We greatly enhanced law enforcement's powers.

Some of us were torn at the time. We understood the need to enhance law enforcement's ability to protect us from a new type of criminal, even unfortunately suicidal criminals who elected to do great damage; but we were worried about safeguards.

What is essential is for us to show that when we give law-enforcement agencies that power, we can exercise oversight to minimize abuse of that power; and that's why these hearings are so important.

What has come forth through Judge Wolf as well as through these hearings and elsewhere is a pattern of abuse of law-enforcement powers that is so shocking that many of us, had we been confronted with these facts in the absence of the evidence, would not only have denied them but would have chided those who brought them forward with being obsessed with imagined conspiracy.

This is one of the worst examples of the failure of people to do their duty that I've ever seen with regard to the FBI.

While we have no reason to think that these abuses are ongoing, I am still disappointed that I have not seen in the FBI, or in the people who supervise it in the Justice Department—and this is bipartisan; it was true in the previous administration, and it's true in the current one—I haven't seen the kind of zeal to penalize people who abuse power that the public is entitled to see. Only when there is a zeal to penalize the abuse of power will people be confident in granting more and more power.

We still have the situation of Wen Ho Lee, where it was acknowledged that an FBI agent gave a judge false information; and on the basis of that false information, a man was shackled and put in solitary confinement for a year.

The FBI acknowledged—this is in the previous administration—that the FBI had given false information.

I don't know whether someone was lying, or if someone lied to the agent. We don't know where it came from. But the FBI has done nothing to tell us what has happened, or to penalize anybody for the fact that a man was put in these very, very restrictive conditions, which a judge said were based on false information. We have this ongoing outrageous situation.

Unfortunately, many of my colleagues are intimidated against looking into this; and so I'm especially grateful to the leadership of the Committee on Government Affairs, and grateful to them for coming here.

I also want to acknowledge my colleague Congressman Delahunt, whose considerable experience has been an especially important asset in our trying to deal with this. He went through some of this. He's in the position of being able to say "I told you so" with regard to some of these specifics; and I am very grateful, as I said, because I cannot think of a more important job than for us to show that we are capable of dealing with abuse.

If we cannot deal with abuse of law-enforcement powers, we're not going to be able as a society to give law enforcement the power it ought to have to protect us.

Mr. LATOURETTE. Thank you very much, Mr. Frank.

The first panelist this morning is Mr. Jack Zalkind, who was the prosecutor in the Deegan case representing the Suffolk County District Attorney's office.

Mr. Zalkind, it is the custom of this committee for all witnesses to be sworn.

[Witness sworn.]

Mr. LATOURETTE. Thank you very much, sir.

At this time, Mr. Zalkind, if there are any opening remarks that you would like to make to us, we would be happy to receive them.

**STATEMENT OF JACK ZALKIND, ESQ.**

Mr. ZALKIND. I'll wait until the end, if you don't mind.

Mr. LATOURETTE. Very good.

That being the case, under the rules of the committee, we will now engage in half-hour rounds among the parties. As I've indicated to my friends on the Democratic side, since there are four times as many of them as on our side, we'll be willing to enlarge that particular time.

Mr. Zalkind, if you could, just for the purposes of the record we're creating today, could you give us a little bit of your professional history?

Mr. ZALKIND. I graduated from Boston University Law School in 1961. That year, I was active in Senator Edward M. Kennedy's first campaign for the Senate.

I had originally come from Bridgeport and planned to go back to Bridgeport; but when Senator Kennedy was elected to the Senate, I was fortunate enough to be nominated as an Assistant District Attorney for Suffolk County.

I held onto that position until 1971; but I must add that during those 10 years the position of an Assistant District Attorney was part-time. It did not become full-time until Mr. Delahunt's movement to make it full-time.

I left the office in 1971, and I have been in private practice as a defense attorney and a litigator since then.

Mr. LATOURETTE. Thank you very much.

The reference to the change made by Mr. Delahunt by legislation from part-time to full-time, is there some significance to that, other than the hours, in terms of how you would approach or handle a case, or how cases were delivered to you?

Mr. ZALKIND. Yes.

Mr. LATOURETTE. Can you just describe what that was?

Mr. ZALKIND. Well, for example, when this case was being brought forth in 1967, most of the prosecutors had been there for 10 or 15 years. They couldn't practice criminal law; but they practiced probate, they did a lot of tort work, and they had their own practices.

Because I was sort of young, and because I wasn't married at the time, I didn't have much of an outside practice. I had a lot of time; and I think that I could give time to a case. For most of the other prosecutors, that wasn't the case.

One Assistant District Attorney brought the case in front of the grand jury, and the next thing the prosecutor did was, he had a case, and he said, go ahead and try it. So he had nothing to do with the original investigation, and he was as blind as could be.

I think that situation has changed also. Today, most of the prosecutors bring their own cases before the grand jury.

Indeed, through the efforts of former Attorney General Bellotti and of Mr. Delahunt, prosecutors now start the investigations themselves, so that they know where the case is coming from.

In this particular case that I was involved with, I had prosecuted—well, I think I've answered the question as far as why I think that part-timers are wrong.

Mr. LATOURETTE. Prior to the Deegan case, had you handled a capital-murder case?

Mr. ZALKIND. I think this was the first murder case that I had ever handled.

Mr. LATOURETTE. So I assume you didn't present the testimony, if I understood your answer to the previous question, to the grand jury?

Mr. ZALKIND. I did.

Mr. LATOURETTE. You did?

Mr. ZALKIND. Well, why that was unusual was this: I had originally prosecuted Joe Barboza back in 1964 or 1965 for some misdemeanor. He was found guilty; and after he was let out of jail, I prosecuted him again under some gun-carrying charges while there was still an outstanding charge for an attempted murder.

I got a conviction against him on the gun charge, and he was sent to Walpole. There was still an outstanding felony; and during that year—I think it was 1967—a Supreme Court decision came down that said that the habitual-criminal statute was constitutional, so that in Massachusetts, if a defendant was sent to Walpole for a third time, he would then receive the maximum sentence.

So I asked the District Attorney if we could take a chance—we had never done that before—and I brought an indictment against Barboza for habitual criminal.

Mr. LATOURETTE. And how much time would Mr. Barboza potentially face to——

Mr. ZALKIND. I think it was 84 years.

Mr. LATOURETTE. And was it about that time, down in Walpole, that he was visited by Mr. Rico and/or Mr. Condon?

Mr. ZALKIND. What happened was, I had heard scuttlebutt that Joe Barboza had become an informer.

I wasn't assigned to the original case. The original case was assigned to Assistant District Attorney John Pena, who became a Municipal Court judge. He prosecuted that first case, and they lost that case.

He then became a witness in the case against Raymond Patriarca down in Rhode Island, and that was prosecuted by Mr. Harrington.

Again, I wasn't very much involved with that. I never liked Joe Barboza; I never trusted him.

Well, they won that case in Rhode Island; and then Mr. Byrne asked me—I won't say asked me—told me that Barboza had another case. He mentioned the facts of this Deegan case, and they thought that I would be the guy that could handle it, for many reasons.

I was hesitant to do it, because I knew Barboza. I never trusted him. I said that I would take it under the conditions—and I'm not trying to make myself a big shot; obviously I was only a young guy, but I just knew I was trying to protect myself—I said I would take the case, but I did not want to talk to Barboza until such time as he appeared before the grand jury under oath.

So the next time I saw Barboza, he was in front of the grand jury and testified under oath. So I took a lot of precautions. That was unusual in those days. Most of the time the prosecutions were presented by, I think in those days it was a fellow by the name of Ralph Bernard. So this was a little unusual.

Mr. LATOURETTE. I think in some of the records we have it indicates that your first contact was in September 1967. Does that sound about right, in terms of when he appeared in front of the grand jury?

Mr. ZALKIND. That sounds right, yes.

Mr. LATOURETTE. Going back to, then, the prior contacts, before you actually met him at the grand jury as he gave testimony leading to the indictments in the Deegan murder case, did you receive documents from the FBI concerning their contacts with him?

Mr. ZALKIND. No.

Mr. LATOURETTE. During the course of the Deegan trial, Special Agent Condon testified that they had met with Mr. Barboza nine times between the time when he originally indicated he would cooperate and when you eventually met him at the grand jury.

We have today documents that were prepared contemporaneously with those meetings, that describe the sum and the substance of those. Were those items ever shared with you?

Mr. ZALKIND. I've seen them now; but in those years I never saw any FBI reports, nor did I speak to Condon about the substance of the Deegan case.

I did speak to him about what kind of a witness Barboza would make, because he had seen him testify in the Patriarca case; but more than that, we had not much contact.

Mr. LATOURETTE. If you weren't made aware of the substance of the conversations, were you made aware of the fact that he was receiving things from the FBI in return for his cooperation?

Mr. ZALKIND. The only thing that I was made aware of was that he was put into the Witness Protection Program, and that his wife was being protected, and that he was being kept in an area off in Gloucester.

But as far as receiving money or anything like that, I have no memory now if I was told anything like that.

Mr. LATOURETTE. Your understanding of what the Witness Protection Program would have been was that he would have received a new identity and a new location; you don't know anything about money, and you don't know anything about potential employment?

Mr. ZALKIND. I may have known then, Mr. Chairman, but I certainly don't remember them now.

Mr. LATOURETTE. OK.

As an old prosecutor, let me ask you this. When you showed up at the grand jury, and this was your first new contact in the Deegan case, how did you know what to ask him?

Mr. ZALKIND. I had a booklet prepared. The prosecution had given me a booklet of the events that transpired. It was a summation of the various factors. I started right off by reading questions, etc., and went sort of right through the script.

Mr. LATOURETTE. When you say the prosecution, who prepared that document?

Mr. ZALKIND. That was prepared by, probably, John Doyle and Sergeant Frank Walsh.

Mr. LATOURETTE. Aside from handing you a script from which to read at the grand jury when Mr. Barboza testified, was it your understanding that they had had contact with his FBI handlers in preparing that?

Mr. ZALKIND. Oh, yes. I saw them in the office; of course.

Mr. LATOURETTE. Did you ever talk to Doyle or Walsh about their contacts, how's the star witness coming, what's Barboza up to, anything like that? Was there any office talk about this prior to your——

Mr. ZALKIND. I think I only became interested—I told you I didn't like him.

Mr. LATOURETTE. Right.

Mr. ZALKIND. And even when we had this prosecution going on in our own office, I never watched any of the trial. I just wasn't interested in it until I became involved with this, with my own case. But then I did talk to him; of course.

Mr. LATOURETTE. I wrote down, as you were talking before, two phrases—"never liked him, never trusted him"—in reference to your feelings about Barboza; and I guess that means that probably some of the seminal questions that bother members of the committee—if you never liked him and you never trusted him, it's our understanding that this case was based solely upon his testimony.

Mr. ZALKIND. No, that's not true.

Mr. LATOURETTE. What else was it based on?

Mr. ZALKIND. There was a lot of corroboration of his testimony; for example, the autopsy report. Barboza told us that there were three guys involved with the shooting; and sure enough, there were three different types of bullets that were found in the body.

Barboza told us that Roy French cooperated with him in setting this up in this alleyway; that was corroborated.

He said that while he was sitting in a car, a policeman passed in front of him and noticed the bent plates. Well, we had that Captain Barslowski, I think his name was, who testified that, yes, indeed, he did see this license plate, he did see it bent; he described the men that were in the car, and he described them almost exactly the way Barboza had told us. There was a lot of corroboration.

There was another witness, Anthony Stathopoulos, who became a government witness; and he testified that he had meetings with Barboza and French where this thing was set up, etc.

So there was a lot of corroboration.

Mr. LATOURETTE. But again, I think you hit the nail on the head when you said there was a lot of corroboration of Mr. Barboza's statements.

Mr. ZALKIND. Yes.

Mr. LATOURETTE. In other words, again, to me, Mr. Barboza's testimony could lead in two directions. One, it was absolutely true, he was there; and the reason the story was so accurate is that he was a participant, which we now know today he was.

So again, the question is, as a prosecutor, based upon the level of corroboration of his testimony, despite the fact that you didn't trust him, didn't like him, you felt comfortable that he had gone on the straight and narrow at least relative to this——

Mr. ZALKIND. No, I never said that he had gone on the straight and narrow; never.

Mr. LATOURETTE. You never did; but the truth of the testimony——

Mr. ZALKIND. When I put this case in to the grand jury—and it was really, really voluminous—then I spent, Mr. Chairman, the next 6 months speaking with him at least four or five times a week, with a detective with me at all times, going through every phase of the case.

And I told him over and over again, if I ever find out that you put someone here that doesn't belong here, or you left someone out, that's perjury in a murder case; and I'll put you in. I mean, I made it so clear. I thought that I had done everything that was humanly possible to keep the story straight.

Mr. LATOURETTE. We know today that the story wasn't straight, obviously; and we know it through documents that we've obtained from the FBI.

Mr. ZALKIND. I agree with you.

Mr. LATOURETTE. And the question is, first of all, out of six individuals who were charged in the Deegan murder, Jimmy Flemmi was not one of them?

Mr. ZALKIND. That's correct.

Mr. LATOURETTE. I think the committee has provided you with an exhibit book. Exhibits 4, 5 and 8, for instance, all indicate that it was pretty common knowledge in the New England underworld that Jimmy Flemmi very much wanted to kill Teddy Deegan. Was any of that information——

[Exhibits 4, 5 and 8 follow:]

UNITED STATES GOVERNMENT

*Memorandum*

TO : SAC [redacted] F

DATE 10/19/64

☒ CI ☐ SI

☐ PCI ☐ PSI

FROM : SA H. PAUL RICO

SUBJECT: [redacted] b

Dates of Contact
10/18/64

Titles and File #s on which contacted
[redacted]

Purpose and results of contact

☐ NEGATIVE
☒ POSITIVE

Informant advised he got a telephone call from JAMES FLEMMI the previous evening and FLEMMI told him that he had been with EDWARD "TEDDY" DEEGAN and an individual referred to as "TONY" at the West End Social Club Saturday morning. Informant said that ANTHONY SACRIMONE's name came up in the conversation and that DEEGAN had said something concerning SACRIMONE, but FLEMMI could not recall what it was.

FLEMMI said that he definitely knows that DEEGAN, later that morning, murdered ANTHONY SACRIMONE and he was very concerned about leaving his prints in the car; that DEEGAN is going to lay low for a couple of weeks until he finds out what, if anything, the police have on him to tie him in to this murder.

FLEMMI told the informant that DEEGAN has been knocking him (the informant) in indicating to the Italian element that the informant was going to "hit" someone from the

☒ Informant certified that he has furnished all information obtained by him since last contact.

Rating

Coverage
92's

Personnel Data
[redacted] F F

[redacted] 1- (Everett PD)

HPR:po'b
(5)

[redacted] 22

EXHIBIT 4

EXHIBIT 2

000747

[redacted] F

[redacted] -27D

Coliseum Restaurant. FLEMMI told the informant this obviously was just an attempt to get the Italian element interested in eliminating the informant.

FLEMMI advised that DEEGAN owes FLEMMI's brother, STEVIE, some money, and that he told him once to get the money up. He has not gotten the money up, and FLEMMI wants to kill DEEGAN and wanted the informant to go with him on the "hit."

b.4 [redacted]

The information concerning DEEGAN perpetrating this killing was disseminated telephonically to Det. HENRY DOHERTY of the Everett, Mass. PD on 10/18/64.

Det. DOHERTY recontacted this office on 10/19/64 and advised that he believes the information concerning DEEGAN is correct but that they have been unable to come up with any fingerprints in the car that are identifiable and DEEGAN has taken off from his usual haunts.

FD-36

F B I

Date: 10/20/64

Transmit the following in _____
(Type in plain text or code)

Via AIRTEL _____
(Priority)

---

TO : DIRECTOR, FBI [redacted] F

FROM : SAC, BOSTON [redacted]

SUBJECT: [redacted] B.M

ReBosAirtel 10/15/64.

B.F

W

3 - Bureau
7 - Boston
[redacted]

JFK:ner
(10)

FILED

Rico
Shannon
Kerger

Approved: _____ Sent ___ M Per 000749
Special Agent in Charge

F [redacted] - 2447

EXHIBIT
5

F.G. 7

[redacted] F

M.B

PETER LIMONE stated that JIMMY FLEMMI is an individual whom they can't control. JIMMY came to his club recently and LIMONE asked him to leave because of the heat that was on FLEMMI at the time. FLEMMI denied any heat being on him from the police, but LIMONE insisted that he leave his, LIMONE's, club. [redacted] B.M

JIMMY also inquired about EDWARD DEEGAN, close associate of HAROLD HANNON, who was recently murdered. LIMONE told FLEMMI that DEEGAN does not come to the club. Immediately after FLEMMI left, he called DEEGAN and told him that FLEMMI was looking for him, allegedly for a $300.00 loan which DEEGAN owes FLEMMI. DEEGAN denied any such loan. Therefore, they were of the opinion that FLEMMI was out to kill DEEGAN.

M.B

SUBJECT: VINCENT JAMES FLEMMI, Aka.

F [redacted]-2597pg.2

Boston Airtel to Director 3/10/65 entitled: [redacted]

B,M

F [redacted] advised on 3/3/65 that [redacted] contacted Patriarca and stated he had brought down VINCENT FLEMMI and another individual (who was later identified as Joe Barboza from East Boston, Mass.) It appeared that [redacted], Boston hoodlum, was giving orders to FLEMMI to "hit this guy and that guy".

B

Raymond Patriarca appeared infuriated at [redacted] giving such orders without his clearance and made arrangements to meet FLEMMI and Barboza in a garage shortly thereafter. He pointed out that he did not want FLEMMI or Barboza contacting him at his place of business.

F [redacted]-2597pg.5

Angiulo told Patriarca that VINCENT FLEMMI was with Joe Barboza when he, Barboza, killed [redacted] in Revere, Mass. several months ago. It appeared that [redacted], Boston hoodlum, had ordered the "hit". Patriarca again became enraged that [redacted] had the audacity to order a "hit" without Patriarca's knowledge.

B

Patriarca told Angiulo that he explained to FLEMMI that he was to tell [redacted] that no more killings were to take place unless he, Patriarca, cleared him.

Jerry explained that he also had a talk with FLEMMI. He pointed out that Patriarca has a high regard for FLEMMI but that he, Patriarca, thought that FLEMMI did not use sufficient common sense when it came to killing people.

Angiulo gave FLEMMI a lecture on killing people, pointing out that he should not kill people because he had an argument with him at any time. If an argument does ensue, he should leave and get word to Raymond Patriarca who, in turn, will either "OK" or deny the "hit" on this individual, depending on the circumstances.

[redacted]

M



EXHIBIT 8

SUBJECT: VINCENT JAMES FLEMMI, Aka.

F

[redacted] (Cont'd)

M [redacted]

According to Patriarca, another reason that FLEMMI came to Providence to contact him was to get the "OK" to kill Eddie Deegan of Boston who was "with [redacted] It was not clear to the informant whether he received permission to kill Deegan; however, the story that FLEMMI had concerning the activities of Deegan in connection with his, Deegan's, killing of [redacted] was not the same as Jerry Angiulo's. B

[redacted]

F/B

Boston's Airtel to Director and SACS Albany, Buffalo, Miami 3/12/65 captioned: [redacted]

B [redacted] advised on 3/9/65 that JAMES FLEMMI and Joseph Barboza contacted Patriarca, and they explained that they are having a problem with Teddy Deegan and desired to get the "OK" to kill him.

They told Patriarca that Deegan is looking for an excuse to "whack" [redacted] who is friendly with [redacted] B

FLEMMI stated that Deegan is an arrogant, nasty sneak and should be killed.

Patriarca instructed them to obtain more information relative to Deegan and then to contact Jerry Angiulo at Boston who would furnish them a decision.

M [redacted]

Mr. ZALKIND. Let me interrupt you, Mr. Chairman. Let me say this.

I was not from Boston. I had not been involved in organized crime. Jimmy Flemmi, before or after this case, didn't mean very much to me at all; and perhaps I was naive in that respect.

I did see the documents that were shown to me; and I must tell you this, that I was outraged—outraged—at the fact that if they had ever been shown to me, we wouldn't be sitting here, because, I wasn't the person that made the decisions, but I certainly would never have allowed myself to prosecute this case having that knowledge. No way.

Mr. LATOURETTE. Which brings me to another document; and I might ask counsel to give me a hand with what the exhibit number is, but it's the Chelsea Police Department report.

Mr. ZALKIND. I'm familiar with it.

Mr. LATOURETTE. Again, we have some conflicting information. That's exhibit No. 12, I've been told; that is the Chelsea Police Department police report.

Again, the way I'm familiar with things is, when you're prosecuting a case, they give you a police report, there's some followup investigation, you go to the grand jury, and you move forward.

I think pretty clearly the Chelsea Police Department report indicates that, first of all, Mr. Barboza was a participant in it, and his testimony at trial was not truthful.

When was the first time you saw the Chelsea Police Department report?

[Exhibit 12 follows:]

(2)

Page # 1

Statement by Lieut.Thomas F.Evans Chelsea Police Department.

On March 12,1965 I received a call from the station that a man had been shot and was in the alley in the rear of the Lincoln National Bank.I received this call at 11:15P.M.

I arrived at the above location at approximately 11:30 P.M.In this alley at that time were Chief Burgin,Lieut.Fothergill,Sergt.Charles McHatton,Capt.Renfrew and Officer James O'Brien.There were about fifteen or twenty people standing about the sidewalks and street that were being kept away from the alley by other uniformed officers.

On eneering this alley a distance of thirty feet,I observed a man who I knew as Edward "Teddy" Deegan lying on his back with his feet in the direction of Fourth St.He was fully clothed with a suit and topcoat,white shirt but no tie.There were gloves on his hands.There was a 12"screwdriver with a black handle and red top on the ground about ten inches from his left hand.There was a fresh pool of blood by his left knee and blood appeared to be still oozing from the rear of his head.There were two metal clad doors ajacent to the body that lead into a office building at #375 Broadway.These doors are 4'8" X 6'3"in height.The alley is 203'long and 8'wide from the sidewalk on Fourth St.to approximately 105' into the alley where it then widens 9'6".There is a fire escape on the left side of the alley about 140' in from Fourth St.This escape is for the tenants at #387 Broadway.

Officer O'Brien told me that he was checking doors prior to making his 11 P.M.ring at Box #22(Broadway & Fourth Sts)and when he went into the above alley he observed a figure crouched over by the above mentioned doors on closer observation with his flash light he observed the blood.He then went to Box #22 and called for assistance. O'Brien stated he had last tried these doors at 9 P.M.all was okay. At that time he had put the lights on in the alley.These lights are controlled by a switch that is located on the door casing on the last doorway on the left side of the alley.(Putting these lights on at dusk is the regular routine of the Officers that work route #12.) When O'Brien found the body the lights had been turned off and the door leading into the rear of 375 Broadway was open.

Lieut.Edward Fothergill gave me two complete metal jacket bullets with a right hand rifling twist,one smaller jacketed bullet with full metal jacket also four pieces of copper jacket and a piece of lead core that had been picked up in the alley. I later turned these over to Lieut.John F.Collins of State Police Firearms Identification.Lieut.Fothergill told me that they had to move Deegans bodyyfrom a crouched position to one lying flat on his back so that they could enter the open doorway and make search of the hallways of #375 Broadway.Nothing was found.

Shortly after I had arrived at the scene Attorney Alfred Farese accompanied by Anthony J.Stathopoules,he was allowed into the alley where he made identification of Deegan.He then was engaged in conversation with Chief Burgin and Capt. Renfrew.I was later informed by the Chief and Capt.that Farese had stated that he had received a telephone call from a former client that Deegan and Roy French were in trouble in Chelsea and had been arrested while doing a B & E.This client also told him that a policeman was to make arrangements to leave the door open.

EXHIBIT 12

As a result of having the above information given to me,I spoke to Farese and he repeated the story to me. I asked him if Stathopoulos was the former client of whom he spoke and he said no that he had

asked Stathopoulos to give him a ride to the Chelsea Police Station.He would not reveal the name of this party.

Dr.Meyer Kraft came to the scene and pronounced Deegan dead at 11:43 P.M. The Medical Examiners Office had been notified and Dr.Luongo came to the scene and viewed the body and removed same.

I had received information from Capt.Joseph Kozlowski that about 10 P.M.he had observed a red motor vehicle parked on Fourth St about 150' from the alley in question and there were three men in this car,two in front and one in the rear.He observed the first three digits of this plate as 404 but could see no other numbers as the plate had been bent over from right to left.As he went over to discuss the plate with the occupants the car pulled away from the curb and made a right turn on Broadway.

At approximately 12:30 A.M.on 3-13-65 with Capt.Renfrew, Det.Moore,Revere detectives and myself we went to the Ebb Tide on the Revere Beach Boulevard and made observations of a red,1963 Olds.Conv.Mass.Reg.404-795 that was registered to Joseph Martin of 19 Fleet St.No.End Boston.The plate on the rear of this vehicle was creased down the middle.We went into the cafe and told Wilfred Roy French that were were placing him under arrest for S.P.of a Felony-Murder and that were would be taking him to the Chelsea Police Station.I then requested Martin to bring his car to the station and he agreed to do so.Franis Imbuglia went along with Martin in Martin's car. On arriving at the station I had French taken up to the detective bureau and Martin and Imbuglia waited down stairs in the Seargeants room.With Capt.Renfrew I had Capt. Kozlowski view Martin's car that was parked in front of the station. He stated that the car looked like the one that he had seen earlier in the evening on Fourth St.but that he could not say it was the car.We then went into the Seargeants room to talk with Martin but both he and Imbuglia said they had nothing to say and that if it was not a pinch that they were going to leave. They then left the station.Capt.Kozlowski could not recognize these men.

I them went up to the detective bureau with Capt.Renfrew where I informed French of his rights.He said that he would have nothing to say until he spoke to his lawyer.At about 1:45 A.M. his Attorney,John Fitzgerald of Farese's office,arrived and had a conversation with French.French then gave us the information necessary for the booking card.In reply to a question of his occupation he stated that he was employed as a Maitre De at the Ebb Tide at a salary of $100.00 weekly.Asked as to what time he had gone to work on the evening of 3-12-65 he said that he had gone to work about 8 P.M. and had been there until we had taken him from there. At this point French refused to answer any more questions.I had Capt.Kozlowski look at French but he could not recognize him as being ~~being~~ in the car that he had observed earlier. I then observed what appeared to be bloodstains on the right sleeve of French's coat and also on his right shoe.It appeared that a attempt had been made to remove these stains by rubbing them. I had Capt.Renfrew view these objects.I then asked French how he had this blood on the coat and shoes.French said that while working at the Ebb Tide on 3-12-65 that there had been two different fights and that while breaking them up he had got blood on his clothes.A later check with one Joseph Errico of 37 Atwood St.Revere,a reserve police officer

of the Revere Police Department,reveals that Errico had been working on Friday and Saturday nights at the Ebb Tide for the past month.He goes to work at 9:15 P.M. until 1:30 A.M. He stated while working on 3-12-65 that some unknown fellow had been bothering a girl and that a other unknown party had punched this fellow cutting him about the eye and causing him to bleed profusely.States that because of the numbers of people in the Cafe that he could not say if French had left the place or not.He could not remember what time that this fight had occured.Also employed as a special police officer at this cafe is one Richard Currie of 39 Agawam St.Revere from whom we received no information.

French was allowed to sign a release waiver and leave the station with his attorney John Fitzgerald.

On the morning of 3-13-65,by arrangement,I had Attornies Farese,Fitzgerald and Anthony Stahopoulos come to the detective bureau where I again asked Farese to repeat his story of the previous evening relative to his exclient calling him to tell him of Deegan and French having been arrested by the Chelsea Police.He repeated the same story.I asked if this caller was at present a client of his and he said no.I asked for the name of his informant and he refused to name him.I asked if the name of the police officer who was alleged to have left the door open was known to him and he said no.

Stahopoulos refused to answer questions on advice of his attorney.

Attorney Fitzgerald informed me that he had received a telephone call from Deegan at 8:15 P.M.on 3-12-65 and that he could hear music in the background.I asked Fitzgeral the reason for the call and he told me that Deegan called him every night to let him know that he (Deegan) was okay.

I received information from Capt.Renfrew that a informant of his had contacted him and told him that French had received a telephone call at the Ebb Tide at 9 P.M. on 3-12-65 and after a short conversation he had left the cafe with the following men; Joseph Barboza,Ronald Cassesso,Vincent Flemmi,Francis Imbuglia, Romeo Martin,Nicky Femia and a man by the name of Freddi who is about 40 years old and said to be a "Strongarm".They are said to have returned at about 11:8 P.M. and Martin was alleged to have said to French,"We nailed him".

Information received from a Mr.John T.Asten a tenant in apartment #8 at #387 Broadway. Asten states that at 9:30 P.M. on 3-12-65 he heard five sharp cracks and went out onto the fire escape which leads into the alley in question and that the lights were out in the alley and he could see or hear nothing.

I spoke with Vito Pagliarulo,age 55,of 98 Carroll St. Chelsea who is employed as a janitor at 375 Broadway and he informed me that he had left work on 3-12-65 at 3P.M. and he did not know if the rear door had been locked at this time or not.

Mr. ZALKIND. I submitted an affidavit on that. It begins this way.

Victor Garo, who was the attorney for Joseph Salvati, whom I had known before, and on whose behalf I had sent letters for commutation for many of these men, had shown me this report. I looked at it, and I saw that most of the report looked very, very familiar to me. It seemed like it was material that I knew.

There was a certain portion of the report in the back that indicated that certain men were seen leaving the Ebb Tide, certain men were seen not leaving the Ebb Tide; and as soon as I got that report, I sent a letter—I'm sorry; I called up the District Attorney's office. I believe that would have been in February 1993.

I spoke to the First Assistant, Mr. Gittens. That office, by the way, had just come in. Newman Flanagan had left office, and there was a new District Attorney. I asked him if I could come up and see my old file; that there was something in there that I wanted to look at.

I never received an answer from him. I sent a followup letter; I never received an answer from him.

I think I provided your committee with copies of all of these letters. My first letter was sent on March 16; I sent another letter October 20, and another letter on October 27.

To this day—despite, I know, the fact that my colleague McDonough says he remembers seeing them in the file—I must tell you that I have no memory of seeing that report in the file.

Just one step further.

As I said in the affidavit that I submitted at the time, if I had had the file, I thought that I might go further. I didn't consider it exculpatory evidence in the respect that the evidence at the trial did not indicate that Mr. Salvati left the Ebb Tide with Joe Barboza.

According to Barboza's testimony, he was in the parking lot, and when they came back, the evidence didn't indicate that Mr. Salvati came back with him. He was allegedly disposing of some guns.

I never paid much attention to that report; it didn't mean that much to me. But that's my position.

Mr. LATOURETTE. I think the Chelsea Police Department report, together with information developed contemporaneously with the murder of Teddy Deegan by the FBI and observations of statements that Mr. Salvati and others eventually convicted were not involved and it was Barboza and Flemmi, and as a result of some listening equipment, that Mr. Barboza and Mr. Flemmi went down and asked permission to kill Teddy Deegan; when combined with the Chelsea Police Department report, obviously today we have a picture where——

Mr. ZALKIND. Absolutely, sir, absolutely.

Mr. LATOURETTE. And so you have no quibbling at all that if that information had been made available to you by the FBI or the Chelsea Police Department, you would not have been in the situation that you found yourself in now?

Mr. ZALKIND. We wouldn't be sitting here today, Mr. Chairman.

Mr. LATOURETTE. From an oversight standpoint, I understand that one fix that you think is a good one was Mr. Delahunt's legislation going from part-time to full-time; but what else went wrong here? We can leap to one conclusion.

Mr. ZALKIND. I'll tell you what went wrong, and I think it's a very important factor.

In those days, the discovery process for a defendant was practically nil. In this case here, the defense attorneys never received the grand-jury minutes; they never received any reports by witnesses; they never received a list of the witnesses that were going to appear. That was the way the law was written. They received practically no discovery.

Under today's evidentiary rules, both in the state court and even in the Federal court, they would have received the grand-jury minutes; they would have received any statements that were adopted by witnesses; they would have received the list of witnesses.

I mean, my God, when lawyers went into court those days, they had no idea who they were going to face. They would ask me at the beginning of the day, you know, who's our witnesses? And if I felt it was OK, I would give them the names of the witnesses.

So they couldn't do any background checks. It was really, really hard to try a case.

But, the most important thing: I think that there should be a rule of law that when a state prosecutes a case, or vice versa, and a request is made by defense counsel, that all exculpatory evidence in the possession of the prosecution should be given not only to the local prosecution, but to any law-enforcement agency that is involved with the case.

If that had been the law in this case here, again, this case wouldn't have gone forward; because the evidence that you've seen would have been presented as exculpatory evidence.

Mr. LATOURETTE. Let me ask you, in conjunction with that, we know today about the promises of money, jobs and other things that were made to Barboza; relocation, protection.

Was the status of the law such in 1967 as to indicate that if a motion was made by defense counsel to reveal inducements, payments or other incentives reflecting a person's reliability as a witness, could they have forced that from the prosecution?

Mr. ZALKIND. You know, I must tell you, Mr. Chairman, I really think that they may have made such a motion. We had made no promises to Barboza.

Mr. LATOURETTE. Right.

Mr. ZALKIND. I now see that the FBI had made promises to him that they would intercede on his behalf to get the District Attorney to do things for him. Obviously that is the rule now.

Mr. LATOURETTE. That's one of the things that concerns me. I have no difficulty that the Suffolk County folks didn't make any promises to Mr. Barboza; I also have no problems understanding that the Federal Government made a lot of promises to Mr. Barboza.

The link in the chain that appears to be missing, and it's something that I've seen a lot in law enforcement, is, I don't have anything in my file; did you feel an obligation to those who took credit for this prosecution?

Mr. Condon and Mr. Rico received raises; they received upgrades in rank; they were commended by J. Edgar Hoover.

Did you feel an obligation to go to the people that had developed Mr. Barboza's testimony and say, I have been asked whether or not we've given anything to Mr. Barboza; I haven't, have you?

Mr. ZALKIND. If that had been part of a motion, I certainly would have done it.

Mr. Chairman, in those days, you have to understand that the FBI and local prosecution were far apart. This case sort of came together because years ago Garrett Byrne prosecuted the famous Brinks robbery after the Federal statute of limitations had run out; so he had a pretty good relationship with the FBI.

We would never have thought of asking an FBI agent for his reports; it just wasn't done. Now, today, it's done as a matter of course.

Mr. WILSON. It is?

Mr. ZALKIND. Every motion I file now, it will say from all law-enforcement officials, including the DEA, the FBI. I make a whole list. Whether I get it or not is a different story; but it's on the record.

And another thing: What is considered exculpatory under Brady today was not the law in 1968. It had just come into effect; and, you know, the law of what's exculpatory and what isn't has changed through the historical works.

Mr. LATOURETTE. I understand that. But I do think that even under the old standard of Brady, that's now developed over the last 40 years, information from witnesses that say that people other than those being charged with the murder committed the murder probably fell under the category of exculpatory——

Mr. ZALKIND. I agree with you 100 percent. My only problem is that Chelsea report has always bothered me; I just don't know where that fits. But the FBI statements, certainly, yes.

Mr. LATOURETTE. I'm going to close.

Just before I yield to Mr. Tierney, I want to be clear about this Jimmy Flemmi business. You say you weren't from New England; and so, when did the name Jimmy Flemmi ever mean anything to you?

Mr. ZALKIND. Ah. In 1970, I was asked to prosecute Jimmy Flemmi. That was 2 years after this case.

Flemmi had allegedly beat up someone, or tried to extort him; and the government had a tape. Again, I didn't put the case in to the grand jury; someone else did.

They said, here's the case, and you've got a cinch case. Here's a tape that the victim made of Jimmy Flemmi shaking him down.

So I put on the case—he was represented by Joe Balliro, as a matter of fact—I put on the case; and during the case said that this guy's a good friend of Joseph Barboza. And I certainly noticed he was bald, something like the guy sitting in the back seat.

And a strange thing happened in that case. Now that I realize it, what happened was, after I played my tape showing that he had tried to extort this guy, in defense they come up with a tape, and the tape was a tape that Flemmi made saying, you know, I wasn't really serious about hurting you the other day, etc.

So in my mind, in those days, I thought, goodness, someone must have tipped him off that they were making a tape.

Well, I can see today that if the FBI was using him as an informer, and the word got back to him that we had tapes, I guess that's what happened.

Mr. LATOURETTE. Were you ever aware or has anyone told you that the FBI had information that the Deegan murder had been sanctioned by Raymond Patriarca?

Did you learn that either before——

Mr. ZALKIND. I did not learn that until I watched this committee's hearing on closed-circuit TV, when Judge Harrington testified before your committee.

Mr. LATOURETTE. It's my pleasure now to yield half an hour to Mr. Tierney.

Mr. TIERNEY. Thank you, Mr. Chairman. I don't intend to use the half-hour by myself. I'd like to make sure that my colleagues all get a fair amount of time here, so I'm going to try to be brief and then pass it along.

Let me just ask you, sir, were you at the time of this prosecution on the Deegan case privy to a March 15, 1965 memo from FBI Special Agent H. Paul Rico?

Mr. ZALKIND. No.

Mr. TIERNEY. You never saw that at all?

Mr. ZALKIND. Never. I've seen it recently.

Mr. TIERNEY. And that goes back to your testimony that you didn't see it because not all of the different law-enforcement agencies made materials available?

Mr. ZALKIND. That's correct.

Mr. TIERNEY. Were you privy to the 1965 memo from the FBI Special Office to the Deputy Director?

Mr. ZALKIND. No.

Mr. TIERNEY. Same reason?

Mr. ZALKIND. Same reason.

Mr. TIERNEY. You made mention a little bit earlier that you had later an opportunity to send letters recommending commutation on behalf of some of these gentlemen. Would you tell me how that circumstance arose?

Mr. ZALKIND. Yes. The lawyers called me. I don't remember who it was at first; but Victor Garo, who is sitting here now, after I became a defense attorney, we tried a case together, and he said to me that he was representing Joe Salvati; he was doing well in prison, etc. We had a long talk.

I said to him, you know, honestly, in those days, if these guys had ever asked me and the plea was second degree, we would have taken it in 15 seconds; because, you know, to get to first was sort of a price.

In any event, I said, based upon what I know about the case, no one ever made any threats to me during the trial. Everyone behaved like a gentleman. They had done their time.

And I said, I agree; I think that if they can get a commutation to second degree, it wouldn't bother me one bit. And so I wrote letters on all their behalfs, as far back I think as 1975. I'm not sure of the date, but I did.

Mr. TIERNEY. In relation to that, have you ever been contacted by anybody from the Federal Bureau of Investigation or the U.S.

Attorney's Office to discuss your role in that commutation proceeding?

Mr. ZALKIND. No. No one ever told me not to. No one ever told me that it was the wrong thing to do; and if they had, I would have told them they were wrong.

Mr. TIERNEY. Just to followup on the chairman's questions to you about where do we go from here, what comments might you have to make concerning law enforcement's use of confidential informants, and how they use that process? How can we be sure as we go forward that we don't get the same kinds of abuses and problems that we see in this case?

Mr. ZALKIND. I certainly can't believe that the FBI or anybody should sanction informers committing crimes that are not told to the prosecution.

In other words, if they're left to their own ways, and you can deal with drugs and you can deal with B&Es, but you can't deal with murders, that's an outrageous situation.

I understand, they can't be foolish; they have to integrate, and they have to put on this facade of crimes. But I think the FBI's got to know exactly what's going on in their lives.

Second, and I think even more importantly, the FBI or law-enforcement agents should not keep informants' identities away from the Attorney General's office or the U.S. Attorney's Office.

In other words, if there's an informer, then the prosecution has got to know about it. It can't be kept separate. There's got to be some balance.

Mr. TIERNEY. Thank you.

What I would like to do, Mr. Chairman, is to allow my colleagues to question. I'd like to ask Mr. Lynch if he would use 7 minutes, and then seven for each. Then if there are any left, we'll go back and utilize that; give everybody an opportunity here.

Mr. LATOURETTE. As I said, I'm more than happy to enlarge the time.

Mr. TIERNEY. Thank you.

Mr. LYNCH. Thank you, Mr. Zalkind. Actually, I'm pleased that you also saw the tape of the testimony from Judge Harrington before this committee.

For me, this case boils down to a certain framework of events and facts that really illustrate the wrong that was done here.

In terms of your own knowledge—and I appreciate your coming before the committee, and being so helpful—did you have any knowledge of the fact that the Organized Crime Strike Force had put a surveillance device—a so-called bug, as Mr. Harrington described at the hearing—in the offices, I think it was on Hanover Street, in the North End? Did you have any knowledge about those activities?

Mr. ZALKIND. No. I think that bug was in Providence, wasn't it?

Mr. LYNCH. I'm sorry?

Mr. ZALKIND. The Harrington bug was in Providence, Rhode Island, at Patriarca's office.

Mr. LYNCH. OK.

Mr. ZALKIND. But I had no knowledge of that. No, no; none whatsoever.

Mr. LYNCH. All right.

Did you have any knowledge at all of the fact that Mr. Flemmi had asked Mr. Patriarca, apparently in Providence if you're correct, for permission to kill Teddy Deegan?

Mr. ZALKIND. Absolutely no knowledge of that.

Mr. LYNCH. And can you just share with the committee any, as you've described it, scuttlebutt, or any knowledge at all around the time of the Deegan murder, the fact that Mr. Barboza or others had actually been the ones that provided information that led to the prosecution of Mr. Limone and Mr. Salvati for that crime?

Mr. ZALKIND. I don't understand what you mean by scuttlebutt.

Mr. LYNCH. Well, if you don't have direct knowledge, you did indicate that there were discussions within prosecutorial circles around what was being said about the individuals involved in this case.

Mr. ZALKIND. It was years later that things came to me. I spoke to Joe Balliro, and Joe Balliro told me as recently as a couple of years ago that if this privilege were lifted, he could tell a story that he had heard from Jimmy Flemmi when he represented him in that 1970 case.

And then, even as early as 1970, I heard a lot of scuttlebutt that Jimmy Flemmi was Barboza's real close man, and probably—probably—Jimmy had something to do with the Deegan case; but, you know, who knew? This was 3 years later.

Mr. LYNCH. I understand.

Mr. ZALKIND. At the time, I would think that no one in their right mind would give any information to me, the prosecutor, because I think I had a reputation of being a tough guy and a very honest guy; and if anyone ever leaked anything to me that would throw this case off, I'd really explore it.

But as I said, when I said I didn't trust Barboza, I did everything humanly possible to check out his story. I mean, even when it came to Joe Salvati, I asked him, how was this guy involved? He's not a member of so-called organized crime. And his answer to me was that he was a good friend of Ron Cassesso, and that Ronny wanted a man.

He just passed it off so lightly, and I couldn't find anything that indicated that Joe Salvati wasn't there.

But I worked on that continuously; and I must tell you that up until the day the jury came back, I had no information that would have alerted me that there was something left out.

Mr. LYNCH. In my closing remarks—and maybe we can come back to this later; I don't want to take up all the time—but in the time after the wrongful prosecution of Mr. Salvati for the Deegan murder, there was a great body of knowledge that came out after that, where slowly people became aware of certain facts that would serve to exonerate Mr. Salvati.

Was there any movement among any of the offices that you dealt with to go back and question the premise under which Mr. Barboza and others pointed to Mr. Salvati and others in the wrongful prosecution?

Mr. ZALKIND. After the prosecution, it must have been about 2 years later, Joe Barboza—this is what I was anticipating—Joe Barboza met with F. Lee Bailey someplace in the woods and said that his whole story was a lie, and he wanted to make amends, etc.

Of course we investigated that. We had a hearing; and then as soon as we came forth for a hearing, Barboza said, nah, I was just kidding around with Bailey; I just wanted to shake him down for some money.

But we investigated it again, and we still couldn't find anything really wrong with the story.

There was another incident where Stathopoulos and another witness started to recant on his testimony. We investigated—not we; by 1971 I was out of the office—they investigated that end of the story. It led to a dead end.

There were motions for a new trial by Cassesso, which were denied. There was a motion for a new trial by Mr. Salvati, which was denied.

And so there was always this stuff going on. I wasn't involved with it by that time; I was out of the office.

And I must say that in 1993, when I did send a letter or when I received this statement allegedly by the Chelsea police and I did contact the District Attorney's office, I really didn't get much cooperation.

I don't say it was intentional; it may very well be that they couldn't find the file. It was a new office, you know.

But I think that if I had seen the file in those years in 1993, and if indeed that was there, maybe this process could have been shortened. I don't know.

Mr. LYNCH. I appreciate your coming before the committee. Thank you, Mr. Zalkind.

Thank you, Mr. Chairman. I yield back my time.

Mr. LATOURETTE. Mr. Delahunt.

Mr. DELAHUNT. Mr. Zalkind, I think you've laid out the changes in terms of the relationship between the prosecutor and the investigator after State District Attorneys' offices became full-time. I think that response was ample and adequate.

Going back to the prosecution in the Deegan case, would you describe for the committee the members, if you will, of the team? I think I heard you say that you saw FBI agents in the office.

Mr. ZALKIND. They weren't part of my team. They were there for another reason.

At the time, one of the witnesses, John Fitzgerald, had had his leg blown off, and they were involved with finding a place to store him, to keep him safe. They were there involved with Barboza's safety.

Obviously there was all kinds of talk with law enforcement in my office; but really, other than time of the day, how's it going and so forth, I was busy. I would not consider——

Mr. DELAHUNT. You had a private practice during this time, also?

Mr. ZALKIND. Yes; but as I told the Members before, I had put it to one side at that time.

Mr. DELAHUNT. Right.

Mr. ZALKIND. This was a full-time job.

Mr. DELAHUNT. But in terms of preparing the case for presentation, it was Mr. McDonough that you would work with?

Mr. ZALKIND. Mr. McDonough worked with me in the respect that—I don't think I ever had him with me when I questioned wit-

nesses. I think what he did mostly was prepare legal memoranda for me.

Mr. DELAHUNT. He was the second seat at the prosecution, too?

Mr. ZALKIND. No. As I understand second seat, that's someone that helps you try the case. Mr. McDonough I don't believe ever questioned any witnesses.

Strategically, I would always bring in Larry Cameron or some other assistant to sit next to me; because there were rumors that during the course of the trial some harm was going to come to me.

Mr. DELAHUNT. And better to Cameron than to Zalkind?

Mr. ZALKIND. Well, I wanted the message to go out that if you off Zalkind, people are going to know about it; and once in a while Garo would sit down next to me and toss out ideas.

Mr. DELAHUNT. But the truth is, in terms of trial preparation, it was more or less your exclusive domain; you had Mr. McDonough doing the research in terms of issues of law. Is that a fair statement?

Mr. ZALKIND. I prepared the case. Once this case went to the grand jury, the decisions were mine.

Mr. DELAHUNT. Did you ever have an occasion to discuss the Chelsea police report with Mr. McDonough? Do you have any memory of having a conversation?

Mr. ZALKIND. I have no memory. I'm not saying I didn't.

Mr. DELAHUNT. No; I understand.

Mr. ZALKIND. I have no memory.

Mr. DELAHUNT. In terms of the investigative team, who was running the investigation?

Mr. ZALKIND. John Doyle.

Mr. DELAHUNT. John Doyle, and he was a Boston police officer?

Mr. ZALKIND. He was a Boston police officer who had not obtained the rank of anything more than a patrolman; but because of his ability, I guess——

Mr. DELAHUNT. Or his relationship with Mr. Byrne; right.

And were there any other Boston police officers involved?

Mr. ZALKIND. Yes. There was Sergeant Frank Walsh; there was Detective Eddie Walsh. I had 10 policemen involved with this case.

Mr. DELAHUNT. Were they assigned to the District Attorney's office?

Mr. ZALKIND. Yes.

Mr. DELAHUNT. They were assigned, so in effect they answered to Garrett Byrne, then District Attorney in Suffolk County; is that correct?

Mr. ZALKIND. That's correct.

Mr. DELAHUNT. And they worked with you.

Did you consider either Paul Rico or Dennis Condon as part of the investigative effort in terms of the Deegan case?

Mr. ZALKIND. No.

Mr. DELAHUNT. But in fact, you would see them on occasion in the courthouse building, in the District Attorney's office?

Mr. ZALKIND. Yes.

Mr. DELAHUNT. But you never had a conversation with them regarding the case?

Mr. ZALKIND. I may have, but I don't remember ever saying to them, listen, is there something I should know about this case? I

would be embarrassed. These were FBI guys. My contact, if I had to go outside my office, I would go to John Doyle. But that just didn't happen.

I mean, for example, on a hunch, I asked the Malden police to see if there were any parking tickets that were ever issued to Louis Greco; and lo and behold, I think there was a parking ticket we found for Greco when he was supposedly in Florida, something like that.

But we did nothing with the FBI that I can remember.

Mr. DELAHUNT. Actually, the crime was committed in Chelsea, and for the benefit of those who are unaware, Chelsea is not part of Boston; it's a separate municipality?

Mr. ZALKIND. That's correct.

Mr. DELAHUNT. And the Chelsea police would then provide, presumably, their reports and their information to the Boston police that were assigned to the District Attorney's office?

Mr. ZALKIND. Through John Doyle.

Mr. DELAHUNT. So you wouldn't interact necessarily with the Chelsea police that were involved in the investigation? If you can remember.

Mr. ZALKIND. Sure; I talked with them if I felt it necessary. You have to understand how it went.

John Doyle was the chief of investigations, and he had this file; he had everything. I don't know what he had in his file. And he would say, Jack, this is what I have, this is what I have, this is what I have, this is what I have. I'm not saying he held anything back, but I never looked into his file.

The file that I had myself was my trial notes; it was a trial preparation sheet. I don't think I would allow any of the detectives to look at that file.

But I would say that the main body of the preparation of this case before I got it was in John Doyle's hands.

Mr. DELAHUNT. There was a State Police report that was drafted shortly after the Deegan murder. Do you have any memory of that particular report? It was authored by a Lieutenant Cass; I believe that's the name.

Mr. ZALKIND. I have some vague memory of something like that, but I have no memory what it was like or anything.

Mr. DELAHUNT. In that report, I should indicate, there was reference to Flemmi as being involved in the Deegan case.

Mr. ZALKIND. I have no memory of that.

Mr. DELAHUNT. You have no memory?

Mr. ZALKIND. No memory.

Mr. DELAHUNT. Also, it's somewhere in the book of exhibits, but I don't want to dwell on it; there was also a Boston Police Department report, and it was from the Intelligence Division, which also implicated Flemmi in the Deegan murder.

Mr. ZALKIND. After the fact?

Mr. DELAHUNT. After the fact; but contemporaneously, shortly after the fact. And you have no memory of that?

Mr. ZALKIND. I have no memory of that.

Mr. DELAHUNT. And it could—I'm not saying it is—but that could have been within, let's call it the John Doyle file; but you had no information?

Mr. ZALKIND. I have no memory now that I had that information.

Mr. DELAHUNT. Now that you've had an opportunity to review the exhibit book that obviously has been developed by committee staff and for the committee, there are numbers of exhibits there that would implicate Jimmy Flemmi, the so-called "Bear," as a principal in the Deegan homicide.

Mr. ZALKIND. Congressman Delahunt, let me say this to you.

The information that Joe Barboza had told an FBI agent that he would not implicate Jimmy Flemmi in a murder case is the most exculpatory piece of evidence that anyone could have.

That information should have been in my hands. It should have been in the hands of the defense attorneys. It is outrageous, it's terrible, and that trial shouldn't have gone forward.

And I can't make personal apologies; but I would say this, that based on what I've seen, this is awful. And I feel terrible. I've lived with this for a long time.

Mr. DELAHUNT. We've known each other for a number of years, and you know that I have great respect for you; and I'm glad you've made that statement. I think we all can agree. I know the members of the committee agree with that.

I want to again, and I've done this before, on behalf of the people of the Commonwealth apologize to these two gentlemen for having served a sentence that never should have been imposed on them.

You came to this case 6 months after Barboza became a cooperating witness.

Mr. ZALKIND. That's correct.

Mr. DELAHUNT. So you never had any knowledge about Joe Barboza, other than the fact that you had prosecuted him, cooperating with the government until some 6 months after he had agreed?

Mr. ZALKIND. Oh; that's correct.

I find out now that they had attempted to bring him into their fold; but it was only when he was indicted as a habitual criminal that I guess they were able to put the last nail in the keg.

Mr. DELAHUNT. Do you have any idea how Mr. Barboza was convinced, or who influenced him to cooperate with the government?

Mr. ZALKIND. Yes. I would absolutely think it was Paul Rico and Dennis Condon.

Mr. DELAHUNT. And now that you're aware of, clearly, his relationship with Joseph Barboza——

Mr. ZALKIND. You mean with——

Mr. DELAHUNT [continuing]. I mean with Vincent Flemmi, are you aware of the fact that subsequent to the Deegan murder, despite all of the information regarding the involvement of Flemmi in the Deegan murder, in fact the Federal Bureau of Investigation conferred upon Jimmy Flemmi top-echelon status as an informant? Are you aware of that?

Mr. ZALKIND. I'm aware of that now, yes; and——

Mr. DELAHUNT. Three months after the murder?

Mr. ZALKIND. After the murder.

And also, I'm not convinced; but I gave you the story, when I prosecuted him in 1970 with that mysterious tape, I think then he was cooperating with them.

And if he was cooperating with them then, then they knew that he must have been involved with this murder; and even then, didn't they have an obligation to tell me that then? Didn't they have an obligation to tell me that, when all these motions for a new trial were coming forward?

I mean, I don't mean to be redundant——

Mr. DELAHUNT. I'm going to yield to my colleague on the Judiciary Committee; but after he concludes, I'm going to ask you to review exhibit 15 and exhibit 16, which provide some very recent information that I feel is rather disturbing, Mr. Zalkind.

Mr. Frank.

[Exhibits 15 and 16 follow:]

SAC, Boston 6/4/65

Director, FBI
INF-INFT.
IS 919-PC
TOP ECHELON CRIMINAL
INFORMANT PROGRAM

Mr. Kelly

Advise Bureau by 7/1/65 status of your efforts to effect the development of the above-captioned target.

JEK:rad
(4)

EX 105

REC-16
137-12516-2
19 JUN 7 1965

MAILED 7
JUN - 4 1965
COMM-FBI

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

60 JUN 14 1965

TELETYPE UNIT

EXHIBIT
15

DIRECTOR, FBI [redacted] 6/9/65

SAC, BOSTON [redacted] F

BS 919-PC

[redacted]

Rebulet to Boston dated 6/4/65.

The following are the efforts to effect the development of the above-captioned target:

F [redacted]

M [redacted]

M [redacted]

On 5/10/65, BS 919-PC was contacted on [redacted]

F Informant advised that on the evening of 5/3/65 he left his home at approximately 10:30 p.m. He was going to meet with JOSEPH BARBOZA. As he approached his car two individuals stepped out of the bushes and fired at him with a shotgun. Informant said that he turned around as he fell and both of them were running with handkerchiefs to their faces.

2-Bureau
1-Boston
HPR:pot
(3)

EXHIBIT 16

0003

000024

F [redacted]

F [redacted]

Informant said that he fired back at them and one of them hollered, and they both ran towards the back of the building and drove away in a late model, light brown Chevrolet.

M

R.F. [redacted]

It is known through other informants and sources of this office that this individual has been in contact with RAYMOND L. S. PATRIARCA and other members of La Cosa Nostra in this area, and potentially could be an excellent informant.

Concerning the informant's emotional stability, the Agent handling the informant believes, from information obtained from other informants and sources, that BS 919-PC has murdered [redacted], [redacted], [redacted], [redacted], EDWARD "TEDDY" DEEGAN, and [redacted], as well as a fellow inmate at the Massachusetts Correctional Institution, Walpole, Mass., and, from all indications, he is going to continue to commit murder.

R

Some of the information provided by the informant has been corroborated by other sources and informants of this office. Although the informant will be difficult to contact once he is released from the hospital because he feels that [redacted] will try to kill him, the informant's potential outweighs the risk involved.

R

Mr. FRANK. Did they whack the budget so bad that they only have one mic?

With respect to a general point, Mr. Zalkind, you've had experience as a prosecutor and a defense attorney; and I was particularly struck when you noted that the state of the law is such today that, while not impossible, it is less likely that an innocent person would be falsely convicted, because we have changed the procedures so that people on trial get a fairer shake, in the sense that material is available to them. You mentioned the Brady material, discovery rules, etc.

Obviously, there's been a lot of controversy over some of the legal changes; and we have people who say, well, you make it easier for criminals to get off, you're interfering with law enforcement in doing their job.

I think it's important to underline the point that you have made, that what we have done in this past 35 years to some extent has been to strengthen protections for innocent people, and make it less likely that innocent people will be convicted, because you've given them a fair shot.

Mr. ZALKIND. In one respect you're right, Congressman Frank.

But on the other hand, Congress puts laws in hand that make it difficult to defendants to proceed with a fair shake, and then they come in with sentencing guidelines that are outrageous. The sentencing guidelines are draconian.

So on one hand we give them a little bit more knowledge, a little discovery; but now that you have the discovery, so what? We make it harder for you to do sensible sentencing.

Mr. FRANK. I believe the sentencing guidelines are a grave error.

My sense of what you cite as an improvement came from the courts; so the courts have made it fairer, but you think that the political branches have restricted that fairness?

Mr. ZALKIND. Somewhat.

Mr. FRANK. But I do think that it's important to understand that some of the reforms that have come in that have been so harshly criticized in fact have worked to make it less likely that people would be unfairly treated.

Mr. ZALKIND. That is true.

Mr. FRANK. I was struck by your telling us several times that you didn't like Joe Barboza. Which ones of those guys didn't you like? I mean, you didn't like Barboza——

Mr. ZALKIND. I had a deal——

Mr. FRANK. Were some people likable? Who did you want to hang out with?

Well, let me ask you, more to the point, about the FBI. Clearly, they withheld information about Barboza. This is obviously somewhat speculative; but we are here, obviously, without strict rules of evidence. We're trying to come to conclusions in a policy sense.

Do you think Barboza's handlers at the FBI knew that Mr. Salvati was innocent?

Mr. ZALKIND. I can't answer that question.

Mr. FRANK. Do you think they became aware of it at some point?

Mr. ZALKIND. I think that they knew from the beginning that Joe Barboza was lying, and that alone is enough to impede all——

Mr. FRANK. They knew that he was lying, and he was the linchpin of the case?

Mr. ZALKIND. He was it. Without Joe Barboza there was no case.

Mr. FRANK. So they came before you and told you dishonestly they wouldn't proceed against Joe Barboza?

Mr. ZALKIND. That's correct.

Mr. FRANK. And we do know they were talking to Barboza about what happened in the Deegan case; is that fair to say?

Mr. ZALKIND. From the reports I've read, of course.

Mr. FRANK. So we do know that the FBI were talking to Barboza about the case; and I would then say it's a reasonable inference that he was probably telling them the truth.

That leads me to believe that the problem here with the FBI was not simply that they didn't tell you more about Barboza, but that at some point in these conversations we do believe they knew that Flemmi was involved, correct?

Mr. ZALKIND. When you say "we"——

Mr. FRANK. I'm saying, do we now know that the FBI learned that Flemmi was involved in the Deegan murder?

Mr. ZALKIND. Yes.

Mr. FRANK. That's the point.

If we now know that Barboza told them the truth about Flemmi's involvement, it seems to me overwhelmingly likely that he told them the truth about Salvati's non-involvement.

This is particularly distressing. Again, we're not making a legal judgment here; we are as elected officials trying to come to the likeliest conclusion on the basis of which to make policy.

It does sound to me like it's fairly clear that the FBI not only withheld information from you about their relationship with Barboza, and the fact that he was lying, but that they are very likely to have known that Mr. Salvati was innocent, and allowed you to proceed with that knowledge, and didn't tell you.

Mr. ZALKIND. I can't answer that.

Mr. FRANK. I understand.

What was the relevance of the Chelsea police report?

Mr. ZALKIND. I never gave much, frankly——

Mr. FRANK. What did it say?

Mr. ZALKIND. Well, it was a very long document. You have it there; and——

Mr. FRANK. Just the substance of it.

Mr. ZALKIND. The substance was the last paragraph.

Mr. FRANK. Mr. Zalkind, I'll wait for you to get to the mic, unless you don't want to be on the record on this.

Mr. ZALKIND. Fine, fine; but I do have it. There's a paragraph. Should I read it into the record?

Mr. LATOURETTE. Go ahead.

Mr. ZALKIND. This is the last page, the third paragraph from the bottom.

"I received information from Captain Renfrew that an informant of his had contacted him and told him that French had received a telephone call at the Ebb Tide at 9 p.m. on 3–12–65, and after a short conversation he had left the cafe with the following men: Joseph Barboza, Ronald Cassesso, Vincent Flemmi, Francis Imbuglia, Romeo Martin, Nicky Femia and a man by the name of Freddi who

is about 40 years old and said to be a 'strong-arm.' They are said to have returned about 11 p.m., and Martin was alleged to have said to French, 'We nailed him.'"

I think that's the thing——

Mr. FRANK. So the relevance here is the absence of any reference to Salvati.

First of all, we understand you have no recollection of ever having seen that. Second, you said there was an explanation that Barboza gave that Salvati's absence was that he left earlier and that he came back late, etc.

And this isn't a question; it's a comment, and it's why I think these hearings are so important, and why remedial action is so important. The likeliest conclusion is that the FBI had pretty good reason to believe that Mr. Salvati was innocent, and for their own purposes kept silent, while you were acting on misleading and inaccurate information to prosecute.

I cannot think of anything worse as far as the Federal Government is concerned than to sit quietly by and allow an innocent man to lose so much of his life for their own purposes, mainly to protect people who were hardly worth protecting.

That's all, Mr. Zalkind.

Mr. ZALKIND. Let me just say, Mr. Salvati is correct; and all my heart says, how about the other guys? If he was going to lie about this, it's such a terrible mess. I don't even know where to begin.

Mr. FRANK. He may very well have——

Mr. ZALKIND. He may have lied about other people. I don't know.

Mr. FRANK. In fact, given what we know about Barboza and about this relationship, it's very likely that he did; and it is very likely that we have uncovered only some of the injustice, and that other injustices may have occurred.

That again reinforces our obligation as the Congress to continue to focus on this, and not to drop it until we have the best assurance you can get that we've got safeguards against this kind of thing happening again.

Mr. ZALKIND. We've got to make some laws that make it mandatory on law-enforcement personnel, whether they be FBI or whether they be state people, whether they're involved in the case or not, to come forward with exculpatory evidence.

Even if the FBI had nothing to do with this case, if they looked in their reports and they saw that John Jones had said that someone else was involved, do they just sit on it?

I think that you've got to make some legislation that says it's got to be turned over to the prosecution.

Mr. FRANK. I appreciate that.

There's an analogy here, obviously. The legislature here has just enacted legislation, and the Governor signed it, to strengthen affirmative obligations of reporting on the part of clergy where there is an allegation of child abuse.

I think that people who are put in special positions of responsibility concurrently ought to be given special obligations to come forward as applicable.

I will talk to my colleagues; it sounds like something that the Judiciary Committee ought to take up.

Thank you.

Mr. ZALKIND. Thank you.

Mr. LATOURETTE. Mr. Zalkind, Mr. Delahunt asked you about a couple of exhibits.

I think, for the benefit of people who are watching this who may be interested in taking a break—including you Mr. Zalkind—I just want to talk about these two documents, solicit your opinions about them and then any opinions my colleagues may have; and then we'll take a 10-minute recess so everyone can collect themselves.

In his chatting with you, Mr. Delahunt talked about two exhibits which you'll find in your exhibit book, 15 and 16.

Fifteen is a pretty short document. It's just an Airtel that is basically a communication from the director of the FBI to the special agent in charge of Boston wanting to know about the progress in terms of developing this top-echelon-informant individual. We know that person today to be James Vincent Flemmi.

Exhibit 16 I think is the more intriguing document. It's a multipage document; if you want to just take a minute to review it.

Five days after the Airtel was sent on June 4, on June 9 a communication was sent back to J. Edgar Hoover that reads in pertinent part, "Concerning the informant's emotional stability, the agent handling the informant believes, from information obtained from other informants and sources, that BS 919-PC," and we know that to be Jimmy Flemmi, "has murdered," and then there are, sadly, six names redacted, where we don't even know from this document what six people he murdered; but Edward "Teddy" Deegan is the non-redacted name, "as well as a fellow inmate at the Massachusetts Correctional Institution, Walpole, Massachusetts, and, from all indications, he is going to continue to commit murder. . . . Although the informant will be difficult to contact once he is released from the hospital because he feels that," another redacted individual, "will try to kill him, the informant's potential outweighs the risk involved."

The committee now knows that the informant, as I indicated, referred to in this passage was Teddy Deegan.

Mr. ZALKIND. Teddy Deegan was the informant?

Mr. LATOURETTE. Excuse me; Jimmy Flemmi. And this is an exchange of documents that went back and forth from the FBI in 1965. As a matter of fact, June 9, 1965 is when they indicate that they know that Jimmy Flemmi had participated in the murder of Teddy Deegan.

The sort of softball question to you is, I guess you would have an opinion as to whether or not it was wrong to withhold this information from you, and if that would have affected your thinking during the prosecution.

Mr. ZALKIND. I really have to answer that. It's so obvious. That's probably the most startling revelation that's been before me since this case began way back when.

I mean, I just can't imagine anyone allowing that to happen and not telling the prosecution.

Mr. LATOURETTE. The last question I want to ask you on it is this.

You said that you had watched Judge Harrington testify before the committee in Washington, DC; and he indicated to us then that

Jimmy Flemmi at one time was put in front of the grand jury to give him cover.

Were you a participant in having Jimmy Flemmi testify before——

Mr. ZALKIND. No knowledge whatsoever.

Mr. LATOURETTE. I think I would yield my turn now to my colleagues to ask any questions or express any reactions.

The other thing I want to say about exhibits 15 and 16 is that why some of us have some sort of strident remarks about what's going on with the production of documents is that after about a year of investigating this case by the committee and requesting documents, it's my understanding Mr. Wilson, and counsel can correct me if I'm wrong, that we just came into possession of 15 and 16 last week. Is that correct?

Mr. WILSON. It's correct to say that the first exhibit, 15, just came to us a couple weeks ago. The other one, we had.

Mr. FRANK. Can I ask a question? Some of the victims of Mr. Flemmi, those victims were redacted. My guess is it's probably too late——

Mr. WILSON. They wouldn't care.

Mr. FRANK. Do we know who those were, and can we get them? There may be other cases where someone may have been convicted unfairly.

It would seem to me that knowing the other list of victims might give you a lead on what other occasions to look at as to who might have been convicted unfairly; so I would think at least they might show you those.

If this guy's an informant to the Federal Government, and he kills somebody, I think it's a little late for the Federal Government to show such concern for the person that was killed by not letting anybody see his name. That doesn't seem to do much good.

And I would think that would be one of the areas where you would want to look to see who these others were.

Mr. LATOURETTE. We will let counsel make an observation.

Mr. WILSON. We have recently received documents that indicate who these other individuals are. The Justice Department has asked us to keep these names confidential, and we've done that thus far.

But the committee is aware, first through me being allowed a number of months ago to inspect some redacted documents at the FBI headquarters, and then recently, just two or 3 weeks ago, through a production to the committee, we now know who these other individuals are; so that the redactions here, we know who the names are, but the Department of Justice would prefer that we not disclose this information.

Mr. DELAHUNT. Can I ask a question, Mr. Chairman?

Mr. LATOURETTE. You can ask a question.

Mr. DELAHUNT. I just simply cannot understand any rational basis put forth by the Department of Justice to seek, after some almost 40 years, to continue to maintain secrecy. People have a right to know. This is absolutely unconscionable on the part of the Department of Justice.

Mr. LATOURETTE. Mr. Tierney?

Mr. TIERNEY. Thank you, Mr. Chairman. Let me join in this.

We've had a number of hearings, one hearing on specifically the issue of Mr. Zalkind and the Department on whether or not they would produce documents.

The administration sent in a witness to testify who not only wasn't cooperative but actually failed to even testify as to who gave that witness instructions not to produce certain documents. It got to that level of absurdity.

Now we sit here with a document that's heavily redacted for no apparent reason, 35 years old or more. There certainly are no reasonable grounds for claiming executive privilege, even on any limited basis, on that.

The overwhelming capacity of these documents and the testimony of witnesses to help us with the purpose of making sure of the appropriate oversight of government agencies would far outweigh any executive privilege under any case law that may exist.

So it's outrageous and ridiculous of this administration. Both parties are upset with the path this administration has taken. We should not have to go through this type of dynamics just to get to the bottom of this, if in fact we're going to try to put some proceedings in place.

These two documents that the chairman just went over with you, the most recent ones, should give us all cause for serious concern at a time in this country when this administration and Attorney General Ashcroft have sought more and more prosecutorial authority, and have sought to limit more and more defendants' opportunities even to get evidence that they might use in their own defense.

If we're going to seek those kinds of powers for the government, then we ought to make sure that the administration is giving this committee and the Congress the information it needs, as well as appropriate oversight, to make sure that the FBI and other investigators have in fact safeguards, that there is transparency, and there is adequate oversight to make sure this kind of travesty that we see perpetrated in this case is not continued.

These two documents reflect on the comments I made earlier in the opening remarks that this is not a problem limited to a couple of rogue agents in the FBI on a local basis.

This was an endemic problem; it goes all the way to the top. Why we continue to have a building in Washington named after J. Edgar Hoover is beyond my comprehension, particularly when you look at documents like this.

It's a disgrace what went on in this case. It's a disgrace to this administration, and it continues to this day for no apparent reason.

To withhold information under the guise of executive privilege is entirely without merit. We've seen it in this matter.

We've seen it in the Enron situation, where the administration refuses to produce documents showing which companies had met with the administration when policy for this country's energy situation was being created. We know that there's information there that would be valuable to the public.

We've seen it in an instance where members of this committee in minority requested census information, and had to sue the White House in order to get census information for every census release going back to the beginning of census time.

This shield or veil of secrecy is not doing this country any good, is not allowing Congress to do its work, and is consequently not allowing us to do our best job in providing the protections that you've testified to and other witnesses in front of this committee have testified to.

I thank the chairman here, and Chairman Burton as well, for their willingness to make this a bipartisan effort.

This is not about parties or about politics. It's about having a justice system that works for every American, and making sure that they believe and have faith in it; because without that we aren't going to be able to have the protections that people in this country are overseas fighting for.

We need to strike some balance for people to have their liberties protected in every sort of way, but also protection for this country; and if this administration wants us to expand on one side of that, they've got to convince the American people that they're willing to put in place the protection of people's civil liberties on the other side of that.

With that said, I pass this on to Mr. Lynch.

Mr. LYNCH. Thank you; thank you, Mr. Chairman.

Mr. Zalkind, just based on these two exhibits that the chairman has focused on, it's indeed troubling that 3 months after the Deegan murder, exhibit 15 basically reflects a decision of the Director of the FBI—this was after he has received information that Jimmy Flemmi has killed Deegan, or certainly expressed an intent to kill Deegan, and others—that the Director is asking how is the progress in terms of developing Mr. Flemmi as a top-echelon informant.

So that's with that information in hand; and with direct evidence that he attempts to continue covering up.

I think in exhibit 1 he states—this is Mr. Condon's memo—"Flemmi told him that all he wanted to do now was to kill people, and that it is better than hitting banks," and that he feels he can become "the top hit man in the area and intends to be."

Then we have another exhibit in a similar vein, exhibit 2, a Boston letter to the Director of the FBI. This is Mr. Condon again telling the Director of the FBI, Mr. Hoover, that "Flemmi is suspected of a number of gangland murders and has told the informant of his plans to become recognized as the number-one 'hit man' in this area as a contract killer."

And again, Mr. Rico from the FBI, in a Boston memo, says that "Vincent Flemmi"—this is from another informant—"Vincent Flemmi wanted to be considered the best hit man in the area."

Again, the Director has information that Mr. Flemmi wants to kill Teddy Deegan.

Now, here, after the murder of Mr. Deegan, 3 months after, here's the Director of the FBI asking the Boston office, how is the progress on Mr. Flemmi, in terms of being developed as a top-echelon informant?

That is just so disheartening. It is clearly criminal. It's criminal; there's no other way around this.

Just coming fast-forward to the current situation, I would love to believe your earlier statement that things are getting better; that this can't happen anymore.

[Exhibits 1 and 2 follow:]

EXHIBIT 1

SUBJECT: VINCENT JAMES FLEMMI, Aka.

[redacted] F.B

Memo of SA Dennis M. Condon 5/25/64 captioned: [redacted]

B

[redacted] was contacted on 5/22/64, advised that within the last few days he was in contact with [redacted] and JAMES FLEMMI. FLEMMI told him that all he wants to do now is to kill people, and that it is better than hitting banks. FLEMMI said that [redacted] have taken money for about six contract hits which they have not fulfilled. They spent the money for these hits drinking.

Informant said, FLEMMI said that he feels he can now be the top hit man in this area and intends to be.

[redacted]

FLEMMI told the informant that there was a big piece of money that came out of the hit on [redacted] and the informant gathered from FLEMMI's talk that he, FLEMMI, had made the hit.

[redacted] F.B

Boston letter to Director & SAC, Newark 5/25/64 captioned: [redacted]

[redacted] Informant stated that it appears that JAMES FLEMMI, a Roxbury, Mass. hoodlum, will probably become the "contract man" in the Boston area.

[redacted]

Boston letter to Director 6/4/64 captioned: [redacted]

F.B

This letter sets out information to the Bureau on [redacted] Under the heading CRIMINAL ASSOCIATES the following information appears concerning JAMES FLEMMI.

The informant is presently associated with [redacted] and JAMES FLEMMI. FLEMMI

EXHIBIT 2

SUBJECT: [redacted] VINCENT JAMES FLEMMI, Aka. [redacted]

F [redacted]-298

Memo of SA Dennis M. Condon 5/25/64 captioned [redacted]

[redacted] was contacted on 5/22/64, advised that within the last few days he was in contact with [redacted] and JAMES FLEMMI. FLEMMI told him that all he wants to do now is to kill people, and that it is better than hitting banks. FLEMMI said that [redacted] have taken money for about six contract hits which they have not fulfilled. They spent the money for these hits drinking.

B

Informant said, FLEMMI said that he feels he can now be the top hit man in this area and intends to be.

[redacted]

FLEMMI told the informant that there was a big piece of money that came out of the hit on Frank Benjamin and the informant gathered from FLEMMI's talk that he, FLEMMI, had made the hit.

F [redacted]-299pg.2

Boston letter to Director & SAC, Newark 5/25/64 captioned: GEORGE PATRICK MC LAUGHLIN, Aka. - Fug. UFAP - MURDER.

B

[redacted] Informant stated that it appears that JAMES FLEMMI, a Roxbury, Mass. hoodlum, will probably become the "contract man" in the Boston area.

F [redacted]-300pg.5

B Boston letter to Director 6/4/64 captioned: [redacted]

B

This letter sets out information to the Bureau on [redacted] Under the heading CRIMINAL ASSOCIATES the following information appears concerning JAMES FLEMMI.

The informant is presently associated with [redacted] and JAMES FLEMMI. FLEMMI

SUBJECT: VINCENT JAMES FLEMMI, Aka.

F [redacted]-300 pg.5 (Cont'd)

is suspected of a number of gangland murders and has told the informant of his plans to become recognized as the No. One "hit man" in this area as a contract killer.

F [redacted]-300pg.6

This information appears also in [redacted]-298-previously mentioned. F

F [redacted]-305 Memo of SA Dennis M. Condon 6/18/64, [redacted] B

[redacted] said that in conversation with JIMMY FLEMI, FLEMI propositioned him to help him on any "hits" that he might make and repeated to the informant that there was a great deal of money for the "hit" on Frank Benjamin.

B [redacted]

[redacted] is up against it financially and [redacted] and JAMES FLEMI are pressing him for money he owes them.

Dates of contact by SA Condon- 5/29, 6/1, 6/5, 6/10/64.

F [redacted]-312 Memo of SA Dennis M. Condon 8/7/64, subject: [redacted]

Informant advised on [redacted] that JIMMY FLEMMI told him that George Mc Laughlin is not around Boston. FLEMMI has many dexedrine pills and uses them daily. B

[redacted]-313 Memo of SA Dennis M. Condon 8/21/64, subject: [redacted]

Informant contacted on 8/17/64 and advised he was recently in contact with Joseph Barboza. Barboza told him that he heard that JIMMY FLEMMI had killed Frank Benjamin and cut off his head. When speaking to FLEMMI, Barboza confronted FLEMMI with this information and FLEMMI's only reply was that He

Mr. ZALKIND. Well, I didn't say——

Mr. LYNCH. While certainly there was——

Mr. ZALKIND. They're getting better.

Mr. LYNCH. That certainly this couldn't happen again.

All I'm saying is that as members of the committee, and as representatives of the legislative branch, we see what the President is doing.

On the one hand, we understand the need after September 11th for gathering greater information in our war against terrorism; but the plain fact of the matter is, the President is seeking the ability to deal with unsavory characters and to get around any limitations in terms of the terrorists and the associates of terrorists with whom the government cooperates.

So we're looking to expand the group of people whom we bring into these types of relationships, because we want to get at the terrorists. So we're not getting away from dealing with unsavory characters; we're actually recruiting them to a greater degree.

Second, which is confounding, is this insistence on executive privilege 40 years after the fact, when truth is needed, where justice is needed.

I don't see us moving in a better direction; and I don't think that there's greater reason for hope that this is an isolated case and that these are circumstances that are wholly unique to this time and place.

And again, I know I'm being redundant. I just want to thank the chairman for his good work and for his persistence. I think we need to further investigate these other related cases that may have had the same taint, the same fallibility, that the Deegan case had.

And I just call upon the witness to add his voice to those who might lend some common sense and reason to the argument regarding the scope of executive privilege being exercised in this case.

Thank you.

Mr. ZALKIND. Well, I can tell you this; that now, as I sit here now, I realize exactly what happened in this case.

I'm a pretty tough guy; I went through a war and so forth. I was a victim in this case. The FBI knew that they had lost Joe Barboza. He was in jail. I was instrumental in making him a prisoner for the rest of his life.

So what they did, they knew they had Joe lost; but they figured, well, let's flip Joe, and let Joe know that we're not going to push him on his friend Jimmy Flemmi. So they let Joe go on and tell the story, leaving out Jimmy Flemmi; and then Jimmy Flemmi is allowed to go on and be their informer.

He then commits a crime 2 years later; and I believe that they interfered by telling him about the prosecution and giving him a tape, and it's the same story that you have right now that's going on with this agent—I'm not taking any position on that—but it comes right from the top.

The Bureau has always allowed these rogue agents to go as far as they wanted with the excuse that, well, you have to do what you have to do to stop organized crime. Maybe you do; but you don't have to put innocent people in harm's way, and especially not put them in jail, as they did in this case.

When I leave here today, I must tell you, I just need some time. This has been very shocking to me.

Mr. LYNCH. Mr. Zalkind, I just want to make something perfectly clear. In no way do my questions—and I speak for myself, but I think it's true of the other Members as well—in no way do my questions offer any suggestions of culpability on your part.

Mr. ZALKIND. I know that, sir; I know that.

Mr. LYNCH. To go back to the Harrington testimony at the previous hearing, there were parallel cases here, one a Federal case and one a state case, against Deegan. There was information obtained in the Federal case through a bug, a surveillance device, that indicated that Mr. Flemmi had asked for permission to kill Mr. Deegan.

At that time, when your case was going on, Mr. Harrington was asked as the head of the Organized Crime Task Force, why did you not share that information—not referring to you, Mr. Zalkind, but to your case—why was that information not shared in the Deegan case?

The explanation given by Mr. Harrington was that he was involved in a Federal case against Mr. Patriarca, and that you were involved in a state case surrounding the murder of Mr. Deegan. That information was not shared with you. Was not shared with you; that was Mr. Harrington's statement.

And when the Chair asked further why that information was not shared, the answer was completely unacceptable; it was in the "I forgot" category.

So I just want to make clear that I am in no way suggesting, in any remote way, that there's any culpability on your part, Mr. Zalkind.

Mr. ZALKIND. I understand that, Congressman.

Mr. LATOURETTE. Thank you.

Would you like to say something? How about Mr. Delahunt?

Mr. DELAHUNT. Mr. Zalkind, I appreciate your revelations that have occurred here today.

What if I added into that body of knowledge the fact that Mr. Barboza was influenced to become a cooperating witness through the efforts of FBI agents, utilizing Mr. Stevie Flemmi? What would you say to that, Mr. Zalkind?

Mr. ZALKIND. I would say I can't believe that, because Stevie Flemmi was charged as one of the men who blew off John Fitzgerald's leg.

Mr. DELAHUNT. Well, before we return, I would recommend that you, during the break here, review exhibit 21, because it's been recently disclosed that the head of the Boston office of the FBI sent to the Director, Mr. Hoover, a memorandum on June 20, 1967, that Stevie Flemmi was developed by Rico and Condon.

And I'm quoting now, "via imaginative direction and professional ingenuity, utilized said source," referencing Stevie Flemmi, "in connection with interviews of Joseph Baron, a professional assassin responsible for numerous homicides and acknowledged by all professional law enforcement representatives in the area to be the most

dangerous individual known."

Now, going back all these decades, is there any wonder, or should there be any question, as to why Jimmy Flemmi was left out of his obvious involvement in the Deegan murder?

[Exhibit 21 follows:]

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.
UNITED STATES GOVERNMENT

# Memorandum

TO : Director, FBI

DATE: June 20, 1967

FROM : SAC, Boston

SUBJECT: SA H. PAUL RICO
EOD: 2-26-51

SA DENNIS M. CONDON
EOD: 1-29-51

RECOMMENDATIONS FOR QUALITY SALARY INCREASE

SA H. PAUL RICO has been assigned exclusively to the development of Top Echelon Criminal Informants in the Boston Office since September 16, 1963. SA DENNIS M. CONDON has been assigned to the Top Hoodlum Program since 1962.

SA RICO was successful in developing [redacted] Based on the development of [redacted] SA RICO was able to determine the basic reasons for each gangland slaying, the identities of the majority of individuals involved, the latter information, where significant, disseminated to pertinent law enforcement agencies. Only as a result of this informant was the Boston Office able to separate the true reasons for the slayings as distinguished from the camouflage put forth by the [redacted] and/or the LCN.

During this period, SA RICO and SA CONDON were making continuing efforts to develop as an informant an active LCN member. When intensified efforts in this area were not immediately productive, SA RICO was able to have [redacted] and through this contact, able to follow the philosophy of the LCN, particularly concerning the infamous Boston gangland slayings. [redacted] and through these contacts the Boston Office had continuing high quality information concerning LCN activities. [redacted] was based on the guidance and counsel said informant received from SAS RICO and CONDON.

67-133766-150

REC-145

Searched ..... Numbered .....
JUL 7 1967

4 - Bureau
2 - Boston
JLH:CAK
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JUL 12 1967

73

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

EXHIBIT
21

B

[redacted] The handling of this source, obviously, was an extremely delicate and sensitive problem requiring not only continuous skillful direction, but almost 24-hour contact on a daily basis with [redacted]

B

Realizing the potential that [redacted] might one day be victim of a homicide, SAS CONDON and RICO have continued vigorous attempts to obtain additional high quality LCN sources. Accordingly, BS 955 C-TE was developed by these agents and via imaginative direction and professional ingenuity utilized said source in connections with interviews of JOSEPH BARON, a professional assassin responsible for numerous homicides and acknowledged by all professional law enforcement representatives in this area to be the most dangerous individual known.

B, D

SAS RICO and CONDON contacted BARON in an effort to convince him he should testify against the LCN. BARON initially declined to testify but through utilization of BS 955 C-TE, the agents were able to convey to BARON that his present incarceration and potential for continued incarceration for the rest of his life, was wholly attributable to LCN efforts directed by GENNARO J. ANGIULO, LCN Boston head. As a result of this information received by BARON from BS 955 C-TE, said individual said he would testify against the LCN members.

The indictments against PATRIARCA, TAMELEO and CASSESSO are the first major blow to the LCN in New England. PATRIARCA, as LCN boss and possible Commission member, and his top lieutenant, HENRY TAMELEO, were felt to be beyond prosecution by top state and local police officials based on what for years resulted in frustration in securing witnesses who would testify. The Providence, Rhode Island Police and Rhode Island State Police have, for over twenty years, concentrated a large number of men in efforts to secure even a minor prosecution, unsuccessfully.

SAS CONDON and RICO were assigned to develop a prosecutable quality case against top LCN members in New England. They have done so via highest devotion to duty, requiring personal sacrifices, in time, on a continuing basis. Their time would have been wasted were it not for the skillful, unprecedented ability to develop the highest type criminal intelligence data, coupled with securing as a witness a professional killer who, in the past, would never furnish data other than his name to any law enforcement agency. Their performance for over twelve months

has been of the highest caliber; their drive and desire to fulfill a vital objective of the Bureau have been rewarded with the prosecution of top LCN members.

In view of the above, noting we have broken what at times has seemed to be an insurmountable barrier, I am recommending Quality Salary Increases be awarded to SAS RICO and CONDON.

Mr. ZALKIND. It's obvious.

Mr. DELAHUNT. It becomes obvious now?

Mr. ZALKIND. It's obvious; it's obvious.

Mr. DELAHUNT. Well, I think we should probably——

Mr. ZALKIND. Heinous, but obvious.

Mr. DELAHUNT. Heinous, but obvious.

I'll yield, Mr. Chairman.

Mr. LATOURETTE. Ladies and gentlemen, it's about 13 minutes to noon. Let's take a recess and startup again at 12.

[Recess.]

Mr. LATOURETTE. The committee hearing will be back in order. Mr. Lynch is still with us; he will join us again. Mr. Frank advised us that he has some other business that he had to attend to, but we thank him for being here.

Mr. Zalkind, prior to the break—and it's my intention to go on to something known as the 5-minute rule; we're going to move through some of the other portions—before the break, Mr. Delahunt talked about Stevie Flemmi, with particular reference to exhibit No. 21.

Just by the way of record purposes, I think I indicated, and others did, that Agents Rico and Condon were given salary increases because of their work with Joseph Barboza; and that's included in some of the exhibits that you have before you.

What has always mystified the committee in moving through this was a reference to a confidential informant identified by the code BS 955 C-TE.

When Mr. Delahunt and I were up in Boston several months ago interviewing Special Agent Condon, we asked questions like, was this electronic surveillance? Was it a person? Who was it? And he indicated to us he had no knowledge of who it was.

And we've asked the Justice Department for over a year who this informant was, and there was no way to understand the Deegan case and the use of Barboza without understanding what this was a reference to.

We've now been told, Mr. Delahunt indicated to you, that BS 955 C-TE was Stevie "The Rifleman" Flemmi.

And it occurs to me that a few questions by any competent investigator who knew what the FBI was up to would have asked Barboza things such as, Mr. Barboza, you told us you would never provide information that would allow James Vincent Flemmi to fry; we know that today, and why shouldn't we just conclude that you were lying?

I think it would have been appropriate to ask whether Raymond Patriarca was part of the conspiracy to kill Deegan, and I think you indicated you had no knowledge to indicate Raymond Patriarca was part of the conspiracy back in the 1960's. Is that correct?

Mr. ZALKIND. That's correct.

Mr. LATOURETTE. Someone might have asked where was Jimmy Flemmi on the night of the Deegan murder, I suppose, if this information had been available.

Mr. ZALKIND. Well, if the information had been available, I certainly think you would—aside from the problem of Flemmi—probably would have indicted Raymond Patriarca.

Mr. LATOURETTE. Mr. Barboza indicated to some other inmates of Walpole, and through other informants we have information, that Mr. Barboza actually shot Teddy Deegan with a .45-caliber handgun; and obviously that's inconsistent with the testimony he gave to you. It would have been appropriate to ask Mr. Barboza whether or not, the day before the Deegan murder, he and Jimmy Flemmi had gone to Raymond Patriarca and asked for his permission to kill Deegan.

From the records we have, no one asked Barboza about the information the FBI had; and it appears from the record that the FBI agents handling Barboza didn't want to ask the questions, because it might then upset the story that he was prepared to tell.

In the last month, we have received some additional documents from the Justice Department that help us resolve the puzzle of how Rico and Condon got him to testify.

Again, that's because BS 955 was the brother of one of the men who killed Teddy Deegan, specifically the informant whom they developed, Steve "The Rifleman" Flemmi, who killed a number of people, along with Whitey Bulger.

Director Hoover gave Rico and Condon $150 raises each for providing information in the Deegan case, and the case against Raymond Patriarca and Gennaro Angiulo.

I would ask you, did you even know who Steve Flemmi was at the time of the Deegan trial?

Mr. ZALKIND. No.

Mr. LATOURETTE. Were you ever made aware that the person who was credited with changing Barboza's mind about testifying was the brother of the man who went with Barboza to Patriarca to ask for permission to kill?

Mr. ZALKIND. No.

Mr. LATOURETTE. Obviously we're building a record here, so I hope you don't think I'm as big an idiot as the question sounds; but if you had known what we just told you, would you have approached Mr. Barboza's testimony differently?

Mr. ZALKIND. I wouldn't have prosecuted this case.

Mr. LATOURETTE. And were you ever aware that Steve Flemmi was targeted to become a top-echelon informant for the FBI in 1965?

Mr. ZALKIND. No. No, I was not.

Mr. LATOURETTE. When he testified in the Deegan trial, Special Agent Condon said it was not fair to say that he and Paul Rico were major figures with regard to the investigation surrounding the information furnished by Mr. Baron. Do you remember that testimony?

Mr. ZALKIND. Yes, I do.

Mr. LATOURETTE. Was this, in light of what we know today, accurate testimony?

Mr. ZALKIND. Well, they weren't major participants in my trial; but of course, they were major, major participants in the whole Barboza episode, since they flipped him.

Mr. LATOURETTE. Exhibit 18 is Agents Rico's and Condon's summary of their interview with Mr. Barboza.

On Page 2, Barboza told Rico and Condon again this statement that "he would never provide information that would allow Jim

Flemmi to 'fry.'" I believe you told the staff of our committee when you were interviewed earlier that you nearly fell out of your chair when you heard that information. Did you in fact say that to our staff?

[Exhibit 18 follows:]

[redacted]

JOSEPH BARON, also known as JOE BARBOZA, was interviewed at the Massachusetts Correctional Institution, Walpole, Massachusetts.

BARON stated that he would not mind talking to the Agents if the Agents would not end up testifying against him for what he said. BARON was told that if he wanted to talk in confidence that "we would respect his confidence."

BARON advised that he has always tried to make a living outside of the law and that if anyone in law enforcement could prove that he was doing wrong, he is willing to pay the consequences. However, he said, when you find that a police officer that you know "fingered scores, acted as lookout when scores were being pulled, and divided up the proceeds of these scores" turns around and manufactures evidence and testimony against you, you have a feeling that maybe you, the criminal, have played by the wrong standards.

BARON said that he never wanted to physically hurt anyone in law enforcement but added that "If my life is ruined by this individual trying to benefit his own ambitions, the day I come out of jail could be the day this Lieutenant becomes nervous."

BARON said that he knows that INGEGNERI is friendly with the "connected people" and that these people wanted to see him hurt. BARON advised that he has always tried to get along with these people and that, as a matter of fact, he used to see RAYMOND PATRIARCA and get an "OK" before he made most of his moves. Since they killed three of his friends, however, (THOMAS J. DE PRISCO, ARTHUR C. BRATSOS and JOSEPH W. AMICO) and stole $70,000 from him (This is in reference to the money allegedly in BRATSOS' possession when he was murdered), he had made statements that he was going to kill several of them. BARON said that after thinking the entire situation over, he realized that he could not possibly

On 3/8/67 at Walpole, Massachusetts File # [redacted]

by SA's DENNIS M. CONDON and H. PAUL RICO:po'b 3 Date dictated

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



PENGAD Bayonne, N.J.
EXHIBIT
18

DMC:HPR:pob

[redacted] BARON, knows what has happened in practically every murder that has been committed in this area. He said that he would nev provide information that would allow JAMES VINCENT FLEMMI to "fry" but that he will consider furnishing information on these murders.

Mr. ZALKIND. Yes, I did.

Mr. LATOURETTE. And why did you say that?

Mr. ZALKIND. Well, again, it's the whole thing of secreting evidence. They have a witness that they knew was lying to me, and they never told me he was lying.

I mean, there must be some rule, whether it be regulatory, administrative or actual criminal rules, that when an FBI agent lies to another law-enforcement agency to protect someone, that's got to be a crime. It's got to be, someplace along the line.

Mr. LATOURETTE. And did the FBI ever indicate to you that they had evidence of Mr. Patriarca's involvement in this at all?

Mr. ZALKIND. No.

Mr. LATOURETTE. And did you ever hear any talk within the law-enforcement community, either at the same time or shortly thereafter, about prosecuting either Mr. Patriarca or Mr. Angiulo for their complicity in the Deegan murder?

Mr. ZALKIND. No.

Mr. LATOURETTE. Thank you very much.

Mr. Tierney.

Mr. TIERNEY. Thank you.

Mr. Zalkind, let me just put some other things in the record. Would you look at exhibit 20, please?

[Exhibit 20 follows:]

5/24/67

Airtel

To: SAC, Boston (92-1132)

From: Director, FBI (92-9828)

JOSEPH BARRON, aka
JOSEPH BARBOZA
ANTI-RACKETEERING

Reurtel 3/21/67.

A review of the Bureau records reveals that no investigation of Barron has ever been conducted by your office. In view of the current circumstances, the Bureau should be cognizant of all background information. Therefore, you should submit to the Bureau an investigative report per instructions set out under the Criminal Intelligence Program containing all background and identifying data available.

MAILED 2
MAY 24 1967
COMM-FBI

MMH:skh
(4)

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

REC 26 92-9828-2

8 MAY 25 1967

EXHIBIT
20

Mr. ZALKIND. Sorry; there's a lot that's blank before you get to it.

Mr. TIERNEY. Well, as you're looking——

Mr. ZALKIND. I have it; I have it.

Mr. TIERNEY. Let me summarize.

It indicates that on May 24, 1967, which is about the time that Barboza was being developed as a witness, FBI Director Hoover asked for an investigative report on Barboza.

Were you ever aware that Hoover, or at a minimum the FBI headquarters in Washington, were interested in Barboza?

Mr. ZALKIND. Yes, I was aware that J. Edgar Hoover was interested in this case.

I think that my boss, Garrett Byrne, had had some communications with Hoover, I guess congratulating him for doing such a good job in prosecuting this case. That's the extent.

Mr. TIERNEY. Exhibit 26 appears to be the report that was requested by Hoover that we talked about earlier. Among the catalogue of murders, it indicated that Barboza claims he shot Teddy Deegan with a .45-caliber gun.

Now, this certainly contradicts Barboza's testimony that not only did he not shoot Deegan, but that he never saw who did it; correct?

[Exhibit 26 follows:]

FD-263 (Rev. 9-17-65)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| BOSTON | BOSTON | 7/18/67 | 3/20 - 7/7/67 |

TITLE OF CASE

JOSEPH BARON, aka
Joseph Barron,
Joseph Barboza, Jr.,
Joseph J. Barron,
Joseph Medeiros

REPORT MADE BY: THOMAS H. SULLIVAN

TYPED BY: maf

CHARACTER OF CASE

AR

REFERENCE Bureau airtel, dated 5/24/67.

- C -

ENCLOSURES

TO BUREAU

Original and one copy of a letterhead memorandum characterizing informants used in this report.

INFORMANTS

[redacted]

Case has been: Pending over one year ☐ Yes ☐ No; Pending prosecution over six months ☐ Yes ☐ No

APPROVED James A. Handley — SPECIAL AGENT IN CHARGE

COPIES MADE:

3 - Bureau (92-9828)
1 - USA, Boston
2 - Boston (92-1132)
(1 - 166-629)

DO NOT WRITE IN SPACES BELOW

92-9828-3

REC 29

EX-110

JUL 21 1967

| Dissemination Record of Attached Report | | | | |
|---|---|---|---|---|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

Notations: CC. AAG, Criminal Division, Organized Crime and Racketeering Section, Room 2601

STAT. SECT.

EXHIBIT 26

53 AUG 10 1967

BS 92-1132

INFORMANTS CONTINUED

B

[redacted]

B

[redacted]

B

BS 92-1132
THS:mac

ADMINISTRATIVE

B

[redacted]

[redacted] that RONNIE CASSESSA and JOE BARBOZA were responsible for the shooting of ROMEO MARTIN in Revere, Massachusetts.

[redacted]

- C -
COVER PAGE

BS 92-1132
THS:mac

B

[redacted] that JOSEPH BARBOZA was the individual who shot and killed DI STASIO and O'NEIL at the Mickey Mouse Lounge in Revere, Massachusetts, the previous weekend. The informant stated that BARBOZA had been in the Mickey Mouse Lounge a couple of weeks ago and after he left, someone took several shots at him and BARBOZA suspected that DI STASIO had set him up with the MC LAUGHLIN crowd. As a result of this, BARBOZA returned and killed DI STASIO and O'NEIL.

[redacted] that JOSEPH "CHICO" AMICO and GUY FRIZZI are always together and were usually with JOE BARBOZA before BARBOZA went to jail. The informant stated he heard reports that BARBOZA and GUY FRIZZI were the ones who "bumped off" TEDDY DEEGAN a few months ago in Chelsea, Massachusetts.

[redacted] that while JOE BARBOZA was on trial in Suffolk Superior Court he decided to make one more "hit". He was trying to hit "INDIAN AL" from Medford, Massachusetts. At the time BARBOZA made his move against "INDIAN AL", he was in the company of "CHICO" AMICO, RICK FEMIA, and GUY FRIZZI.

[redacted] that JOSEPH BARBOZA, ROMEO MARTIN and RONNIE CASSESSA are frequently in attendance at the Ebb Tide in Revere, Massachusetts.

[redacted] that JOE BARBOZA is very frequently with ROMEO MARTIN, RONNIE CASSESSA, and FRANK IMBRUGLIA. BARBOZA was supposed to have "hit" FRANCIONE of Revere, Massachusetts, and also "hit" EATON. He also stated that BARBOZA was in prison with BENJAMIN, who was murdered after he left prison.

The informant stated that BARBOZA is a Portuguese kid who would otherwise be accepted into the LCN except for his nationality. BARBOZA claims that he shot TEDDY DEEGAN with a .45 caliber gun. BARBOZA indicated that ROY FRENCH was with DEEGAN and another individual when DEEGAN was shot by BARBOZA and two other individuals, one of whom the informant believes was ROMEO MARTIN.

The informant stated he heard that JOE BARBOZA was extremely friendly with JIMMY FLEMMI. The informant added that

B

BS 92-1132
THS:mac

BARBOZA tried to reach JIMMY FLEMMI a short time ago and wanted to know if FLEMMI had gone to Providence, Rhode Island, to see RAYMOND PATRIARCA.

[redacted] stated that he had heard that JOE BARBOZA made the statement that ROY FRENCH was on the way out. Informant stated that FRENCH hangs around the Ebb Tide in Revere and appears to be friendly with BARBOZA, RONNIE CASSESSA and other individuals.

D

[redacted]

B

Mr. ZALKIND. That's correct.

Mr. TIERNEY. Would this knowledge have been important to you if you had been aware of it at the time you had been putting Barboza in front of the grand jury?

Mr. ZALKIND. What's the date of this report?

Mr. TIERNEY. It's July 18, 1967.

Mr. ZALKIND. There wouldn't have been the prosecution. Amongst other things, this would have been just another nick in the rifle, and that would have been the end of it.

Mr. TIERNEY. So obviously, that would have had some impact on your assessment of Barboza's credibility?

Mr. ZALKIND. It would have had an impact on my assessment of the credibility of the FBI.

Mr. TIERNEY. We all have some concern about that.

Were you aware that the defense lawyers in the Deegan matter made a motion to obtain all police-department reports?

Mr. ZALKIND. I know they made motions for the police department. I don't know if they ever referred to FBI reports.

But all of those motions were ruled upon by the judge; and as I said before in my opening, discovery in those days was very restricted.

Mr. TIERNEY. Did you oppose the motion?

Mr. ZALKIND. Probably. Probably.

Mr. TIERNEY. And looking back, obviously you would agree it would have better served the interests of justice if——

Mr. ZALKIND. I wouldn't have opposed any motion that asked for exculpatory evidence, but I would have opposed motions that asked for police-department reports.

Mr. TIERNEY. Why?

Mr. ZALKIND. Because they're not available as a general rule anyhow.

Mr. TIERNEY. Should they be?

Mr. ZALKIND. I think it depends upon the case.

I think, if it's a police report made by a policeman testifying, they certainly should be available. He's a witness testifying; it's like a grand-jury record in a Federal case.

Should all police reports? I don't think all of them should be. Some of them obviously have to be kept within the confines of confidentiality.

Mr. TIERNEY. Did you ever consider using a polygraph on Barboza?

Mr. ZALKIND. No.

Mr. TIERNEY. Were you aware that Louie Greco, who was one of the defendants in the Greco case, was in Florida on the day of the Deegan murder, and had passed a whole series of polygraphs indicating——

Mr. ZALKIND. There was some talk by Larry O'Donnell, his defense counsel, that he had taken a polygraph. I don't even remember if he asked to have it introduced into evidence. He might have asked a question. It didn't really concern me very much, because in those days polygraph tests were not admissible.

Mr. TIERNEY. Exhibit 41 is an affidavit by Anthony Stathopoulos. Essentially, you know who Anthony Stathopoulos was?

[Exhibit 41 follows:]

AFFIDAVIT

I, Anthony Stathopoulos, being duly sworn, depose as follows:

I am the Anthony Stathopoulos who testified in the case of Commonwealth v. French, in 1968, in the Superior Court for the County of Suffolk. To the best of my memory, I testified at that trial that the defendant Louis Grieco, in my opinion, looked like the man I had seen come out of the alley at 4th Street in Chelsea on March 12, 1965. Officer Doyle told me that Baron had told him that Grieco was in the alley shooting Deegan. Someone from the District Attorney's staff had told me the seating arrangement of the defendants in the courtroom before I testified.

On September 8, 1967, I was taken by Boston police officers to the County Jail at Barstable where I had a talk with Joseph Baron. We talked about the events of March 12, 1965, and about testimony that both he and I were going to give before a grand jury about that night. I told Baron that I wasn't sure that Charles Moore had set up the shooting so that, since I wasn't sure, I would not want to involve him. I asked Baron about Flemmi because Baron had told me in Charles Street Jail that he, Baron, could straighten me out with Flemmi. Baron told me that he was going to keep Flemmi out of it because he said that Flemmi was a friend of his and the only one who treated him decently.

Anthony Stathopoulos

PENGAD Bayonne, N.J.
EXHIBIT
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Before the trial in 1968, I talked with Mr. Zalkind about the lawyers for the defendants wanting to talk with me before the trial. I thought that I would so that I would know what kind of questions they would ask me when I was on the witness stand. Mr. Zalkind told me that I shouldn't do this because someone was trying to kill me.

Since the trial I learned from Mr. Bailey about police reports and I talked with Mr. Zalkind about the reports. The reports were attached together and the first was headed "John Doyle's office" and related to the events of September 8, 1967, and the second related to certain statements made by Officer Robson about talks with me in June and July of 1967. Mr. Zalkind informed me, in August or September of 1970, to the best of my memory, that the second report had been delivered to Mr. Zalkind by Officer Doyle sometime after the trial was over and that Mr. Doyle believed that a copy of the second report had been delivered to one of the lawyers for the defendants by a police officer. I also talked with Officer Doyle who had some papers in his hand. He said that this was what the defense lawyers were talking about. He read parts of it to me. He asked me if parts were accurate and I agreed with him.

Anthony Stathopoulos

Anthony Stathopoulos

SUFFOLK, ss. January 5, 1971

Then appeared the above named Anthony Stathopoulos and made oath to the truth of the foregoing.

Before me,

Walter J. Harty

Notary Public

Mr. ZALKIND. I do.

Mr. TIERNEY. Who was he?

Mr. ZALKIND. Anthony Stathopoulos was the witness in the trial that brought Teddy Deegan to the alley after having a meeting with Joe Barboza.

Mr. TIERNEY. On the first page of his affidavit——

Mr. ZALKIND. This is 41?

Mr. TIERNEY. 41; right.

Mr. ZALKIND. Yes.

Mr. TIERNEY. On the first page of that affidavit, Stathopoulos says that Officer Doyle had told him that Barboza said that Greco shot Deegan, and that when he testified he was told the seating arrangement of the witnesses.

Had you ever seen the affidavit before today?

Mr. ZALKIND. Yes, I have seen this affidavit. I think I saw this attached to some motion that maybe Ronny Cassesso made for a new trial; but I think I've seen this before, yes.

Mr. TIERNEY. At the end of the first page, it says that "Baron told me"—Stathopoulos—"that he was going to keep Flemmi out of it because he said that Flemmi was a friend of his and the only one who treated him decently."

When did you become aware of that statement?

Mr. ZALKIND. I don't know whether I was out of the office. I think I may have been out of the office at that time. But I was made aware of this.

Mr. TIERNEY. In fact, the second page discusses reports and conversations that the department says he reportedly had with you.

Mr. ZALKIND. Yes.

Mr. TIERNEY. Do you have any recollection of any of the events or reports that Stathopoulos is talking about in this document?

Mr. ZALKIND. Yes, I have.

I have a very firm recollection insofar as the defense counsel in the case asked that they be allowed to interview the witnesses, including Stathopoulos. I told Stathopoulos, they have an absolute right to interview him, but he has an absolute right not to be interviewed.

He says, what do you think I should do? I said, I think you'll get confused, but it's up to you.

I never told him not to do it. I didn't have much faith in any of these witnesses, as far as what happened later on.

Mr. TIERNEY. Do you know whether or not that interview took place?

Mr. ZALKIND. The interview with the Boston police officer?

Mr. TIERNEY. Right.

Mr. ZALKIND. I was told about it. I wasn't there, so I don't know.

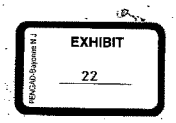
Mr. TIERNEY. If you look at exhibit 22, it's a summary of an interview with Anthony Stathopoulos as conducted by Officer Robson. Do you remember who Officer Robson was?

[Exhibit 22 follows:]

On the following dates, Officer Robson was in the company of Tony Stathopolous - 22, 23, 26, 27, 29; July 1 and 3, 1967. During the course of conversations with Tony, he stated to me that while he was incarcerated at Deer Island, he had quite a bit of conversation with one Patrick Fabiano. Fabiano stated that the "beef" between he and Joe Barbosa had been cleared up. (He also stated that on the night that Teddy Deegan was killed in Chelsea, Mass; in an alley, that he; Stathopolous, was driving the motor vehicle that took him there.) He stated that one Charlie Moore had set the whole job up and told them that his brother, a Chelsea Police Officer, would see that the door was left open at the rear of the building. Stathopolous was with Roy French and Teddy Deegan and they had tried previously to bring French in, to get Shackleford to go along on the job but Shackleford was in New Hampshire. Stathopolous had tried to caution Deegan about going on the job, because he could not see where there would be $30,000.00, in cash in a safe in a finance company that small. (When Stathopolous heard the shots in the alley, he left the scene in the same type car as the hired killers had arrived in.) Stathopolous stated that he actually saw Ronnie Cassessa with a gun in his hand that night and Romeo Martin. He did not see the others involved. At a later time, Charlie Moore's window in his place of business in Revere was broken out by a shotgun blast because of the fact that Charle was talking to a personal friend of Stathopolous too much and was told to keep quiet.

In referring to the Sacramone killing in Everett, Stathopolous stated that this was because of Sacramone talking too much about the Puopolo job that Hannon, Delaney, etc. were involved in. He stated to Officer Robson that Populo's best friend and the only one alive, to date, of the four men involved, was the man who set the whole job up. He is also the one that wound up with complete profit from the job.

Daddy McLean from Somerville was the one who killed Hannon and Delaney. Hannon had been set up before his death on four or five (4 or 5) occasions by this same



*Charlie Moore. Sacramone was talking to people and involving Stathopolous and Populo's best friend in the conversation in regards to the Populo theft. It was at this time that Vincent (alias Jimmy) Flammi met with Deegan and Tony Stathopolous at the Howard Johnson Restaurant with the fourth man involved in the Populo theft, to make arrangements to silence Sacramone. Shortly after, Flammi was shot in Boston and unable to complete the job. Deegan then went ahead and set Sacramone up for two other unknowns to take care of him. Stathopolous also stated that Shackleford and Steve Hughes were the two who killed McLean.*

*Stathopolous also stated that he has pretty good information that Kearns and Stillings were the two men who killed Locke.*

Mr. ZALKIND. Yes. He was assigned to us. I think he was MBTA. Yes.

Mr. TIERNEY. In the interview, Stathopoulos says he saw Cassesso and Martin, but did not see anyone else; but when Stathopoulos testified at the Deegan trial about a year later, he said he saw Louie Greco. Were you aware then of the inconsistency in those two statements?

Mr. ZALKIND. I don't know if I ever saw this before.

Mr. TIERNEY. That's exhibit 26, you're saying?

Mr. ZALKIND. Exhibit 26?

Mr. TIERNEY. 22.

Mr. ZALKIND. 22; yes. I may have seen this report; I may not. I don't know. But when we questioned him, the eventual statements that came out were that he couldn't really recognize anyone that he saw coming out of the alleyway.

And I said, well, they're going to be all sitting in front of you. If you see anyone that's familiar to you, point it out; if you don't, don't. And that was the extent of it. And he did point out Louie Greco as being a man that looked like the fellow.

Mr. TIERNEY. And the inconsistency between the two statements was not known to you at that time?

Mr. ZALKIND. It may have been; it may have been. It may have been.

Mr. TIERNEY. But it meant nothing to you?

Mr. ZALKIND. Well, not nothing. This was an officer writing it down. It just didn't mean that much to me. If I saw it; I don't even remember seeing it at the time.

Mr. TIERNEY. To go back to his affidavit, which is exhibit 41, it indicates that Stathopoulos visited Barboza before the Deegan trial. Did you know that?

Mr. ZALKIND. That the police had visited Stathopoulos?

Mr. TIERNEY. No; that Stathopoulos had visited Barboza.

Mr. ZALKIND. Yes; with the two police officers from the District Attorney's office?

Mr. TIERNEY. Right.

Mr. ZALKIND. Yes, I knew about that.

Mr. TIERNEY. Did you make further inquiry as to what that was all about?

Mr. ZALKIND. Yes.

Mr. TIERNEY. And what did you find?

Mr. ZALKIND. They told me that Stathopoulos wanted to be assured that Barboza was not going to bother him. They sort of brushed it off.

I wasn't even involved when that took place. They went down there; and then I said, what was all this about? They said, well, he wanted to go down and talk to Barboza to be sure that nothing's going to happen to him. Something like that.

Again, you know, that's my memory. It wasn't important to me at the time.

Mr. TIERNEY. Who were those officers that accompanied him?

Mr. ZALKIND. I think it was John Doyle and an elderly—I'm sorry; what was the exhibit, please?

Mr. TIERNEY. The affidavit is 41, and the other is 22; the inconsistencies between the two documents.

Mr. ZALKIND. I knew about the visit, and I think it took place—before the indictment or after the indictment? I think it was—I forget when the indictment was in the case, but I knew about this.

Mr. TIERNEY. And that raised the prospect of the improprieties or the difficulties there.

Mr. ZALKIND. You mean as far——

Mr. TIERNEY. As far as going down and talking down to Mr. Barboza.

Mr. ZALKIND. Oh, no, no. All this information came to me long after I was out of the District Attorney's office, but I knew that they had gone down there.

I asked them why they were going. The police gave me some reason at the time; it sounded OK. I said, go ahead; take him. That was about it.

Mr. TIERNEY. Thank you.

Mr. LATOURETTE. Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Zalkind.

I don't want to beat a dead horse on this electronic-surveillance information that was available, but the next exhibit is a prosecution memorandum. It's not in the book of exhibits, but was provided to you separately. It was prepared by Federal prosecutors in anticipation of the prosecution of Raymond Patriarca.

Mr. ZALKIND. Am I allowed to talk about this?

Mr. LATOURETTE. We're going to go into executive session and talk about it then.

Mr. LYNCH. I guess we'll reserve that point for executive session.

I apologize; I'll hold my question for executive session. Thank you.

Mr. LATOURETTE. Mr. Delahunt.

Mr. DELAHUNT. The bottom line, Mr. Zalkind, is that there was a plethora of evidence that would have implicated Jimmy Flemmi in the Deegan murder, given what we've been talking about this morning.

Mr. ZALKIND. That's correct.

Mr. DELAHUNT. Particularly the reports from FBI agents; but additionally from Chelsea, the report from the State Police that I referred to that you were unaware of, as well as that report from the Intelligence Division of the Boston Police Department.

But nobody, most specifically, ever asked the tough questions of Joe Barboza.

Mr. ZALKIND. That's not true. I asked the tough questions.

Mr. DELAHUNT. But you did not have available to you——

Mr. ZALKIND. Oh, that's correct; that's correct.

Mr. DELAHUNT [continuing]. The information that was available that would have allowed his credibility to be truly assessed and evaluated?

Mr. ZALKIND. That's correct.

What I meant was, Congressman, I said to him, now, look, Joe, I want you to tell me everyone who was there. This is after he told the story to the grand jury, and I was preparing him.

I said, you've got to tell me why this person was there, why that person. Why did you put Louie Greco in the alleyway?

Mr. DELAHUNT. We don't even know, Mr. Zalkind, if Mr. Barboza was aware of the existence of these various reports, do we?

Mr. ZALKIND. Of course not. I wouldn't know that, no.

Mr. DELAHUNT. And so the reality is that specifically the FBI, but also other law-enforcement agencies, had within their possession documents that exculpated Mr. Salvati and Mr. Limone, simply because they were referenced in those documents, and those documents related to interviews and statements made by Mr. Barboza to a variety of informants.

Mr. ZALKIND. That's correct.

Mr. DELAHUNT. But—and I'm talking at the investigative level—we have no information whatsoever from any investigator that they pursued the information to determine whether the information that they had was in fact accurate.

Mr. ZALKIND. You mean prior to the indictment?

Mr. DELAHUNT. Prior to the indictment, or during the indictment, or during the trial, or subsequent to the trial. I think later on we might be hearing from a former member of the parole board.

All of this information was in the custody of the Federal Bureau of Investigation; and yet it was never brought to your attention, it was never brought to the attention of the parole board when it was reviewing the petitions for parole at any point in time. No point in time.

Going back, like I said earlier, in time, it's clear that the interest of the FBI in developing Jim Flemmi as an informant overrode all other concerns.

Mr. ZALKIND. It certainly appears so, Mr. Delahunt.

Mr. DELAHUNT. And then we pause for a moment, and think of what it meant in terms of public safety.

There are references in here to the inclination of Vincent James Flemmi to continue to commit murders, and he was given a free pass. That is the bottom line; he was given an opportunity to commit more murders.

Mr. ZALKIND. Well, may I suggest to you that previously I think I understood you to say that Steve Flemmi was also cooperating with the FBI.

Mr. DELAHUNT. Well, we just learned, I think within the past 2 weeks—and Mr. Wilson, the chief counsel, can elaborate on that—that it was Steve Flemmi who intervened and encouraged and influenced Barboza to cooperate.

Mr. ZALKIND. But here's the thing that gets me as I sit here now.

Steve Flemmi was one of the men that blew off John Fitzgerald's leg 6 months before this trial; and if he was a government informant, then the FBI knew the perpetrators of John Fitzgerald's attempted assassination.

Really, for my own mind, do we know when he became an informer? Or am I stepping out of line? Because it really, really——

Mr. DELAHUNT. I would defer that to Mr. Wilson.

You referenced earlier in your remarks the relationship between the FBI and other law-enforcement agencies. Are you aware that when Barboza entered into the Witness Protection Program he was relocated to California?

Mr. ZALKIND. No. I purposely did not want to know that.

Mr. DELAHUNT. I don't know if you're aware that subsequently he was relocated to California, and he committed a murder in California.

Mr. ZALKIND. I know that.

Mr. DELAHUNT. Are you aware of the fact that neither the District Attorney's office there, the State Police there, nor the local police were ever informed that Mr. Barboza, who is described in many of these reports as one of the most dangerous psychopaths in the history of the Commonwealth of Massachusetts, was being relocated there?

Mr. ZALKIND. I have since learned that fact.

Mr. DELAHUNT. I think it was Mr. Frank earlier who referenced what is going on here in terms of clergy and sexual abuse.

Can you for a moment imagine allowing someone with Barboza's record, knowing him as well as you do, to go to another part of the country without informing either state or local law enforcement?

Mr. ZALKIND. Well, I think today, Mr. Delahunt, that couldn't happen; because under the terms of probation, the probation department of the area where he goes to becomes knowledgeable of the person being there, even if his identity is changed. I think; I'm not sure.

Mr. DELAHUNT. I have to respectfully disagree with you, Mr. Zalkind. I'm not sure that is in fact the case.

Mr. ZALKIND. Then that's what you boys should be doing, is making sure that it does happen.

Mr. DELAHUNT. I think that it's important to stress that we have a situation where evidence, as you say, is concealed resulting in an injustice; but it is also concealed resulting in an erosion of public safety elsewhere.

It is as if the premise and the predicate of all of this behavior is concealment; don't disclose.

Today we're asking you, for example, to review a memorandum that you haven't seen, to review it, digest it, assimilate it, analyze it, because the Department of Justice still abides by that principle of concealment.

And let me say this, just in terms of the spirit of bipartisanship. This has nothing to do with who sits in the White House. This has been a culture that has been created over a period of decades by both Republican and Democratic administrations, and it's time that we addressed it.

Mr. LATOURETTE. Thank you very much, Mr. Delahunt.

As I indicated a little earlier, we're going to now, at the request of the U.S. Department of Justice, go into a closed session. Before we do that, I want to do two quick pieces of business.

Without objection, I want to insert into the record a letter dated May 10, 2002 to the chairman of our committee, Dan Burton of Indiana, from Assistant Attorney General Daniel J. Bryant, which describes the U.S. Justice Department's position on what we're going to do.

And prior to going into executive session, I want to yield to chief counsel on our side, Mr. Wilson, to ask a few questions about the prosecution memoranda; and then we will ask everyone to clear the room, shut off your cameras, and we'll try and alert you when you can come back in.

Mr. Wilson.

Mr. WILSON. Mr. Zalkind, I'll be fairly brief. A few housekeeping matters.

Earlier on, you mentioned there was a memo prepared by, I believe, Detective Doyle for your use before the grand jury; is that correct?

Mr. ZALKIND. Yes.

Mr. WILSON. Do you still have a copy of that memo?

Mr. ZALKIND. No, I don't.

Mr. WILSON. What happened to that after you——

Mr. ZALKIND. It was in the file with everything else when I left the office.

Mr. WILSON. Did you leave all of the material that was pertinent to the Deegan case at the District Attorney's office?

Mr. ZALKIND. Yes, I did.

Mr. WILSON. One other thing. We, through our investigation over the last year, have learned that there might be some significance to some testimony by Joseph Barboza before the grand jury, and we've been able to obtain minutes from Barboza's appearance before the grand jury.

I have a copy here, which it may or may not be necessary to show you; but over the course of the last year, through our investigation, we've heard that there may be some significance to something he said, and we have not been able to find that in the grand-jury minutes, but there's a page missing from our grand-jury minutes.

Did you by any chance keep copies of the grand-jury minutes?

Mr. ZALKIND. No.

Mr. WILSON. Were you ever aware at any point that there was missing material from the grand-jury minutes?

Mr. ZALKIND. No.

The only thing I was thinking about is that during the course of the grand-jury sessions he had mentioned some place where he had gone to get hot goods, Arthur's Farm, and amongst the people that he met there, he would mention some people.

There was one name he mentioned, it was very embarrassing, and I may have said to the stenographer something like, strike that name. It might have been some sports figure or something like that, that had nothing to do with it. I never, never would allow any page to be stricken or anything like that.

Mr. WILSON. But if that took place, that would be one name?

Mr. ZALKIND. Oh, yes.

Mr. WILSON. What we have is an absence of an entire page.

Mr. ZALKIND. I know nothing of that.

Mr. WILSON. Just one followup.

We have talked about the Barboza recantation, the Stathopoulos affidavit, various other information; and you pointed out at the time that those events occurred they did not have a particular significance to you.

In light of all of the evidence that you've now been presented, do you think that those materials should have had relevance to the people that did have access to material about what happened in the Deegan murder?

Mr. ZALKIND. Yes.

Stathopoulos, I did not consider him a credible witness. I certainly know that when he said in some statement or affidavit that

I wore a disguise to meet him in a hotel, I mean, it was just ludicrous. I didn't give much attention to it at all.

I saw one affidavit that he said that Joe Barboza said that Jimmy Flemmi was not going to be involved, and that's why he went to see Joe, so that Joe could assure him that Jimmy wasn't going to hurt him.

I think probably, if I were still in the office, coupled with the fact that I prosecuted Flemmi in 1970, maybe something more should have gone on. I don't know what good would have happened; I don't know.

Mr. WILSON. I'm directing that more to other people who, when that information came out, one would think that they would, if they were operating in good faith, have indicated to you that they have information that perhaps bolsters Barboza's recantation or bolsters the Stathopoulos affidavit or other material that subsequently we've been able to obtain.

Mr. ZALKIND. I can't answer that question.

Mr. WILSON. Before we go to executive session, I have here now a memorandum that you reviewed yesterday; is that correct?

Mr. ZALKIND. Yes.

Mr. WILSON. You were provided a copy of a prosecution——

Mr. ZALKIND. Yes. It was provided. I saw and read it. I have no copy of it.

Mr. WILSON. We'll provide that to you in a moment, and ask you questions specifically about that memo when we go into executive session.

But just as a general comment from you, we wanted to be able to question you about this memorandum in an open session, because we thought that would be fair for you. We appreciate your coming forward and answering these questions.

Do you think as a matter of fundamental fairness to you we should be asking you questions about the memorandum you reviewed in secrecy?

Mr. ZALKIND. Absolutely not.

But, without skirting the edges, that memorandum never mentions my name in any way, shape or form. However, what it does, I guess we can't talk about it; but it certainly buttresses my statement that I never had any information about Flemmi or anybody else being involved.

Mr. WILSON. Well, to be fair, you can talk about it if you'd like to characterize what you saw, and I think it's appropriate for you to provide——

Mr. ZALKIND. Well, then, I will say it.

Absolutely; this memo that I saw had within it conversations had between Raymond Patriarca, Joe Barboza, Ralph Cassesso, Jimmy Flemmi.

And in there, they go down and they want to speak to Raymond; and Raymond——

Mr. LATOURETTE. If I may, I think we're getting really close to the edge, and I don't want to violate it.

I think the question to you is, do you think it's fair that we talk to you, are forced to talk to you, in private, and a general observation about it; but I think the specifics of it probably would violate the agreement we have with the Department of Justice.

Mr. ZALKIND. Whatever you say. But it is extremely exculpatory. It's probably the most exculpatory bit of evidence that you've shown me.

Mr. WILSON. Now, one reason we did want to question you about this particular memorandum is because it's not a memorandum that was prepared at the time of the Deegan murder.

Many of the materials you've seen today were prepared in 1965. There are transcripts of an illegal bug in Patriarca's headquarters in Providence, there are Airtels going from Boston to Director Hoover; but they were all prepared in 1965.

The particular prosecution memo we're going to talk about in executive session was prepared in 1967, at the time people were preparing to prosecute a number of individuals for the Deegan case.

Mr. ZALKIND. Correct.

Mr. WILSON. Is it, in your mind, significant that a document that, to use your words, contains exculpatory information was prepared at the time of prosecution of the individuals for the Deegan murder?

Mr. ZALKIND. Of course it's significant. It should have been given to me, along with other things.

Never mind given to me; I should have been told about it. It would have influenced our decision as to whether to go forward with this case, and we wouldn't have gone forward with this case.

Mr. WILSON. The last question is, is it significant, as you sit here today, that government prosecutors in Boston were sending to senior government officials at Justice in Washington, DC, some of the information that you're now aware of that pertains to the Deegan murder?

Mr. ZALKIND. It's significant, I suppose, in that maybe they had a guilty conscience and wanted to unload, or make sure there was a record of what they knew. I don't know, other than that.

Mr. LATOURETTE. Thank you very much.

Ladies and gentlemen, at this time, pursuant to our agreement with the Department of Justice, I would ask everybody to clear the room, turn off all equipment; and also pursuant to our agreement with the Department of Justice, this portion of the transcript will not be subject to public review.

[Whereupon, proceedings were continued in executive session.]

Mr. LATOURETTE. We're back in public session at this moment in time.

Mr. Zalkind, I want to express, if I haven't already, on behalf of myself and other members of the committee, our appreciation for your willingness to be here today and your willingness to answer all the questions we had.

Before we move to our next witnesses today, I just would make an invitation to you. If there's any closing observation you would like to make, we would be more than happy to hear it.

Mr. ZALKIND. Well, I think that in the last couple of weeks we've read about a decision made by our Supreme Judicial Court wherein they say that most people do not have to volunteer to come forward to disclose a dangerous situation. That was the Worcester fire.

The Supreme Court said that, however, when you are the instigator of that potentially dangerous situation, then you have a duty

to come forward to law enforcement, so that it won't become more dangerous. It's pretty simple words.

I think that, if this committee does anything, it could in some way perhaps make law that would force either prosecutors or law-enforcement people to disclose knowledge that they have that, if not given, could adversely affect the lives and freedom of other people.

In this case here, this information was exculpatory. I know they were trying to hide an informer.

But there should have been an obligation on their part to come forward, even if there were not a motion made, that would have stopped this trial, or at least have clarified it; and they didn't do so.

Today, under our Federal system, we've got some Rule 16s, where a defendant doesn't even have to come forward and ask for exculpatory evidence. There is a Rule 16 that makes it mandatory.

Well, I think we've got to go one step further.

I think that the FBI, or whatever law-enforcement agency, when they have this situation and there's good cause to believe that by withholding this information they are going to put into force a step that could cause men like this to spend all these years in jail, that's a horrible thing.

I don't have to live with this. You used to let this stuff roll off; but I realize now that there was a terrible injustice here.

I can't apologize to these men for the whole FBI, but I certainly apologize for myself. I don't know what I could have done, but maybe I could have worked harder at pushing this thing; I don't know.

I think, if we can come out of this hearing with some legislation that will prevent this, then we've done the job that all of us in this country want to have done.

Mr. LATOURETTE. Mr. Zalkind, thank you for your testimony, and you go with our thanks. Thank you very much.

The next witness that the committee will hear from now this afternoon will be James McDonough.

Mr. McDonough, before taking your seat, the practice of the committee is that all witnesses be sworn. I would ask you to raise your right hand.

[Witness sworn.]

Mr. LATOURETTE. Thank you, sir. Please be seated.

Mr. McDonough, we have a brief understanding of what it is you did in the Suffolk County prosecutor's office; but could you summarize what it is you did do in 1967 in the Suffolk County prosecutor's office?

**STATEMENT OF JAMES M. McDONOUGH, ESQ.**

Mr. MCDONOUGH. At that time, I was not a full Assistant District Attorney.

At that time, there were a number of Assistant Attorneys General in various offices throughout the state who were regulated by the state legislature.

There were in the Suffolk County DA's office, and most offices, people like myself who did legal research, wrote briefs, wrote memorandums of law, and in major cases assisted the District Attorney

in charge of the case with the production of the witnesses and logistical matters and so forth.

Mr. LATOURETTE. Were you assigned to such a major case as the Deegan murder?

Mr. MCDONOUGH. Yes. Mr. Zalkind was given the Deegan case. He asked me to assist him in the trial.

Mr. LATOURETTE. Can you describe for us as best you can recall what it is that you did in the Deegan case?

Mr. MCDONOUGH. My memory is, I think, a little bit different from Mr. Zalkind's in some respects.

I was present throughout that trial, and I was in the second seat. Not being an Assistant, I could not make any objections to testimony; I could not argue to the court. I didn't have any vocal dealings, I didn't have any direct dealings, with opposing counsel, which I would say were about five or six.

But I was responsible for some of the technical aspects of advising Mr. Zalkind on what testimony should be brought forward.

And I'd like to save some time a little bit here; and I guess the reason I'm here is the so-called Chelsea police report.

Mr. LATOURETTE. Right.

Mr. MCDONOUGH. I'm amazed at some of the comments that have been made about this situation; because as far as I'm concerned, the matter of the Chelsea police report is here because I remembered having it, because of the testimony regarding the finding of the bullets in the alley.

But this matter has been before the Supreme Court of Massachusetts, and was heard by Judge Banks.

The Supreme Court of the state has ruled, first of all, that the Chelsea police report was not exculpatory; that it could be inferred that all of the information in it was known to defense counsel from their cross-examination, and that the prosecutor had no duty to disclose that at the time and under the circumstances revealed.

And unless we're going to criticize the Supreme Judicial Court of the Commonwealth for their ruling on the matter, I don't see that there's much of an issue there.

Mr. LATOURETTE. Let me just ask you a couple questions. You're right; it is your 1993 affidavit, the Chelsea police report, and the other two police reports that have our attention.

But just to finish what it is you did during the Deegan trial, did you interview witnesses?

Mr. MCDONOUGH. No. I was not allowed to, and I never did.

Mr. LATOURETTE. Did you respond to motions filed by defense counsel?

Mr. MCDONOUGH. No. I could not speak in open court at any time at that time.

Mr. LATOURETTE. I'm talking about in terms of research and writing. If a defense lawyer filed a motion for some purpose and a written response was required by the District Attorney, would you help in the drafting?

Mr. MCDONOUGH. I don't recall specific instances, but I would have done that.

Mr. LATOURETTE. That would be the type of thing that you would do?

Mr. MCDONOUGH. Yes.

Mr. LATOURETTE. You said you gave Mr. Zalkind advice about witnesses.

Do you recall, if not the specifics—if you recall the specifics, great—but do you recall having active conversation with Mr. Zalkind relative to, when this guy's on the stand, we should ask him this?

Mr. MCDONOUGH. Well, when you're sitting in that second seat, you have an idea what the prosecutor wants to ask; but sometimes they forget, so that you can remind them, maybe, to go to that subject.

Mr. LATOURETTE. Did you, like Mr. Zalkind, meet Mr. Barboza for the first time at the grand jury?

Were you present at the grand jury?

Mr. MCDONOUGH. I was not present at the grand jury. I was not involved in the case at that time.

Mr. LATOURETTE. Did you ever meet Mr. Barboza?

Mr. MCDONOUGH. I saw him, but I never really met him. I never had any personal face-to-face conversation with him. I was in rooms on two or three occasions that he was in the room during court recesses. That's about it.

Mr. LATOURETTE. Exhibit No. 49 in the materials is an affidavit executed in 1993 indicating that the Chelsea police report was in the prosecutor's file during the trial.

[Exhibit 49 follows:]

(6)

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CRIMINAL NO(s). 32368, 32369, 32370

COMMONWEALTH ]
V. ]
JOSEPH SALVATI ]

AFFIDAVIT

I, James M. McDonough, depose and state:

1. Since 1953 I have been an attorney in Massachusetts.

2. Between 1964 and 1979, I was a Legal Assistant in the Suffolk County District Attorney's Office.

3. During 1967 and 1968, I was assigned to assist the Assistant District Attorney (Jack Zalkind) in the prosecution of the defendant, Salvati.

4. In such capacity I had access to police reports and in general all documents connected to the case that were in the files of the prosecutor.

5. I was aware of and saw a report that had been authored by a Lieutenant Thomas Evans of the Chelsea Police Department about the Deegan murder.

6. I have read a copy of the foregoing report, that is presently in the prosecutor's file, and to the best of my memory and belief the copy of the report is the same copy that was in the prosecutor's file during prosecution of the defendant's case.

Signed under the pains and penalties of perjury,

James M. McDonough

Date: 10/12/93



0065w/39-40

Mr. MCDONOUGH. That was my memory.

That was my memory; and the reason I remember it is not because of the statement that Mr. Zalkind referred to, but it was an evidentiary problem contained therein of number of bullets.

The bullets were picked up by various police officers. As you know, it's important to establish a chain of custody, especially in this case, where there's a question of how many guns were used.

That had to be resolved, and that's why I remember the report. I guess my memory was right. I don't know; I'm not familiar with Mr. McKenna's affidavit, but the report was found in files of the District Attorney's office.

Mr. LATOURETTE. I heard what you said about, I'm sorry, I don't remember the name of the court, but I guess it's the Supreme Court of the State of Massachusetts. I understood that you said there's been a discussion about the Chelsea police report, and it's been found by the court not to be exculpatory.

What it does contain, whether exculpatory or not, if you look at it, there are people in the report who were not prosecuted, and then there are some who are not in the report who were prosecuted.

Mr. MCDONOUGH. That's an evidentiary problem. These hearsay statements, this is the trouble with disclosing information. I have raw files that I had.

Mr. LATOURETTE. Here's the difficulty I have. You have the report from the Chelsea Police Department, which some people have said never turned up during the course of the prosecution. You say it was in the prosecution file. The Supreme Court or whatever it is says that it's not exculpatory.

If the prosecuting agencies are in possession of the report in 1967, when this case is going on, don't you think it's unusual that somebody doesn't go to Barboza and say, what's the deal? We have this Chelsea Police Department report prepared right after Teddy Deegan is murdered. Some people listed in it we're not prosecuting, and there are some people we are prosecuting who aren't listed in it.

Mr. MCDONOUGH. Barboza, in this trial, was cross-examined extensively about Flemmi and the information in this report. That's why the Supreme Court of Massachusetts inferred they had this report from a cross-examination, I think by Mr. Chisholm mostly, and Mr. O'Donnell.

That was the whole theory of the case; and then it was argued in the same case that Barboza was guilty, and he should have put him in. That was all put before the jury.

Mr. LATOURETTE. Have you been following the hearings of this committee at all?

Mr. MCDONOUGH. Somewhat, in the paper; but this is the first time I've seen these so-called 23 pages, and I don't know where they come from, or what kind of statements they are. Is there anything in the summary that says they did it?

Mr. LATOURETTE. I think Mr. Barboza says he did it, eventually.

Mr. MCDONOUGH. I mean, in these FBI reports, is there any other suggestion that somebody actually said that they did it?

In other words, these statements are also hearsay statements, which, even if they were available, probably couldn't have been used without bringing in the witnesses.

Mr. WILSON. That's the point.

Mr. MCDONOUGH. There are serious evidentiary problems with some of these. I haven't read them, so I don't know.

Mr. LATOURETTE. Before I leave you to my colleagues, let me ask you about the other two exhibits of interest to us, 11 and 13. These are reports from the Boston Police Department and the Massachusetts State Police Department. Exhibits 11 and 13.

[Exhibits 11 and 13 follow:]

EDMUND L. MCNAMARA
POLICE COMMISSIONER

City of Boston 2
Police Department

BUREAU OF INSPECTIONAL SERVICES
INTELLIGENCE DIVISION

# Report of Information Received

BY TELEPHONE _____ CONTROL NUMBER _____

WRITTEN COMMUNICATION _____ TIME _____

IN PERSON _____ DATE March 14,1965

SOURCE OF INFORMATION ~~Informant~~

SUBJECT ~~Murder Of Teddy Deegan in Chelsea~~ on March 12th

LOCATION

DETAILS: ~~From a reliable informant the following facts were obtaine~~
~~to the above murder:Informant states that the following men were~~
~~Joseph Barrenz aka Barboza,Romeo Martin,Freddie Chiampi,Roy Fren~~
~~Ronnie Cassesso,Tony Stats.(Greek)~~ Chico Amico, Informant stat
Roy French and Tony Strats. were supposed to lure Deegan to some-
on the pretext of doing a B&E and the other men were to be waiti
the area to kill ~~him~~ him,Informant states that they were over-
lounge in Revere when they received the call from French that ev
was O.K then they all left together. After the Killing Romeo Mar
upset because somebody he thought took the number of his car aft
killing. Romeo Martin ~~was~~ is a former informant but since hanging
North End hasn't been to helpful.I then talked to Martin and told
the Police were looking for him in the hope that he would give so

REMARKS

REFERRED TO

RECEIVED BY

000436

EXHIBIT
11

Informant states that the reason for the killing of Deegan was that Barren claims that he is with the Hughes brothers and McLaughlins and he felt he Deegan was a threat to his friends in Roxbury(Flemmi & Bennett).

*Department of Public Safety*

1010 Commonwealth Avenue, Boston 02215
March 15, 1965

75.

S BUREAU

: Captain of Detectives Daniel I. Murphy
om: Det. Lieut. Inspector Richard J. Cass

bject: Homicide of Edward C. "Ted" Deegan

. On Saturday, March 13, 1965, I went to the Chelsea olice Department to aid in the investigation re the death Edward C. "Ted" Deegan, dob 1/2/30, of 17 Madison Street, alden, in accordance with your instructions.

. Officer James O'Brien, the routeman, stated that bout 10:50 P.M. on Friday, March 12, 1965, while checking he doors on his route, he entered the alley in the rear of he Goldberg Building at 375 Broadway and found a body, later dentified as Deegan, in a pool of blood in front of the open ear door of the building. He was apparently dead and was in crouched position in front of the doorstoop. A screw driver as lying on the ground near the body. He notified the tation. Dr. Kraft arrived at the scene and pronounced Deegan k . The body was removed by the Medical Examiner, Dr. . go, to the Southern Mortuary. Officer O'Brien stated that t about 9:00 P.M. he had checked the alley and put the over-ead light on before continuing his rounds. When he returned at about 10:59 P.M. the light was out and he entered the alley to make a check and discovered the body.

3. The Chelsea Police brought to the station one Anthony J. Stathopoulos, dob 9/22/34, medium complexion, 5'9", 165, brown hair and eyes of 17 Madison Street, Malden, and one Wilfred Roy French, dob 3/13/29, medium complexion, 6', 210, blue eyes, brown hair, of 31 Pleasant Street, Everett. Both subjects were released after questioning. Information was received by this officer that when French had been questioned there were spots on his trousers that appeared to be blood and an attempt had been made to wash it off. Lt. Evens of the Chelsea police stated he questioned French relative to the spots and French claimed that it was blood that came from a fellow who had a fight at the Ebbtide in Revere.

4. Israel Goldberg, owner of the building, was questioned and he said he left the building between 3 and 4 PM.

5. Vito Paglinisio of 90 Carroll Street, Chelsea, custodi of the building, stated that he checked the rear door about 00 P.M. on Friday and it was locked. This door was a double door with slide locks on the top and bottom that had to be released by hand from the inside.

6. Attorneys John Fitzgerald and Alfred Farese were interviewed. Mr. Fitzgerald stated that he received a call from Deegan about 8:45 P.M. on Friday and that he received calls from Deegan every day.

7. Mr. Farese stated that about 10:15 P.M. on Friday he received a call from a client, whom he refused to identify, and the client stated that he heard Deegan had been in a gun fight with the police. Mr. Farese called the police station seeking to verify the information but the police knew nothing about it. Mr. Farese claimed that he called Stathopoulos who came over and rode him to the police station at about 11:05 PM. Upon their arrival, they were informed that Deegan was dead. They went to the scene of the crime and then returned to the police station where Stathopoulos was questioned by Lt. Evans and Capt. Renfrew and released.

8. During the investivation, information was received by this officer that Deegan, French and Stathopoulos had planned to break into the Beneficial Finance Company on the second floor of the Goldberg Building and that the rear door was to be left open for them.

9. During the eveing of Friday, March 12th, French was at the Ebbtide, 302 Boulevard, Revere, with Joseph Barboza aka Baron, Francis Imbuglia, Ronald Cassesa, Vincent "Jimmy" Fiermi, Romeo Martin, Nick Femia and a man known as "Freddy" who is a strong arm man. All the above men have criminal records. About 9:00 P.M., French received a phone call and the above group left the place with him.

10. About 9:30 P.M., Captain Joseph Kozlowski of the Chelsea Police was in the vicinity of Fourth Street about a half block from the scene of the crime and saw a red car with the motor running and three men sitting in it. Two men were in the front seat and one in the rear. The car was parked at the second meter from Broadway, on Fourt Street, between Broadway and Luther Place on the side near the Polish American Veterans Club. The Captain walked behind the car and noticed the rear number plate with the right half of the plate folded towards the center obstructing the last three digits. The first three numbers were 404---. He went to the drivers side of the car and rapped on the window notioning the driver to lower the window. The driver took off at a fast rate of speed and took a screeching turn to the right on Broadway. The Captain described the driver as Romeo Martin and the man in the back seat as stocky with dark hair and a bald spot in the center of the head.

11. Further information was received that about three weeks prior Deegan had pulled a gun on Barboza, aka Baron, at the Ebbtide and forced him to back down and that this was the cause of Deegan's death.

12. Unconfirmed information was received that Romeo Martin and Ronald Cassesa had entered the building and were waiting just inside the rear door. Stathopoulos was waiting on Fourth Street in a car and French and Deegan entered the alley. Deegan opened the rear door. He was shot twice in the back of the head and also in the body. The information at the time was that three guns were used. Lt. John Collins of Ballistics confirmed the report of three guns being used at a later time. Two men approached the car in which Stathopoulos was waiting and he took off.

13. A canvas of the neighborhood was made and Mrs. Grace Luciano of 12 Fourth Street, 2nd floor, and her daughter, Camille, both stated that about 10 P.M. or earlier they heard about 5 shots and they looked out the window on Division St., and saw two cars both racing their motors. One was a new black sedan and the other an old green sedan, make unknown. She saw a man running up the middle of Fourth St., toward Hawthorne about 5' 8", heavy build, dark hair, no hat, dark olive pants, brown waist coat. The account of the two cars was verified as a disabled car and a car that came to help him.

14. Information was also received that Martin's car had left the Ebbtide at 9:00 PM and had returned about an hour later and parked in a different place on its return.

Richard J. Cass
Detective Lieut. Inspector
Massachusetts State Police

Mr. MCDONOUGH. I have 13. [Pause].

OK; I have 11 in front of me now.

Mr. LATOURETTE. And 11 is the police report from Boston; is that right?

Mr. MCDONOUGH. Yes.

Mr. LATOURETTE. Boston Police Department; 13 is the Massachusetts State Police Department.

My question is not that complicated. I'm just wondering, as with the Chelsea Police Department report, do you have a recollection whether or not these two documents were within the prosecutor's file during the prosecution of the Deegan murder case?

Mr. MCDONOUGH. I have no memory of seeing exhibit 11 in the files of the District Attorney at any time.

Mr. LATOURETTE. Could you look at exhibit 13 for me? And my question will be the same.

Mr. MCDONOUGH. I think I know the background of this report.

I really don't have a specific memory of this; but I notice in Paragraph 9 it just paraphrases the language in Evans' report.

At this time, the Chelsea police did not have the capacity to investigate homicides. In other words, there's a 3-year period between the date of the homicide and Barboza's becoming a witness.

At the time of the murder, the Chelsea police used to call in State Police to investigate homicide cases. Then, when this case went nowhere, right after the event, then Suffolk County got involved in it, and the Boston Police.

Mr. LATOURETTE. Who was responsible for assembling the prosecutor's file in this case? Who determines what goes into the prosecutor's file and what doesn't?

Mr. MCDONOUGH. Well, the prosecutor mostly, and whatever materials come in.

Mr. LATOURETTE. This document was prepared 2 days after the murder, if that's a correct statement.

The Chelsea Police Department didn't do their own homicide investigations, so they called on the State Police. I understand that; but why, then, isn't the State Police report located within the prosecutor's file as you guys get ready to prosecute the Deegan murder case?

Mr. MCDONOUGH. I won't say that it isn't; I just don't recall. I know that Lieutenant Richard Gass was a State policeman at that time.

Mr. LATOURETTE. Mr. Tierney.

Mr. TIERNEY. Just very briefly. Part of what troubles me is this.

If counsel had received the evidence contained in the Chelsea Police Department report done by Lieutenant Evans and that had led to an investigation as to the whereabouts of the men named in the report but not named in the indictment, so beginning with whether the Supreme Judicial Court thought it was exculpatory, getting back to what the lead prosecutor in this case would have done if he had this information, if you were the person doing the research in this case for Mr. Zalkind, and you recall having this report that was authored by Lieutenant Evans of the Chelsea Police Department about the Deegan murder, how is it that document did not get before Mr. Zalkind and brought to his attention so that he could in fact question in more depth about those individuals?

Mr. MCDONOUGH. I can't speak for his memory of what his decisionmaking process was at the time, but the evidence report wasn't a part of the District Attorney's office. I think they found it at the time of the Salvati motion.

Mr. TIERNEY. Was it your responsibility to make sure that documents like that were in fact in Mr. Zalkind's file? Was that your role in the office at that time?

Mr. MCDONOUGH. To some extent, yes.

Mr. TIERNEY. Do you remember putting this document in that file?

Mr. MCDONOUGH. No, not this one.

Mr. TIERNEY. So you're assuming it was there?

Mr. MCDONOUGH. I assume it possibly was. I don't know.

I really don't know. I have no memory of this one being there. The Chelsea police report I knew was there.

Mr. TIERNEY. That's the report I'm talking about.

I'm talking about the report that was written by Lieutenant Thomas Evans of the Chelsea Police Department. In it he said he had information from Captain Renfrew that an informant of his had contacted him and told him that Roy French, Vincent Flemmi, Francis Imbuglia, Romeo Martin, Nicky Femia and a man called Freddi left the Ebb Tide restaurant at 9 at the evening of the Deegan murder and returned around 11. According to the report, Martin was alleged to have said to French, "We nailed him."

Mr. Flemmi appears in this document; and again, there's no mention of Joseph Salvati.

Mr. Zalkind testified that if he had seen the information in that report, he would have, perhaps prior to the return of the indictments, but certainly during the trial, caused a more concentrated investigation into the whereabouts of the men mentioned in the report who were not named in the indictment.

So with that report, sir—do you recall that report? You've said in an affidavit that you did; and do you recall it because you thought it important to the case to put it in Mr. Zalkind's preparatory file?

Mr. MCDONOUGH. It was in the file somewhere; I know that. It's in the custody of the DA's office now.

But that evidence, if you can call it evidence, would not be conclusive anyway.

Mr. TIERNEY. No, no. I don't want to keep going back to it. I want to give you that point for what it's worth right now.

You're the person who, I understand, prepared Mr. Zalkind's trial file?

Mr. MCDONOUGH. To some extent, yes.

Mr. TIERNEY. To a good extent?

Mr. MCDONOUGH. Yes, that's fair.

Mr. TIERNEY. It was your job?

Mr. MCDONOUGH. Yes.

Mr. TIERNEY. You recalled this document, and you thought it was important enough in that trial to put it in Mr. Zalkind's file for preparation purposes?

Mr. MCDONOUGH. It was among the documents we had, yes.

Mr. TIERNEY. Was it among the documents that you culled out from the others included in the trial preparation file?

Mr. MCDONOUGH. I don't know what you mean by a trial preparation file.

Mr. TIERNEY. In the course of preparing the file for Mr. Zalkind to use at trial, you didn't take some information and say, that's not something I want to use at trial, and take something else and say, that's something I want to put in his trial file; you just put everything in one file?

Mr. MCDONOUGH. It didn't work the way you say.

Mr. TIERNEY. How did it work?

Mr. MCDONOUGH. Well, we had reports, but then when the witnesses came, we dealt with it as we went along.

Mr. TIERNEY. How did you deal with this when the witnesses came up? How did you deal with this one?

Mr. MCDONOUGH. In the first place, I don't think it's accurate. The information in it that the phone call came to French, French didn't need any phone calls; French was there. Why would anybody tell him that we nailed him? I wouldn't regard that as reliable information anyway.

Mr. TIERNEY. Back at that time, do you recall whether or not you thought this was a significant document that should be brought to Mr. Zalkind's attention?

Mr. MCDONOUGH. I don't remember bringing that specific portion of it to his attention.

Mr. TIERNEY. Is it significant to you now that Mr. Zalkind thinks it was significant, in that if he had had it, he would have done a more thorough inquisition of the gentlemen who were not named in the indictment but were named in the report?

Mr. MCDONOUGH. I don't know what he could have done with it; because the defense lawyers cross-examined Barboza extensively with regard to this very matter, with regard to the very same names.

This was all brought out in their cross-examination, and as part of their argument.

Mr. TIERNEY. But you don't recall specifically bringing it to Mr. Zalkind's attention, or indicating you thought it was in any way significant?

Mr. MCDONOUGH. No. My concern, as I said, was informants, and that's how I remember the documents.

Mr. TIERNEY. Thank you.

Mr. LATOURETTE. Mr. Lynch.

Mr. LYNCH. No questions at this time.

Mr. LATOURETTE. Mr. Delahunt.

Mr. DELAHUNT. Mr. McDonough, you referred to cross-examination by the defense counsel, and obviously you're indicating that they did have this Chelsea police report at their disposal.

Mr. MCDONOUGH. I don't know that. They had the information, no question about it; and the Supreme Court has inferred that they did have the same information.

Mr. DELAHUNT. We don't know whether they had this particular report, but you claim at least that they had this information?

Mr. MCDONOUGH. Oh, definitely.

Mr. DELAHUNT. But what they didn't have was access to the informants?

Mr. MCDONOUGH. But they had access to Lieutenant Evans, and they could have asked him for his report on the stand.

Mr. DELAHUNT. But let me ask you this. I think we can agree that the role of the prosecutor ought to be to do justice.

Mr. MCDONOUGH. No question.

Mr. DELAHUNT. Correct?

Mr. MCDONOUGH. No question.

Mr. DELAHUNT. Do you see any sort of responsibility on the part of government, whether it be state or the Federal Government, to vet a particular report, whether it be an FBI report or a State Police report or a Boston report or a Chelsea report?

Mr. MCDONOUGH. In the abstract, I'd say they do.

Mr. DELAHUNT. Well, in reality; because clearly I hope and believe that it's the responsibility of the government to investigate and to be satisfied that they're indicting those that are truly responsible.

If there should be information, I won't even call it exculpatory, but that tends away from particular topics and a particular subject, would you agree it ought to be pursued by the government; not by defense counsel on cross-examination, but by the District Attorney's office and the investigative agencies?

Mr. MCDONOUGH. The answer, I think, is yes.

Mr. DELAHUNT. That's the point that my colleague is making.

You sat here this morning as we've been talking again about the problems that are endemic, some of us believe, in terms of the Department of Justice as well as the FBI, in terms of disclosure.

There's a case going on across the street that we're all familiar with that most likely would not have occurred but for, you know, a Federal District Court Justice by the name of Mark Wolf threatening the Department of Justice with contempt, so that the names of particular informants were revealed.

So just simply to suggest that it's the burden of defense counsel on cross-examination to come up with this information—you know, we do have an adversarial system; I understand we have an adversarial system. But it's not a game; it's a search for the truth. And there are unfortunately too many cases where the government does not disclose the necessary information to secure the truth. That's what I think we've discovered during the course of these hearings.

Again, I don't disagree; the Supreme Judicial Court could rule that this wasn't necessarily exculpatory information.

But where I do disagree is at the responsibility of the government to pursue to whatever ends were necessary to make a determination that they were in fact proceeding against the right people.

In any event, you have no memory of a Boston police report. Have you had a chance, Mr. McDonough, to review the exhibit books?

Mr. MCDONOUGH. Just this morning.

Mr. DELAHUNT. Just this morning?

Mr. MCDONOUGH. Yes.

Mr. DELAHUNT. You had no information that you can remember from the FBI, the reports from the FBI that we've been discussing here this morning?

Mr. MCDONOUGH. There were no reports from the FBI.

I'll remind you that in those days, the FBI would never give you a 302 report, or whatever you call it; you had to get permission for an agent to testify from the Attorney General of the United States. They never gave us any information.

With regard to their presence, I think I met Rico once in the street, or was introduced to him. I never had a conversation with him. They were not present during the trial of this case.

During the trial of this case, actually, my memory was Barboza was not in Federal custody. Barboza was kept in a safe house which was run by the Suffolk County District Attorney's office, and he was also kept at the Barnstable County House of Correction.

Mr. DELAHUNT. Are you aware that in the Deegan case, Special Agent Condon did testify?

Mr. MCDONOUGH. Yes, I am.

Mr. DELAHUNT. But Special Agent Rico did not testify?

Mr. MCDONOUGH. That's right; he did not.

Mr. DELAHUNT. In your conversations with either of those two gentlemen, or with anyone else, did you have conversation that would have raised some doubts in your mind as to whether there was other information that you did not have available which would have compelled you to produce that information to counsel for the defense?

Mr. MCDONOUGH. No.

My memory is that the only reason Dennis Condon testified was that there was some suggestion that Barboza and Stathopoulos had been together with him, and they had compared notes as to the incidents in the alley.

Mr. DELAHUNT. So that was the rationale——

Mr. MCDONOUGH. That's all he testified to.

Mr. DELAHUNT. Are you practicing law, Mr. McDonough?

Mr. MCDONOUGH. I'm on the other side now. I'm semi-retired; I'm writing appellate briefs for the Committee on Public Counsel.

Mr. DELAHUNT. Thank you.

Mr. LATOURETTE. Mr. Wilson.

Mr. WILSON. Mr. McDonough, do you have any recollection of who participated in determining whether the death penalty would be sought in the Deegan case?

Mr. MCDONOUGH. No.

Mr. WILSON. Do you have any recollection——

Mr. MCDONOUGH. That was not an option, I don't think, at that time. The penalty for first-degree murder was the death penalty unless the jury recommended clemency.

Mr. WILSON. Well, we'll leave that.

Do you recall whether Jimmy Flemmi was ever put before a grand jury?

Mr. MCDONOUGH. Not to my knowledge.

Mr. WILSON. My last question is, do you recall whether anybody ever went back to Lieutenant Evans and asked him where he got his information for the report that was the Chelsea police report?

Mr. MCDONOUGH. Well, I was not involved in the trial; but it was Judge Banks who offered to produce the informant for the consideration of defense lawyers, and they declined the opportunity, I believe.

But that was in connection with the Salvati motion for a new trial; and at that time I suspect that Mr. McKenna talked to Lieutenant Evans of the Chelsea police.

Mr. WILSON. Do you know that, or is that speculation?

Mr. MCDONOUGH. I think I can say I know that. I wasn't present at any of those meetings, but——

Mr. WILSON. So McKenna spoke to Evans?

Mr. MCDONOUGH. I think he spoke with Barslowski and Lieutenant Evans.

Mr. WILSON. And what was McKenna's job at that time?

Mr. MCDONOUGH. McKenna handled the motion for a new trial in the Salvati case.

Mr. WILSON. Now, you mentioned that there was an informant, and Judge Banks offered to make that informant available.

Mr. MCDONOUGH. That came from the so-called Evans report.

Mr. WILSON. How do you know that?

Mr. MCDONOUGH. From reading the Salvati case and reading the report. Evans said Renfrew had an informant, or tipster as the Supreme Court called it; but I think it's actually a woman.

Mr. WILSON. How do you know that person was the only informant that Evans would have——

Mr. MCDONOUGH. I don't know that; but Evans said somebody told Renfrew, and that's in the report.

Mr. WILSON. Right. But do you have any knowledge that there was only one informant that gave information in the Chelsea police report?

Mr. MCDONOUGH. No, I don't. Just what the report says.

Mr. WILSON. So all you know is what's in the report and what's in the Supreme Judicial Court's opinion; is that correct?

Mr. MCDONOUGH. Correct.

Mr. WILSON. Do you have any other knowledge apart from those two documents that would shed light on any of the informant information?

Mr. MCDONOUGH. No.

Mr. LATOURETTE. Mr. McDonough, we thank you very much for coming here today. We thank you for answering all the questions we put to you, and you go with our thanks.

Mr. MCDONOUGH. Thank you very much.

Mr. LATOURETTE. The last witness to appear before the committee today is Wendie Gershengorn.

Welcome; we appreciate your being here today. It is the practice of the committee that all witnesses be sworn, and so I would like you to raise your right hand and stand.

[Witness sworn.]

Mr. LATOURETTE. I think, by agreement of the Members of the minority party, we're going to let Mr. Wilson, lead counsel, begin with the questioning; and if anybody else has questions, we'll go from there.

Mr. Wilson.

Mr. WILSON. Good afternoon.

## STATEMENT OF WENDIE GERSHENGORN, JUDGE, MIDDLESEX SUPERIOR COURT

Ms. GERSHENGORN. Good afternoon.

Mr. WILSON. Judge Gershengorn, how long have you served on the Massachusetts Parole Board?

Ms. GERSHENGORN. It was approximately 3 or 4 years. I can't remember the dates.

Mr. WILSON. Do you have a general recollection of how many commutation petitions you reviewed?

Ms. GERSHENGORN. No.

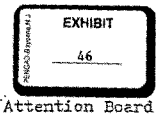
Mr. WILSON. Is it safe to assume it is a fairly large number?

Ms. GERSHENGORN. It was a large number.

Mr. WILSON. We wanted to focus on one document. It's exhibit 46; and we've supplied this to you in advance of the hearing, so hopefully you've had an opportunity to review exhibit 46. Do you have that in front of you now?

[Exhibit 46 follows:]

M E M O R A N D U M




DATE: 11-29-76

TO: Board of Pardons, Special Attention Board Member Gershengorn

FROM: Joseph M. Williams, Jr., Superviso, Warrant, Investigation Ur

RE: Joseph L. SALVATI
W-31833

CONFIDENTIAL

As you advised on 11-17-76, the above subject has applied for a commutation of his sentence, one major reason being that subject claims he wasn't in on the murder.

For your information, please be advised of the following:

1. Subject prior to his present offense was associating openly with alleged members of organized crime. He has been described as a runner, hanger around, coffee man, and also the driver for Larry Bione.

2. His known associates have been Cassesso, Barboza, LaMattina, etc

3. Please see attached confidential Field Investigation Reports fro Boston Police. The total attached are 20 in number. They indicate the following:

   A) Page 1, 1) Associated with Joseph Cartolano former parolee of this Officer re: Insurance risk, 2) Association with Gaetano Ancuitto;

   B) Page 2, 1) Association with Fred Sarno (now doing time), 2) Association with Russell Saia;

   C) Page 3, 1) Association with Anthony Andrella, 2) Association with Peter Plaganga, 3) Association with Tony Canadian (this Officer had Tony's adopter son on parole. His uncle was Leo Santaniello former MCI Walpole);

   D) Page 4, 1) Associated with Ralph Lamattina (did time for conspiracy to morder Bratos Joe Barboza's friend who was collecting money for Barboza's trial and was killed in LaMattina's Bar.)

   E) Page 6, 1) Associated with Joseph Spinale (presently on parole nickname Skinny, M.O. is receiving stolen goods, and flim flams;

   F) Page 7, 1) Associated with John Iocco. who in turn associates with organized crime figures;

Joseph L. SALVATI
W-31833

CONFIDENTIAL

G) Page 8, 1) Associated with Freddy Sarno (now doing time for Arson of a furniture store in Woburn;

H) Page 12, 1) Associated with Henry Tagliari, considered by law enforcement to be closely associated with Raymond Patriacc

I) Page 14, 1) Associated with Anthony Troisi known receiver;

J) Page 19, 1) Associated with Angelo Mercurio (on parole and is still on for murder, and known to associate allegedly with organized crime figures).

4. The "word" from reputable law enforcement officers was that subje was just thrown in by Barboza on the murder because he hated subject, that Joseph Barboza was asked by people was this true an that Barboza denied this.

THE ABOVE IS FOR INFORMATION PURPOSES.

JMW:js

Ms. GERSHENGORN. I do.

I'm sorry; but I was told by Mr. Mutton that it was customary for me to be permitted to just make a short statement, and I did want to just do that.

Mr. LATOURETTE. You know what? That's my job, and I apologize for that. It absolutely is your right and opportunity to make a short statement. We would welcome you to do that.

Ms. GERSHENGORN. I first of all wanted to thank you all for my being here in the way that I am here, because Mr. Wilson was kind enough when he first contacted me to offer to speak to me informally.

Since at that time I believe there was an active case pending in the Superior Court involving these issues, and indeed involving the very person that I understand you're going to want to speak to me about today, I thought it was important, and I thought that it was even required under the Code of Judicial Conduct, for any comments that I made to be on the record. So I appreciate your accommodating that request.

Those same rules as I read them prohibit me from making any public comments about pending or impending public cases.

So again, I appreciate your accommodating that aspect by being willing to summons me so that I can speak to you; and I am delighted to share any information I have with you and answer any of Mr. Wilson's questions.

Mr. LATOURETTE. I want to thank you very much for that, Judge; and I apologize for not doing that to Mr. McDonough in the back of the room. I didn't deny that opportunity, but I didn't give the opportunity to Mr. McDonough.

The record of this hearing will be open for a period of 7 days; and if there's a statement that you would like to provide to us, an opening set of remarks, Mr. McDonough, you're more than welcome to do that, and we'll be more than happy to receive that.

Mr. Wilson.

Mr. WILSON. Exhibit 46, which you have before you, is a memorandum dated November 29, 1976, and it is to the Board of Pardons, Special Attention Board Member Gershengorn, from Joseph M. Williams, Jr., Supervisor, Warrant Investigation Unit; and it's involving Joseph Salvati.

Who was Joe Williams, Judge Gershengorn?

Ms. GERSHENGORN. Mr. Williams was a parole officer. He was the head of the investigation unit, warrant department; he was a supervisor. He actually did all of the investigations.

Mr. WILSON. We've spoken with many people, and their general consensus was that he took his job seriously. Would you agree with that assessment?

Ms. GERSHENGORN. I would; I would.

Mr. WILSON. Do you know why Mr. Williams prepared this particular report?

Ms. GERSHENGORN. I have no memory of this specific report; so I can't say I know why he prepared the report, no.

Mr. WILSON. Do you recall asking him to provide a report?

Ms. GERSHENGORN. The report is dated November 29, 1976, and Mr. Williams, in the report, says, "As you advised on 11–17–76."

I don't know why I asked him; but I can tell you what my practice was, if that is helpful to you.

Mr. WILSON. Pardon?

Ms. GERSHENGORN. I can tell you what my practice was; but I have no recollection, no specific recollection.

Mr. WILSON. Just very briefly, was it your practice in cases where you had questions to ask for a report to be prepared for you?

Ms. GERSHENGORN. Yes.

Mr. WILSON. And do you recall that happening, although not in this case?

Ms. GERSHENGORN. In general, my procedure was to ask staff to get all the information they could about a petitioner, and different persons were responsible for different areas of questions.

Mr. WILSON. This document indicates that it was prepared at your request.

Ms. GERSHENGORN. Correct.

Mr. WILSON. Is it fair to say that reports such as this were not prepared for every single commutation request?

Ms. GERSHENGORN. Every commutation request came in as a petition with reasons why that person believed they should get a commutation; and obviously, depending on what reasons they gave, that would direct the kind of investigation or questions that you have.

If they say that they had worked for many years in a hospital program with severely incapacitated kids, you'd ask a staff member to get all of the records from the hospital that involved the kind of work he was doing; everyone he knew.

Mr. WILSON. What I'm getting at is, Mr. Williams didn't prepare a report like this for every single commutation request; is that correct?

Ms. GERSHENGORN. No.

Mr. WILSON. He had to be asked to prepare a report; is that correct?

Ms. GERSHENGORN. He had to be asked to prepare a report, and the report would depend on the person.

Mr. WILSON. If we could turn to the second page of exhibit 46, there are four points made in the memorandum, and I'll read the fourth in full for the record.

"The 'word' from reputable law enforcement officers was that subject was just thrown in by Barboza on the murder because he hated subject, that Joseph Barboza was asked by people, was this true, and that Barboza denied this"; and the second word, "word," in this section is in quotation marks.

Do you have any recollection as to whether you did anything further after you received this memo and read this section?

Ms. GERSHENGORN. As I say, I have no memory of this particular petition or the events specifically surrounding it; but when you called me I told you that it might help reconstruct what happened if I could have the whole request for commutation from Mr. Salvati, or from counsel if he was represented by counsel.

I would have written notes, I would have seen who came on Mr. Salvati's behalf, and I would have had some opinion, given a vote with an opinion, and that would perhaps refresh my recollection.

But I have no specific memory of doing anything as a result of this information.

Mr. WILSON. If it's acceptable to the chair, we're waiting to receive some information that we thought we would have received by this week; and when we obtain that information, if it's agreeable to you, we will provide you information, and if there's something that furthers our purposes you can perhaps provide a written on-the-record response for inclusion in the record.

Ms. GERSHENGORN. I would be happy to.

Mr. WILSON. Let me just go to where we're ultimately going to.

This is a very short memorandum, and it seems to be somewhat significant that the final point is that the "word" from reputable law-enforcement officers was that this individual was not at the crime, that he was convicted, and indeed it was a capital crime that he was convicted of committing.

Obviously the question arises, how did this information strike you at the time, and what did you do next? And I think you've answered the question that you don't have any recollection; is that correct?

Ms. GERSHENGORN. That's correct.

Mr. WILSON. Do you recall whether any other board members at the time had any questions about Mr. Salvati's case? Moving away from this document, were there other questions that were shared amongst the Parole Board members?

Ms. GERSHENGORN. Every member would have voted on this case.

To the extent that the member was one who was inclined to give reasons for their decision, those reasons would have been expressed on the vote sheet, which I assume you have because it's part of the corrections commutation file.

So I'm afraid I don't understand the question.

Mr. WILSON. No; the question is, aside from this particular document, do you recall any discussions amongst the other board members or observations made by them that, for example, they had concerns about this particular commutation application, and specifically there was an argument that the person convicted was innocent, and then there was an official report prepared by the man who prepared reports for the board that indicated that some reputable law-enforcement officers thought that he was thrown into this murder because the person that testified against him didn't like him, and he was not at the crime, which seems to be a fairly salient piece of information in the context of a commutation application for somebody who had been through a capital-murder case?

Ms. GERSHENGORN. I think I wasn't understanding where you were going with that, and what you were asking me.

To the extent that I've devoted my entire professional career to the criminal-justice system, the justice system, as a public defender and Federal defender, District Court judge and Superior Court judge for 20 years, I am constantly concerned that there may be innocent people incarcerated.

It has been with me all the time, as a public defender and Federal defender, that I was perhaps not doing enough, that somebody else perhaps could have done a better job.

As a Superior Court judge, it's a significant part of my jurisdiction to look at motions for new trials; and in Massachusetts motions for new trials because of newly discovered evidence are always entertained.

So, yes, whenever a person tells me such a thing—and I think my colleagues on the board, every one of them, feels this way—that was an area that you would just really feel in the pit of your stomach.

However, No. 1, it was not unusual for persons appearing before the Parole Board or the Governor's Board of Commutations to tell us that they weren't responsible.

That aside, the oath that we took was to enforce the law; and the statute that creates the Parole Board and that creates the Governor's Board of Commutations in Massachusetts is one that constrains the role of the government.

The statute specifically says that the Board shall not review the proceedings of the trial here, and shall not consider any questions regarding the correctness, regularity or legality of such proceedings.

And so the Parole Board was just not a place that was designed to or that could consider guilt or innocence. We weren't equipped for it; but, and equally as important, it wasn't what we were permitted to do.

Mr. WILSON. That anticipates my next question, which is simply the what-next aspect.

You asked for a memo to be prepared; a memo was prepared, and what happened next? And I think it's fair to say you don't recall what happened next.

Ms. GERSHENGORN. Do you mean what happened as far as a vote?

Mr. WILSON. Well, anything that's pertinent to this case and your involvement.

Ms. GERSHENGORN. I have no specific memory of the taking of a vote on this case.

So I guess the answer is, I have no memory of what happened next; except that I'm a judge, and I read the advance sheets, I read the reports, and I know that the Supreme Judicial Court and a judge of the Superior Court reviewed this case as late as 1995, and the judge of the Superior Court reviewed it yet again within perhaps the past year.

Mr. WILSON. My last question has a couple parts to it.

Did any Federal law-enforcement personnel speak with you about Louis Greco?

Ms. GERSHENGORN. Again, I have no memory of that. I have no memory of who Mr. Greco is.

There has been only one occasion, which has nothing to do with any of these individuals, on which I remember any law-enforcement person appearing before the Parole Board. That was done in a session on the record, and had nothing to do with any of these individuals.

Mr. WILSON. I'll ask the same question putting the three names again, Peter Limone, Henry Tameleo and Joseph Salvati; and I think your answer would be no?

Ms. GERSHENGORN. No.

Mr. WILSON. Do you have any recollection of any law-enforcement personnel speaking to you about a parole or commutation in an ex parte fashion?

Ms. GERSHENGORN. Never. Never.

Mr. WILSON. Do you have a recollection that you did not have one?

Ms. GERSHENGORN. I have no recollection in this matter; I guess that should be the predicate. It was many years ago. There was nothing really unusual about it. I have no memory.

But I have no memory of any law-enforcement person coming to speak to me.

You say ex parte. In those days, the petitioner himself would often come, because lifers in those days got furloughs, and they would come to the Board. Family members would come, and that would be in a sense ex parte. They would actually come and talk to a member.

But law enforcement did not. I don't remember any time law enforcement did.

Mr. WILSON. Thank you.

Mr. DELAHUNT. Wendie, how are you?

Ms. GERSHENGORN. Good.

Mr. DELAHUNT. These applications by the four individuals that Mr. Wilson listed received a lot of attention. They were high-profile matters. I don't know whether you have a memory of the publicity surrounding the hearings. I see Mr. Salvati here and Mr. Limone. Do you have a memory of the publicity surrounding those hearings?

Ms. GERSHENGORN. In 1970—there weren't——

Mr. DELAHUNT. When did you serve on the Board? From when to when?

Ms. GERSHENGORN. 1975 through 1979.

Mr. DELAHUNT. Through 1979; OK.

Ms. GERSHENGORN. And this petition was around 1976.

I don't recall. I don't recall this at all, but I don't recall a hearing being given. I mean, I don't recall a public hearing at that time.

Mr. DELAHUNT. Who was the chair during your tenure on the Parole Board?

Ms. GERSHENGORN. Judge Chernoff.

Mr. WILSON. Judge Chernoff was the chair of the Parole Board at the time?

Ms. GERSHENGORN. Yes.

So, was there a hearing? I don't recall any hearing.

Mr. DELAHUNT. I don't want to belabor this, but the committee has a number of statements and testimony relative to the issues and concerns surrounding the petitions. Maybe the staff could provide them to you, to see if it evokes any memory whatsoever.

And why don't we just simply leave it like that, Mr. Chairman. Thank you.

Mr. LATOURETTE. Judge, I want to thank you very much for your participation this afternoon, for your answers.

As we indicated, there may be additional information coming your way. We would appreciate whatever response you have in response to that.

I want to thank all of our witnesses for appearing today; and with that, this hearing is adjourned.

[Whereupon, at 1:40 p.m., the committee was adjourned.]

[A complete set of exhibits for the hearing record follow:]

## EXHIBIT LIST

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| **Exhibit** 1 | 5-25-64 | SA Condon memo: (REDACTED) was contacted on 5/22/64 said he was in contact with [Vincent "Jimmy"] James Flemmi. "Flemmi told him that all he wants to do now is to kill people, and that it is better than hitting banks. . . . INFORMANT said Flemmi said that he feels he can now be the top hit man in this area and intends to be." |
| **Exhibit 2** | 6-4-64 | Boston letter to Director, FBI: "[Vincent "Jimmy"] Flemmi is suspected of a number of gangland murders and has told the INFORMANT of his plans to become recognized as the No. One 'hit man' in this area as a contract killer." |
| **Exhibit 3** | 10-8-64 | H. Paul Rico memo to Boston SAC: INFORMANT said that (REDACTED) and [Vincent] "Jimmy" Flemmi wanted to be considered the "best hit man (sic)" in the area. |
| **Exhibit 4** | 10-18-64 | FBI learns from INFORMANT that Vincent "Jimmy" Flemmi wants to kill Teddy Deegan. (Rico Memo to SAC; SAC Memo to Director). |
| **Exhibit 5** | 10-20-64 | Boston airtel to Director: [Vincent "Jimmy"] Flemmi asked Limone about Deegan. After Flemmi left, Limone called Deegan and told him Flemmi was looking for him concerning a $300 loan Flemmi claimed Deegan owed him. Deegan denied owing the loan. Limone and Deegan believed Flemmi was out to kill Deegan. |
| **Exhibit 6** | 12-28-64 | FBI INFORMANT [NAME REDACTED BY THE COMMITTEE] stabbed 50 times and then shot. His body is found in the South End. Vincent "Jimmy" Flemmi committed the murder and Director Hoover was informed of this fact. |
| **Exhibit 7** | 3-9-65 | FBI targets Vincent James ["Jimmy"] "The Bear" Flemmi to be an INFORMANT. The document states that "Flemmi also is believed to be involved in the murders of the following individuals: REDACTED SECTION. The document further states that Flemmi was the subject of "an unlawful flight to avoid prosecution" for armed robbery. [*On April 25, 2002, the Department of Justice released this document to the Committee in unredacted form. The unredacted document revealed the names of three men murdered by Jimmy Flemmi.*] |
| **Exhibit 8** | 3-10-65 | Boston airtel to Director: "Angiulo told Patriarca that Vincent Flemmi was with Joe Barboza when he, Barboza, killed REDACTED in Revere, Mass. several months ago. . . . According to Patriarca, another reason that [Vincent "Jimmy"] Flemmi came to Providence to contact him was to get the "OK" to kill Eddie Deegan[.] It was not clear to the INFORMANT whether he received permission to kill Deegan; however, the story that Flemmi had concerning the activities of Deegan in connection with his, Deegan's, killing of (REDACTED) was not the same as Jerry Angiulo's."[*On April 25, 2002, the Department of Justice released this document to the Committee in unredacted form. That document revealed that Flemmi was with Barboza when Barboza killed [NAME REDACTED BY THE COMMITTEE] and Flemmi's story "concerning the activities of Deegan in connection with his, Deegan's, killing of [NAME REDACTED BY COMMITTEE – NAME IS NOT DEEGAN] was not the same as Jerry Angiulo's."*] |
| **Exhibit 9** | 3-10-65 | FBI memo from H. Paul Rico. INFORMANT said Vincent ["Jimmy"] Flemmi said that Patriarca okayed hit on Deegan. A dry run was made and Deegan's close associate agreed to set him up. |
| | 3-12-65 | Edward "Teddy" Deegan murdered. |
| **Exhibit 10** | 3-13-65 | Same INFORMANT from March 10 memo tells Agent Rico in detail who killed Deegan and how. INFORMANT said Vincent "Jimmy" Flemmi contacted INFORMANT and said Deegan was lured to finance company to be killed: "INFORMANT advised [Vincent] 'Jimmy' Flemmi contacted him and told him that the previous evening Deegan was lured to a finance company in Chelsea and that the door of the finance company had been left open by an employee of the company and that when they got to the door Roy French, who was setting Deegan up, shot Deegan and Joseph Romeo Martin and Ronnie Cassessa came out of the door and one of them |

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| | | fired into Deegan's body. While Deegan was approaching the doorway, he (Flemmi) and Joe Barboza walked over towards a car driven by Tony "Stats" and they were going to kill "Stats" but "Stats" saw them coming and drove off before any shots were fired. Flemmi told INFORMANT that Ronnie Cassessa and Romeo Martin wanted to prove to Raymond Patriarca they were capable individuals, and that is why they wanted to 'hit' Deegan. Flemmi indicated that they did an 'awful sloppy job.' This information has been disseminated by SA Donald V. Shannon to Capt. Robert Renfrew of the Chelsea, Mass. PD." (Memo dated March 15, 1965 from H. Paul Rico to SAC). |
| **Exhibit 11** | 3-14-65 | Boston Police Department report regarding the Deegan murder. |
| **Exhibit 12** | 3-14-65(?) | Chelsea Police report regarding the Deegan murder. |
| **Exhibit 13** | 3-15-65 | Massachusetts State Police report regarding the Deegan murder. |
| **Exhibit 14** | 3-23-65 | Memo from Boston FBI to REDACTED states that Barbosa [sic] claims that he had shot Teddy Deegan with a .45 caliber gun. PCI related that Barbosa [sic] indicated that Roy French was with Deegan and another individual when Deegan was shot by Barbosa [sic] and two other individuals, one of whom INFORMANT believed was Romeo Martin.<br><br>PCI stated that he had heard that Joe Barbosa [sic] was extremely friendly with Jimmy Flemma [sic] from Dudley Street. He stated that Barbosa [sic] had tried to reach Jimmy Flemma [sic] a short time ago and wanted to know if Flemma [sic] has gone to Providence to see Raymond (Patriarca). PCI subsequently determined from a source that Jimmy Flemma [sic] had gone to Providence, R.I. earlier on the day that Barbosa [sic] had tried to contact Flemma [sic].<br><br>PCI stated that Jimmy Flemma [sic] had gone to Providence just before Teddy Deegan was slain in Chelsea. |
| **Exhibit 15** | 6-4-65 | Memorandum from Director, FBI to SAC, Boston regarding BS 919 PC [Jimmy Flemmi]: "Advise Bureau by 7/1/65 [the] status of your efforts to effect the development of the above-captioned target." |
| **Exhibit 16** | 6-9-65 | Memorandum to Director J. Edgar Hoover presumably in response to his inquiry five days earlier: "It is known through other INFORMANTS and sources that this individual [Jimmy Flemmi] has been in contact with Raymond L. S. Patriarca and other members of La Cosa Nostra in this area, and potentially could be an excellent INFORMANT. Concerning the INFORMANT's emotional stability, the Agent handling the INFORMANT believes, from information obtained from other INFORMANTS and sources, that BS-919-PC [Vincent "Jimmy" Flemmi] has murdered (REDACTED), (REDACTED), (REDACTED), (REDACTED), Edward "Teddy" Deegan, and (REDACTED), as well as a fellow inmate at the Massachusetts Correctional Institution, Walpole, Mass., and, from all indications, he is going to continue to commit murder. . . . Although the INFORMANT will be difficult to contact once he is released from the hospital because he feels that (REDACTED) will try to kill him, the INFORMANT's potential outweighs the risk involved." (Memorandum from SAC, Boston to Director, FBI dated 6/9/65) [*On April 25, 2002, the Department of Justice released an unredacted version of this document to the Committee. That document revealed the names of six of the seven murder victims.*] |
| **Exhibit 17** | 11-3-65 | Memo from SAC, Boston to Director, FBI stating that "Stephen Joseph Flemmi, FBI REDACTED is being designated as a target in this program, [Top Echelon Criminal Informant]." |
| **Exhibit 18** | 3-8-67 | SA's Rico and Condon interview Barboza at Walpole. Barboza said he would talk to the agents as long as they would not testify against him to what he told them. They said they would respect his confidence. Barboza said he would never provide information that would allow James Vincent ["Jimmy"] Flemmi to 'fry' but that he will consider furnishing information on these murders." (FBI Interview Summary prepared by Rico and Condon) |

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| **Exhibit 19** | 3-28-67 | SAC, Boston informs Director Hoover by memorandum about an interview of Joe Barboza. Follow-up of 3/8/67 interview between Barboza, Rico, and Condon conducted at the Federal Building, Boston. Barboza said he also discussed his last interview with the agents with Vincent "Jimmy" Flemmi and he had told Flemmi that he was considering having Fabiano cooperate with the FBI, and that Flemmi indicated that was an excellent idea. Barboza also said he would give information, but that he would not testify. This document further states that "[t]his office is aware of the distinct possibility that BARRON [sic], in order to save himself from a long prison sentence, may try to intimidate FABIANO into testifying to something that he may not be a witness to." |
| **Exhibit 20** | 5-24-67 | Airtel from Director, FBI to SAC, Boston: "A review of the Bureau records reveals that no investigation of Barron [sic] has ever been conducted by your office. In view of the current circumstances, the Bureau should be cognizant of all background information. Therefore, you should submit to the Bureau an investigative report per instruction set out under the Criminal Intelligence Program containing all background and identifying data available." |
| | 6-6-67 | Prosecution Memorandum regarding Willie Marfeo murder shows federal prosecutors thought potentially exculpatory material regarding the Deegan murder was so significant it had to be disclosed in the Marfeo case. The government will not permit disclosure of this document. |
| **Exhibit 21** | 6-20-67 | Memo from SAC, Boston to Director, FBI recommending quality salary increases for Rico and Condon. The memo discussed Rico and Condon's handling and development of Top Echelon Criminal INFORMANTS in the Boston Office, including INFORMANT BS 955 C-TE, and praised their efforts and results. The memo also described Barboza as a murderous ruffian: "BS 955 C-TE was developed by [Rico and Condon] and via imaginative direction and professional ingenuity utilized said source in connection with interviews of Joseph Baron, a professional assassin responsible for numerous homicides and acknowledged by all professional law enforcement representatives in this area to be the most dangerous individual known." [Note: From records recently released to the Committee by the Justice Department BS 955 is Stephen Flemmi] |
| **Exhibit 22** | 6-22-67 | Officer Robson talked to Anthony Stathopoulos. Stathopoulos had a lot of discussions with Patrick Fabiano at Deer Island, and Fabiano said the beef between Barboza and Stathopoulos was cleared up. Stathopoulos told Robson that he actually saw Ronnie Cassesso with a gun in his hand and Romeo Martin. He did not see the others involved. At trial, he testified he saw Louis Greco. |
| **Exhibit 23** | 6-23-67 | Memorandum from J. H. Gale to Cartha DeLoach recommending incentive awards for Rico and Condon. This memorandum discusses the use of BS 955-C-TE to obtain Barboza's cooperation. This memorandum also indicates that Rico and Condon had been censured. |
| **Exhibits 24, 25** | 7-3-67 | H. Paul Rico and Dennis Condon received a $150 incentive award for their use of Steve "The Rifleman" Flemmi to obtain Joseph Barboza's testimony against the Deegan defendants, Raymond Patriarca and Gennaro Angiulo. |
| **Exhibit 26** | 7-18-67 | Report made by Thomas Sullivan from the Boston FBI Office re: Barboza per instructions from Director (*see* 5-24-67 entry): "Enclosures to Bureau – Original and one copy of a letterhead memorandum characterizing INFORMANTS used in this report." The section on INFORMANTS was completely redacted. A large portion of the remaining text under the heading Administrative is also redacted. That portion reads as follows: "REDACTED SECTION. REDACTED SECTION that Ronnie Cassessa and Joe Barboza were responsible for the shooting of Romeo Martin in Revere, Massachusetts. REDACTED SECTION. REDACTED SECTION that Joseph Barboza was the individual who shot and killed Di Stasio and O'Neil at the Mickey Mouse Lounge in Revere, Massachusetts, the previous weekend. The INFORMANT stated that Barboza had been in the Mickey Mouse Lounge a couple of weeks ago and after he left, someone took several shots at him and Barboza suspected that Di Stasio had set him up with the McLaughlin crowd. As a result of this, Barboza returned and killed Di Stasio and O'Neil. |

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| | | **REDACTED SECTION** that Joseph 'Chico' Amico and Guy Frizzi are always together and were usually with Joe Barboza before Barboza went to jail. The INFORMANT stated he heard reports that Barboza and Guy Frizzi were the ones who 'bumped off' Teddy Deegan a few months ago in Chelsea, Massachusetts. **REDACTED SECTION** that while Joe Barboza was on trial in Suffolk Superior Court he decided to make one more 'hit.' He was trying to hit 'Indian Al' from Medford, Massachusetts. At the time Barboza made his move against 'Indian Al,' he was in the company of 'Chico' Amico, Nick Femia, and Guy Frizzi. REDACTED SECTION that Joseph Barboza, Romeo Martin and Ronnie Cassessa are frequently in attendance at the Ebb Tide in Revere, Massachusetts. REDACTED SECTION that Joe Barboza is very frequently with Romeo Martin, Ronnie Cassessa, and Frank Imbruglia. Barboza was supposed to have 'hit' Francione of Revere, Massachusetts, and also 'hit' Eaton. He also stated that Barboza was in prison with Benjamin, who was murdered after he left prison. The INFORMANT stated that Barboza is a Portuguese kid who would otherwise be accepted in the LCN except for his nationality. Barboza claims that he shot Teddy Deegan with a .45 caliber gun. Barboza indicated that Roy French was with Deegan and another individual when Deegan was shot by Barboza and two other individuals, one of whom the INFORMANT believes was Romeo Martin. The INFORMANT stated he heard that Joe Barboza was extremely friendly with Jimmy Flemmi. The INFORMANT added that Barboza tried to reach [Vincent] Jimmy Flemmi a short time ago and wanted to know if Flemmi had gone to Providence, Rhode Island, to see Raymond Patriarca. REDACTED stated that he had heard that Joe Barboza made the statement that Roy French was on the way out. INFORMANT stated that French hangs around the Ebb Tide in Revere and appears to be friendly with Barboza, Ronnie Cassessa and other individuals." REDACTED SECTION. This case is being placed in a closed status inasmuch as all information developed from interviews of Barboza by SA Dennis Condon and Paul Rico is being placed in Boston File 166-629 entitled 'Raymond L.S. Patriarca, aka; et al. ITAR.'" (*See also* Barboza's Suffolk County Court Record from 1945 to 1967.) |
| **Exhibit 27** | 8-28-67 | INFORMANT tells SA Rico that Larry Baione asked INFORMANT to contact Vincent "Jimmy" Flemmi on behalf of Jerry Angiulo to see if Flemmi can find some way to destroy Joe Barboza's testimony against Patriarca and Angiulo. The INFORMANT advised that when he is talking to Flemmi, he would point out to him that Barboza could end up seriously hurting him, Flemmi, if Flemmi did anything to attempt to discredit Barboza. INFORMANT further advised that Baione and Peter Limone have received information that Barboza is going to testify for Suffolk County on the murder of Deegan and that they will in all probability will attempt to make sure that Tony Stathapoulos will not be around to corroborate Barboza's testimony. |
| **Exhibit 28** | 10-25-67 | Memo from FBI Boston to FBI Director: (REDACTED) testified before the Suffolk County grand jury this date in connection with the gangland murder of Deegan. As a result of (REDACTED) testimony, indictments were rendered against Henry Tameleo, Peter Limone, Ronald Cassesso, Roy French, "Joe the Horse" Salvati, Louis Greco and Joseph Baron. |
| **Exhibit 29** | 11-4-67 | Boston Globe article: Assistant Suffolk County DA John J. Pino told a superior court judge that the government made no promises, offers or inducements to INFORMANT Barboza in return for his grand jury testimony. |
| **Exhibit 30** | 11-14-67 | Greco polygraph results: Truthful that Greco did not shoot or kill Deegan; was in Florida on 3/12/65; was not in Chelsea, MA on 3/12/65. The examination was conducted by Sgt. Harold Lokos, Director of the Polygraph Unit of the City of Miami Police Department. |
| **Exhibit 31** | 4-18-68 | Motion made by Deegan defendants for police reports is denied. |
| **Exhibit 32** | 7-19-68 | Special Agent Dennis Condon testifies in the Deegan trial. Stated that Barboza was not shown papers or reports. No facts about Deegan's death were communicated to Barboza. Condon states that it was not fair to say that he and Rico were "major figures, so to speak, with regard to the investigations surrounding the information furnished by Mr. Baron." He further stated that he was very careful not to impart any information to Barboza. |

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| **Exhibit 33** | 8-5-68 | Director Hoover personally commends H. Paul Rico and Dennis Condon for their work "in the investigation of a local murder case involving Roy French and others." |
| **Exhibit 34** | 11-15-68 | Memorandum from J.H. Gale to F.B.I. Deputy Director Cartha DeLoach written to "set forth the FBI's views with reference to the Department of Justice – 'Task Force' (also called 'Strike Force') concept on organized crime." The memorandum notes that a "principal objection [of the Task Force concept] is that the FBI's accomplishments would be submerged in the claiming of credit by the Task Force beyond its actual contribution, and they will wind up grabbing the lion's share of favorable publicity." The memorandum further points to the Boston prosecutions as the primary examples of "prosecutive achievement," and states "as a result of FBI investigation, in state court in Boston, Massachusetts, six more were convicted in the 1965 slaying of Edward Deegan. La Cosa Nostra members Henry Tameleo, Ronald Cassesso, Peter Limone and Louis Greco were all sentenced to death while two confederates were given life sentences." |
| **Exhibit 35** | 4-14-69 | Memo with Director, FBI at top and what appears to be Condon's signature at bottom. Subject is Joe Barboza: "Investigation is being initiated in connection with the TECIP to develop subject as a top echelon criminal INFORMANT; therefore, subject is being designated a target under this program. |
| **Exhibit 36** | 2-12-70 | Memorandum from Walter T. Barnes and Edward Harrington, Attorneys, Boston Strike Force to Henry E. Petersen, Deputy Asst. Atty. Gen'l states in relevant part: "I think it is fair to state that it was agreed by all in the Dept. of Justice that at the time [Barboza] was released from Government protection every effort would be made to provide him with a job and an unspecified sum of money. However, in the event it was impossible to obtain a job for him because of [Barboza's] extensive record . . . and inability to do anything, it was agreed that he would be provided additional money. This position was made known to [Barboza]. . . . Barboza said that he will now retract his prior testimony and will contact the press and tell them the government did not give him a "fair chance to go 'straight.'" We believe "if either of the above should occur, the Federal Government will receive a severe setback as the Patriarca and Tameleo cases might be overturned and plunge the Government into protracted and acrimonious litigation. In addition, informants willing to testify will be almost impossible to secure. We recommend that by some manner or means [Barboza's] request be honored to the degree possible. Of course it would be made perfectly clear to him that such money would be all that he would ever receive." |
| **Exhibit 37** | 8-3-70 | Memo from Boston SAC to FBI Director: Deputy Chief of the Strike Force Edward Harrington meets with Suffolk County DA Garrett Byrne and Jack Zalkind. Byrne said the affidavit signed by Barboza and filed with a motion for a new trial was not sufficient to warrant a hearing as it simply contains a general statement. The DA is going to confer with Judge Felix Forte (Deegan trial judge) and request that the motion is denied on this basis. The DA also plans to confer with John Fitzgerald who testified in the Deegan case. |
| **Exhibit 38** | 8-25-70 | "Baron told his brother to relay the fact that his wife has his papers re: Deegan murder trial and on which numerous handwritten notations of Assistant Suffolk County DA Zalkind appear, who presented the case." |
| **Exhibit 39** | 8-28-70 | Boston Globe article on Barboza's appearance in court the day before in a habeas corpus hearing: "Under direct questioning by F. Lee Bailey, Baron's lawyer, Baron admitted visiting Massachusetts, despite the terms of his parole, on five occasions. But he claimed he did so under FBI auspices on four of those five occasions. . . . He said that, on one occasion, he was asked by Federal agents to 'work' on a case involving the theft of a $500,000 painting." |
| **Exhibit 40** | Dec. 1970 | Lawrence Patrick Hughes (a.k.a. Larry Brown) and his wife meet with Dennis Condon, Jack Zalkind, and John Doyle in Dedham, MA to discuss relocating Hughes to Texas. (Hughes testimony at Clay Wilson trial) |

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| **Exhibit 41** | 1-5-71 | Anthony Stathopoulos affidavit says that John Doyle told him that Barboza said Louie Greco was in the alley shooting Deegan, and someone in the district attorney's office told him the seating arrangements of the defendants before he testified that Greco looked like the man he saw come out of the alley. On September 8, 1967, Boston police took Stathopoulos to Barnstable where he talked with Barboza. They discussed the testimony that they were going to give to the grand jury. Barboza told Stathopoulos that he was keeping Vincent Flemmi out of it "because he said that Flemmi was a friend of his and the only one who treated him decently." Before trial, Stathopoulos asked Jack Zalkind if he should talk to the defense attorneys who requested to speak to him. Zalkind told Stathopoulos not to do so because someone was trying to kill him. Stathopoulos said there were reports, the first entitled "John Doyle's Office" and the second related to statements by Officer Robson about his talks with Stathopoulos in June and July of 1967 *(see 6-22-67 entry)*. Stathopoulos said the second report was delivered to Zalkind by Doyle sometime after the trial. Stathopoulos said Doyle had papers in his hands and read some of it to Stathopoulos. Doyle asked "if parts were accurate and I agreed with him." |
| **Exhibit 42** | 8-22-72 | In a letter from Barboza to Dennis Condon and Ted Harrington, Barboza states: "But the fear of others concern is the [Romeo] Martin case, and Stewart's police report to Jerry on the Deegan matter[.]" |
| **Exhibit 43** | 1-29-74 | Airtel Memo from SAC, Butte to Director, FBI with detailed summary of Barboza interview: Barboza was interviewed at his request by the FBI at the Missoula County Jail in Missoula, Montana, where he was completing his incarceration for a second-degree murder conviction in California. "Baron advised that he desired the Justice Department be informed of the fact that he is willing to furnish new testimony against Raymond Patriarca and his henchmen concerning the murder of Romeo Martin, who was shot and killed in July, 1966. He stated that his motives for doing this were that he has a grudge against Patriarca and his lieutenants and wishes them to remain in jail and also because of the fact that Patriarca and the 'New England Family' have a contract for his death outstanding in the amount of $100,000." Barboza stated that Romeo Martin was shot and killed for two reasons: 1. Martin furnished information to Suffolk County, Mass., Detective Billy Stewart, who was on Partiarca's payroll, concerning the shooting and death of Teddy Deegan; and, 2. Prior to providing information regarding the Deegan murder, Martin attempted to buy into and control a penny arcade in which Patriarca was interested, without advising his lieutenant and, in turn, Patriarca. Barboza claims to have set up Martin, with William Geraway's assistance, by advising him by telephone that Martin was to meet with Ronald Cassesso and Joseph Dimico. Barboza further claims that his "assignment during [the Martin] murder was to drive a back-up car and immediately prior to the meeting, he made the last phone call to Martin giving him the time of the meeting and thus setting him up. Barboza stated that "the murder was ordered by Raymond Patriarca, and the plans for it were formulated by his lieutenants, Henry [Tameleo] and Jerry [Angiulo]. Barboza also indicated that he is afraid of being returned to California in light of the contract Patriarca has issued for him. Barboza also stated that he wanted Rhode Island Attorney General Israel, who was actively investigating the Martin murder to receive the foregoing information." |
| **Exhibit 44** | 2-11-74 | Airtel memo from Director, FBI to SACs Butte and Boston: "He now appears to be bargaining for a quick release and has furnished information concerning the murder of a New England hoodlum, Romeo Martin, July, 1965. Baron's [Barboza] information concerning the Martin murder has been furnished to Massachusetts officials and they have concluded that Baron would not make a credible witness and William Gerroway [sic], who is presently incarcerated in Massachusetts and whom Baron has stated would corroborate his information, is also considered by Massachusetts officials as a pathological liar. The Boston office sees no useful purpose to be served in detailed interviews of Baron at this time, and Butte has been so advised by Boston airtel dated 2-5-74." |
| **Exhibit 45** | 2-19-74 | Airtel memo from SAC, Boston to Director, FBI concerning the veracity of Barboza's information about the Martin murder: "Strike Force Head Gerald McDowell, Boston, Massachusetts, and Justice Department officials have previously indicated they would not |

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| | | proceed with [Barboza] as a major witness in future prosecutions as his credibility has been diminished by events since 1968." Further, "Attorney General Richard Israel, Rhode Island, advised Mr. McDowell he would not proceed on any future prosecutions with [Barboza] as a major witness." Moreover, "District Attorney Garrett Byrne, Suffolk County . . . advised he would not proceed with [Barboza] as a major witness in future prosecutions as happenings since 1968 have detracted from his value as a witness." The memo further states that "[Barboza's] information regarding Martin may be brought up at this time as another effort to obtain support in his bid for parole." |
| **Exhibit 46** | 11-29-76 | Memorandum from Joseph M. Williams, Jr., Supervisor, Warrant, Investigation Unit, to Wendy Gershengorn, Board of Pardons, Special Attention Board Member indicates that Salvati associated with a number of Italians tied to organized crime. "The 'word' from reputable law enforcement officers was that subject [(Salvati)] was just thrown in by Barboza on the murder because he hated subject, that Joseph Barboza was asked by people was this true and that Barboza denied this." |
| **Exhibit 47** | 12-21-77 | A polygraph indicates Greco did not kill Deegan. |
| **Exhibit 48** | 10-11-78 | Results of Greco polygraph. First polygraph inconclusive. Second, examiner found Greco truthful that he was not in MA when Deegan was killed; not present when Deegan was killed; and was not in MA on 3/12/65. |
| **Exhibit 49** | 10-13-93 | James M. McDonough, legal assistant in Suffolk County DA's office, affidavit: "I was aware and saw a report that had been authored by Lt. Thomas Evans of the Chelsea police department. To the best of my memory and belief the copy of the report is the same copy that was in the prosecutor's file during prosecution of the defendant's case." |
| **Exhibit 50** | 3-16-93 | Letter from Jack I. Zalkind to Robert P. Gittens, dated March 16, 1993. |
| **Exhibit 51** | 10-20-93 | Letter from Jack I. Zalkind to Robert P. Gittens, dated October 20, 1993. |
| **Exhibit 52** | 10-27-93 | Letter from Robert J. McKenna, Jr. to Jack Zalkind, dated October 29, 1993. |

EXHIBIT 1

SUBJECT: VINCENT JAMES FLEMMI, Aka.

[redacted] F.B

Memo of SA Dennis M. Condon 5/25/64 captioned: [redacted]

B

[redacted] was contacted on 5/22/64, advised that within the last few days he was in contact with [redacted] and JAMES FLEMMI. FLEMMI told him that all he wants to do now is to kill people, and that it is better than hitting banks. FLEMMI said that [redacted] have taken money for about six contract hits which they have not fulfilled. They spent the money for these hits drinking.

Informant said, FLEMMI said that he feels he can now be the top hit man in this area and intends to be.

[redacted]

FLEMMI told the informant that there was a big piece of money that came out of the hit on [redacted] and the informant gathered from FLEMMI's talk that he, FLEMMI, had made the hit.

[redacted] F.B

Boston letter to Director & SAC, Newark 5/25/64 captioned: [redacted]

[redacted] Informant stated that it appears that JAMES FLEMMI, a Roxbury, Mass. hoodlum, will probably become the "contract man" in the Boston area.

[redacted]

Boston letter to Director 6/4/64 captioned: [redacted]

F.B

This letter sets out information to the Bureau on [redacted] Under the heading CRIMINAL ASSOCIATES the following information appears concerning JAMES FLEMMI.

The informant is presently associated with [redacted] and JAMES FLEMMI. FLEMMI

EXHIBIT 2

SUBJECT: [redacted] VINCENT JAMES FLEMMI, Aka. [redacted]

F [redacted]-298

Memo of SA Dennis M. Condon 5/25/64 captioned [redacted]

[redacted] was contacted on 5/22/64, advised that within the last few days he was in contact with [redacted] and JAMES FLEMMI. FLEMMI told him that all he wants to do now is to kill people, and that it is better than hitting banks. FLEMMI said that [redacted] have taken money for about six contract hits which they have not fulfilled. They spent the money for these hits drinking.

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Informant said, FLEMMI said that he feels he can now be the top hit man in this area and intends to be.

[redacted]

FLEMMI told the informant that there was a big piece of money that came out of the hit on Frank Benjamin and the informant gathered from FLEMMI's talk that he, FLEMMI, had made the hit.

F [redacted]-299pg.2

Boston letter to Director & SAC, Newark 5/25/64 captioned: GEORGE PATRICK MC LAUGHLIN, Aka. - Fug. UFAP - MURDER.

B

[redacted] Informant stated that it appears that JAMES FLEMMI, a Roxbury, Mass. hoodlum, will probably become the "contract man" in the Boston area.

F [redacted]-300pg.5

B Boston letter to Director 6/4/64 captioned: [redacted]

B

This letter sets out information to the Bureau on [redacted] Under the heading CRIMINAL ASSOCIATES the following information appears concerning JAMES FLEMMI.

The informant is presently associated with [redacted] and JAMES FLEMMI. FLEMMI

SUBJECT: VINCENT JAMES FLEMMI, Aka.

F [redacted]-300 pg.5 (Cont'd)

is suspected of a number of gangland murders and has told the informant of his plans to become recognized as the No. One "hit man" in this area as a contract killer.

F [redacted]-300pg.6

This information appears also in [redacted]-298-previously mentioned. F

F [redacted]-305 Memo of SA Dennis M. Condon 6/18/64, [redacted] B

[redacted] said that in conversation with JIMMY FLEMI, FLEMI propositioned him to help him on any "hits" that he might make and repeated to the informant that there was a great deal of money for the "hit" on Frank Benjamin.

B [redacted]

[redacted] is up against it financially and [redacted] and JAMES FLEMI are pressing him for money he owes them.

Dates of contact by SA Condon- 5/29, 6/1, 6/5, 6/10/64.

F [redacted]-312 Memo of SA Dennis M. Condon 8/7/64, subject: [redacted]

Informant advised on [redacted] that JIMMY FLEMMI told him that George Mc Laughlin is not around Boston. FLEMMI has many dexedrine pills and uses them daily. B

[redacted]-313 Memo of SA Dennis M. Condon 8/21/64, subject: [redacted]

Informant contacted on 8/17/64 and advised he was recently in contact with Joseph Barboza. Barboza told him that he heard that JIMMY FLEMMI had killed Frank Benjamin and cut off his head. When speaking to FLEMMI, Barboza confronted FLEMMI with this information and FLEMMI's only reply was that He

SUBJECT: VINCENT JAMES FLEMMI, Aka.

F, M

[redacted] (Cont'd)

Deegan told FLEMMI that he intends to remain in hiding for a few weeks in order to avoid being questioned by police.

FLEMMI told the informant that Deegan told him that [redacted] was going to hit one of the members of the Boston Italian group at the Coliseum Restaurant. FLEMMI told informant that his was obviously an attempt to get the Italian element in Boston interested in eliminating [redacted] B

FLEMMI told informant that he wants to kill Deegan. Information relating to Deegan's participating in the killing of [redacted] was furnished to the Everett, Mass., Police Department on 10/18/64. [redacted] mentioned as [redacted] B

[redacted]

F, M, B

Boston airtel to Director, FBI 10/15/64 captioned: [redacted]

M

[redacted] FLEMMI told the informant that [redacted] had offered to help FLEMMI and his brother to "whack out" an individual with whom the FLEMMI'S were having trouble at [redacted] Cafe in [redacted] provided the FLEMMI'S would first join him in "hitting" [redacted] B

[redacted]

F, B

Memo of H. Paul Rico to SAC, Boston 10/8/64 and captioned: [redacted]

B

M

[redacted]



EXHIBIT 3

SUBJECT: VINCENT JAMES FLEMMI, AKA.

F

[redacted] (Cont'd)

M [redacted]

Informant advised 10/5/64, that he is friendly with the FLEMMI's, but VINCENT FLEMMI is an extremely dangerous individual. For example, he said that approximately Monday night, 9/28/64, VINCENT FLEMMI came into [redacted] bar room and immediately engaged

B [redacted] in a fight. During the fight FLEMMI took something out of his pocket and threw it into [redacted] eyes and then knocked him unconscious. [redacted] has not regained his sight since this episode and is under a doctor's care. Informant also advised that he suspects that FLEMMI had committed several murders, but he did not wish to discuss them.

Informant advised that [redacted]

M [redacted] and "JIMMY" FLEMMI wanted to be considered the "best hit man" in the area.

Informant advised also that he has had no unfavorable reaction over [redacted] arrest from either FLEMMI or from Romeo Martin.

B

[redacted] B.F

Memo of H. Paul Ricolo 10/8/64 to SAC, Boston entitled: [redacted]

M [redacted]

Informant advised he again met with [redacted] at approximately noontime on 10/6/64, and [redacted]

M [redacted].

At this time [redacted] offered to help VINCENT FLEMMI and his brother "whack out" an individual that the FLEMMI's were having trouble with in [redacted] Cafe in [redacted] if the FLEMMI's

B would first join him in "whacking out [redacted]

000327



000010

UNITED STATES GOVERNMENT

*Memorandum*

TO : SAC [redacted] F

DATE 10/19/64

☒ CI ☐ SI

☐ PCI ☐ PSI

FROM : SA H. PAUL RICO

SUBJECT: [redacted] b

Dates of Contact
10/18/64

Titles and File #s on which contacted
[redacted]

Purpose and results of contact

☐ NEGATIVE
☒ POSITIVE

Informant advised he got a telephone call from JAMES FLEMMI the previous evening and FLEMMI told him that he had been with EDWARD "TEDDY" DEEGAN and an individual referred to as "TONY" at the West End Social Club Saturday morning. Informant said that ANTHONY SACRIMONE's name came up in the conversation and that DEEGAN had said something concerning SACRIMONE, but FLEMMI could not recall what it was.

FLEMMI said that he definitely knows that DEEGAN, later that morning, murdered ANTHONY SACRIMONE and he was very concerned about leaving his prints in the car; that DEEGAN is going to lay low for a couple of weeks until he finds out what, if anything, the police have on him to tie him in to this murder.

FLEMMI told the informant that DEEGAN has been knocking him (the informant) in indicating to the Italian element that the informant was going to "hit" someone from the

☒ Informant certified that he has furnished all information obtained by him since last contact.

Rating

Coverage
92's

Personnel Data
[redacted] F F [redacted]

1- [redacted] (Everett PD)
HPR:po'b
(5)

EXHIBIT 4

EXHIBIT 2

000747

[redacted] F

[redacted] -270

Coliseum Restaurant. FLEMMI told the informant this obviously was just an attempt to get the Italian element interested in eliminating the informant.

FLEMMI advised that DEEGAN owes FLEMMI's brother, STEVIE, some money, and that he told him once to get the money up. He has not gotten the money up, and FLEMMI wants to kill DEEGAN and wanted the informant to go with him on the "hit."

[redacted]

The information concerning DEEGAN perpetrating this killing was disseminated telephonically to Det. HENRY DOHERTY of the Everett, Mass. PD on 10/18/64.

Det. DOHERTY recontacted this office on 10/19/64 and advised that he believes the information concerning DEEGAN is correct but that they have been unable to come up with any fingerprints in the car that are identifiable and DEEGAN has taken off from his usual haunts.

FD-36

F B I

Date: 10/20/64

Transmit the following in _____
(Type in plain text or code)

Via AIRTEL _____
(Priority)

---

TO : DIRECTOR, FBI [redacted] F

FROM : SAC, BOSTON [redacted]

SUBJECT: [redacted] B.M

ReBosAirtel 10/15/64.

B.F

W

3 - Bureau
7 - Boston
[redacted]

JFK:ner
(10)

FILED

Rico
Shannon
Kerger

Approved: _____ Sent ___ M Per 000749
Special Agent in Charge

F [redacted] - 2447

EXHIBIT
5

F.G.

[redacted] F

M.B

PETER LIMONE stated that JIMMY FLEMMI is an individual whom they can't control. JIMMY came to his club recently and LIMONE asked him to leave because of the heat that was on FLEMMI at the time. FLEMMI denied any heat being on him from the police, but LIMONE insisted that he leave his, LIMONE's, club. [redacted] B.M

JIMMY also inquired about EDWARD DEEGAN, close associate of HAROLD HANNON, who was recently murdered. LIMONE told FLEMMI that DEEGAN does not come to the club. Immediately after FLEMMI left, he called DEEGAN and told him that FLEMMI was looking for him, allegedly for a $300.00 loan which DEEGAN owes FLEMMI. DEEGAN denied any such loan. Therefore, they were of the opinion that FLEMMI was out to kill DEEGAN.

M.B

SUBJECT: VINCENT JAMES FLEMMI, Aka.

[redacted] F.B

Boston letter to Director, FBI 1/8/65 captioned: [redacted]

This letter refers to Boston Radiogram to Director coded 12/28/64 stating [redacted] was found stabbed to death on 12/28/64 in an automobile registered to his sister-in-law in the South End section of Boston.

Informants have reported he was murdered by JAMES FLEMMI as he was saying unkind things about FLEMMI's group; that he was murdered by old associates, Edward Goss and John Murray, for refusing them money; and that he may have been murdered for being suspected of being involved in the shooting of Edward Mc Laughlin.

B.F.M



19

EXHIBIT 6

DIRECTOR, FBI 3/9/65

SAC, BOSTON [redacted]

VINCENT JAMES FLEMMI, aka
"Jimmy" Flemmi
[redacted]

Rebulet dated 9/10/63 and Boslet to Bureau dated 10/3/63 entitled, "TOP ECHELON CRIMINAL INFORMANT."

VINCENT JAMES FLEMMI, aka "JIMMY" FLEMMI, is being designated as a target in this program.

VINCENT JAMES FLEMMI is presently operating an after-hours drinking establishment and a blackjack game upstairs over Walsh's TV store, Dudley Street, Boston, according to [redacted] FLEMMI also is believed to be involved in the murders of the following individuals:

[redacted]

In addition, he and [redacted] were tried for the murder of a fellow inmate at the Massachusetts Correctional Institution, Walpole, Mass. He was acquitted of this crime.

VINCENT FLEMMI, according to [redacted] has been visiting RAYMOND L. S. PATRIARCA on a fairly frequent basis in the past two months.

It is known, through [redacted], that FLEMMI, although he now has a lucrative business, has lost considerable money gambling and his only hope of bailing out is to continue to operate this illegal after-hours establishment and card game. He therefore should be susceptible to pressure.

2-Bureau
2-Boston
HPR: [redacted]
(4)

[redacted]

EXHIBIT
7

000752A

[redacted]

FLEMMI is described as follows:

| | |
|---|---|
| Name: | VINCENT JAMES FLEMMI |
| Alias: | "Jimmy" Flemmi |
| Race: | White |
| Sex: | Male |
| Born: | 9/5/35 |
| Height: | 5'10" |
| Weight: | 200 lbs. |
| Hair: | Dark brown, receding |
| Eyes: | Brown |
| Complexion: | Dark |
| Arrest Record: | Convicted of Larceny, Breaking and Entering, Using a Car Without Authority, Assault and Battery, Unarmed Robbery, and Armed Robbery. |

In addition, he was the subject of an "Unlawful Flight to Avoid Prosecution" for armed robbery and was apprehended by Bureau Agents of this office as a result of this warrant.

SUBJECT: VINCENT JAMES FLEMMI, Aka.

F [redacted]-2597pg.2

Boston Airtel to Director 3/10/65 entitled: [redacted]

B,M

F [redacted] advised on 3/3/65 that [redacted] contacted Patriarca and stated he had brought down VINCENT FLEMMI and another individual (who was later identified as Joe Barboza from East Boston, Mass.) It appeared that [redacted], Boston hoodlum, was giving orders to FLEMMI to "hit this guy and that guy".

B

Raymond Patriarca appeared infuriated at [redacted] giving such orders without his clearance and made arrangements to meet FLEMMI and Barboza in a garage shortly thereafter. He pointed out that he did not want FLEMMI or Barboza contacting him at his place of business.

F [redacted]-2597pg.5

Angiulo told Patriarca that VINCENT FLEMMI was with Joe Barboza when he, Barboza, killed [redacted] in Revere, Mass. several months ago. It appeared that [redacted], Boston hoodlum, had ordered the "hit". Patriarca again became enraged that [redacted] had the audacity to order a "hit" without Patriarca's knowledge.

B

Patriarca told Angiulo that he explained to FLEMMI that he was to tell [redacted] that no more killings were to take place unless he, Patriarca, cleared him.

Jerry explained that he also had a talk with FLEMMI. He pointed out that Patriarca has a high regard for FLEMMI but that he, Patriarca, thought that FLEMMI did not use sufficient common sense when it came to killing people.

Angiulo gave FLEMMI a lecture on killing people, pointing out that he should not kill people because he had an argument with him at any time. If an argument does ensue, he should leave and get word to Raymond Patriarca who, in turn, will either "OK" or deny the "hit" on this individual, depending on the circumstances.

[redacted]

M



EXHIBIT 8

SUBJECT: VINCENT JAMES FLEMMI, Aka.

F

[redacted] (Cont'd)

M [redacted]

According to Patriarca, another reason that FLEMMI came to Providence to contact him was to get the "OK" to kill Eddie Deegan of Boston who was "with [redacted] It was not clear to the informant whether he received permission to kill Deegan; however, the story that FLEMMI had concerning the activities of Deegan in connection with his, Deegan's, killing of [redacted] was not the same as Jerry Angiulo's. B

[redacted]

F/B

Boston's Airtel to Director and SACS Albany, Buffalo, Miami 3/12/65 captioned: [redacted]

B [redacted] advised on 3/9/65 that JAMES FLEMMI and Joseph Barboza contacted Patriarca, and they explained that they are having a problem with Teddy Deegan and desired to get the "OK" to kill him.

They told Patriarca that Deegan is looking for an excuse to "whack" [redacted] who is friendly with [redacted] B

FLEMMI stated that Deegan is an arrogant, nasty sneak and should be killed.

Patriarca instructed them to obtain more information relative to Deegan and then to contact Jerry Angiulo at Boston who would furnish them a decision.

M [redacted]

FD-209 (Rev. 2-1-62)

UNITED STATES GOVERNMENT

# *Memorandum*

TO : SAC [redacted]

DATE: 3/15/65

FROM : SA H. PAUL RICO B,F

☒ CI ☐ SI ☐ PCI ☐ PSI

SUBJECT: [redacted]

Dates of Contact
3/10/65

Titles and File #s on which contacted
EDWARD W. DEEGAN
[redacted] F,M B

Purpose and results of contact

☐ NEGATIVE
☒ POSITIVE

Informant advised that he had just heard from "JIMMY" FLEMMI that FLEMMI told the informant that RAYMOND PATRIARCA has put out the word that EDWARD "TEDDY" DEEGAN is to be "hit" and that a dry run has already been made and that a close associate of DEEGAN's has agreed to set him up.

FLEMMI told the informant that the informant, for the next few evenings, should have a provable alibi in case he is suspected of killing DEEGAN. FLEMMI indicated to the informant that PATRIARCA put the word out on DEEGAN because DEEGAN evidently pulled a gun and threatened some people in the Ebb Tide restaurant, Revere, Mass.

| ☒ Informant certified that he has furnished all information obtained by him since last contact. | Rating | Coverage |
|---|---|---|
| | | 52's |

Personal Data
[redacted] F,B
[redacted] 1- (DEEGAN)

F [redacted] 26623

HPR:pot
(5)

0000 1

EXHIBIT 9

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC [redacted]

DATE: 3/15/65

FROM : SA H. PAULRICO B, F

☒ CI ☐ SI ☐ PCI ☐ PSI

SUBJECT: [redacted]

Dates of Contact

2/13/65

Title and File # on which contacted

EDWARD F. DEEGAN

[redacted] F, M B

Purpose and results of contact

☐ NEGATIVE

☐ POSITIVE

X

Informant advised that "JIMMY" FLEMMI contacted him and told him that the previous evening DEEGAN was lured to a finance company in Chelsea and that the door of the finance company had been left open by an employee of the company and that when they got to the door ROY FRENCH, who was setting DEEGAN up, shot DEEGAN, and JOSEPH ROMEO MARTIN and RONNIE CASESSA came out of the door and one of them fired into DEEGAN's body. While DEEGAN was approaching the doorway, he (FLEMMI) and JOE BARBOZA walked over towards a car driven by TONY "STATS" and they were going to kill "STATS" but "STATS" saw them coming and drove off before any shots were fired.

FLEMMI told informant that RONNIE CASESSA and ROMEO MARTIN wanted to prove to RAYMOND PATRIARCA they were capable individuals , and that is why they wanted to "hit" DEEGAN. FLEMMI indicated that they did an "awful sloppy job."

☐ Informant certified that he has furnished all information obtained by him since last contact.

Rating

Control 92'6 F

Personal Data

[redacted] F, B

[redacted] (DEEGAN)

[redacted]

HPRapo'b (5)

0000 2

[redacted] 2/26/2

FBI

EXHIBIT 10

[redacted] F.B

This information has been disseminated by SA DONALD V. SHANNON to Capt. ROBERT RENFREW (NA) of the Chelsea, Mass. PD.

EDMUND L. MCNAMARA
POLICE COMMISSIONER

City of Boston 2
Police Department

BUREAU OF INSPECTIONAL SERVICES
INTELLIGENCE DIVISION

# Report of Information Received

BY TELEPHONE _____ CONTROL NUMBER _____

WRITTEN COMMUNICATION _____ TIME _____

IN PERSON _____ DATE March 14,1965

SOURCE OF INFORMATION ~~Informant~~

SUBJECT ~~Murder Of Teddy Deegan in Chelsea~~ on March 12th

LOCATION

DETAILS: ~~From a reliable informant the following facts were obtaine~~
~~to the above murder: Informant states that the following men were~~
~~Joseph Barrenz aka Barboza, Romeo Martin, Freddie Chiampi, Roy Fren~~
~~Ronnie Cassesso, Tony Stats. (Greek)~~ Chico Amico, Informant stat
Roy French and Tony Strats. were supposed to lure Deegan to some-
on the pretext of doing a B&E and the other men were to be waiti
the area to kill ~~him~~ him, Informant states that they were over-
lounge in Revere when they received the call from French that ev
was O.K then they all left together. After the Killing Romeo Mar
upset because somebody he thought took the number of his car aft
killing. Romeo Martin ~~is~~ is a former informant but since hanging
North End hasn't been to helpful. I then talked to Martin and told
the Police were looking for him in the hope that he would give so

REMARKS

REFERRED TO

RECEIVED BY

000436

EXHIBIT
11

Informant states that the reason for the killing of Deegan was that Barren claims that he is with the Hughes brothers and McLaughlins and he felt he Deegan was a threat to his friends in Roxbury(Flemmi & Bennett).

(2)

Page # 1

Statement by Lieut.Thomas F.Evans Chelsea Police Department.

On March 12,1965 I received a call from the station that a man had been shot and was in the alley in the rear of the Lincoln National Bank.I received this call at 11:15P.M.

I arrived at the above location at approximately 11:30 P.M.In this alley at that time were Chief Burgin,Lieut.Fothergill,Sergt.Charles McHatton,Capt.Renfrew and Officer James O'Brien.There were about fifteen or twenty people standing about the sidewalks and street that were being kept away from the alley by other uniformed officers.

On eneering this alley a distance of thirty feet,I observed a man who I knew as Edward "Teddy" Deegan lying on his back with his feet in the direction of Fourth St.He was fully clothed with a suit and topcoat,white shirt but no tie.There were gloves on his hands.There was a 12"screwdriver with a black handle and red top on the ground about ten inches from his left hand.There was a fresh pool of blood by his left knee and blood appeared to be still oozing from the rear of his head.There were two metal clad doors ajacent to the body that lead into a office building at #375 Broadway.These doors are 4'8" X 6'3"in height.The alley is 203'long and 8'wide from the sidewalk on Fourth St.to approximately 105' into the alley where it then widens 9'6".There is a fire escape on the left side of the alley about 140' in from Fourth St.This escape is for the tenants at #387 Broadway.

Officer O'Brien told me that he was checking doors prior to making his 11 P.M.ring at Box #22(Broadway & Fourth Sts)and when he went into the above alley he observed a figure crouched over by the above mentioned doors on closer observation with his flash light he observed the blood.He then went to Box #22 and called for assistance. O'Brien stated he had last tried these doors at 9 P.M.all was okay. At that time he had put the lights on in the alley.These lights are controlled by a switch that is located on the door casing on the last doorway on the left side of the alley.(Putting these lights on at dusk is the regular routine of the Officers that work route #12.) When O'Brien found the body the lights had been turned off and the door leading into the rear of 375 Broadway was open.

Lieut.Edward Fothergill gave me two complete metal jacket bullets with a right hand rifling twist,one smaller jacketed bullet with full metal jacket also four pieces of copper jacket and a piece of lead core that had been picked up in the alley. I later turned these over to Lieut.John F.Collins of State Police Firearms Identification.Lieut.Fothergill told me that they had to move Deegans bodyyfrom a crouched position to one lying flat on his back so that they could enter the open doorway and make search of the hallways of #375 Broadway.Nothing was found.

Shortly after I had arrived at the scene Attorney Alfred Farese accompanied by Anthony J.Stathopoules,he was allowed into the alley where he made identification of Deegan.He then was engaged in conversation with Chief Burgin and Capt. Renfrew.I was later informed by the Chief and Capt.that Farese had stated that he had received a telephone call from a former client that Deegan and Roy French were in trouble in Chelsea and had been arrested while doing a B & E.This client also told him that a policeman was to make arrangements to leave the door open.

EXHIBIT 12

As a result of having the above information given to me,I spoke to Farese and he repeated the story to me. I asked him if Stathopoulos was the former client of whom he spoke and he said no that he had

asked Stathopoulos to give him a ride to the Chelsea Police Station.He would not reveal the name of this party.

Dr.Meyer Kraft came to the scene and pronounced Deegan dead at 11:43 P.M. The Medical Examiners Office had been notified and Dr.Luongo came to the scene and viewed the body and removed same.

I had received information from Capt.Joseph Kozlowski that about 10 P.M.he had observed a red motor vehicle parked on Fourth St about 150' from the alley in question and there were three men in this car,two in front and one in the rear.He observed the first three digits of this plate as 404 but could see no other numbers as the plate had been bent over from right to left.As he went over to discuss the plate with the occupants the car pulled away from the curb and made a right turn on Broadway.

At approximately 12:30 A.M.on 3-13-65 with Capt.Renfrew, Det.Moore,Revere detectives and myself we went to the Ebb Tide on the Revere Beach Boulevard and made observations of a red,1963 Olds.Conv.Mass.Reg.404-795 that was registered to Joseph Martin of 19 Fleet St.No.End Boston.The plate on the rear of this vehicle was creased down the middle.We went into the cafe and told Wilfred Roy French that were were placing him under arrest for S.P.of a Felony-Murder and that were would be taking him to the Chelsea Police Station.I then requested Martin to bring his car to the station and he agreed to do so.Franis Imbuglia went along with Martin in Martin's car. On arriving at the station I had French taken up to the detective bureau and Martin and Imbuglia waited down stairs in the Seargeants room.With Capt.Renfrew I had Capt. Kozlowski view Martin's car that was parked in front of the station. He stated that the car looked like the one that he had seen earlier in the evening on Fourth St.but that he could not say it was the car.We then went into the Seargeants room to talk with Martin but both he and Imbuglia said they had nothing to say and that if it was not a pinch that they were going to leave. They then left the station.Capt.Kozlowski could not recognize these men.

I them went up to the detective bureau with Capt.Renfrew where I informed French of his rights.He said that he would have nothing to say until he spoke to his lawyer.At about 1:45 A.M. his Attorney,John Fitzgerald of Farese's office,arrived and had a conversation with French.French then gave us the information necessary for the booking card.In reply to a question of his occupation he stated that he was employed as a Maitre De at the Ebb Tide at a salary of $100.00 weekly.Asked as to what time he had gone to work on the evening of 3-12-65 he said that he had gone to work about 8 P.M. and had been there until we had taken him from there. At this point French refused to answer any more questions.I had Capt.Kozlowski look at French but he could not recognize him as being ~~being~~ in the car that he had observed earlier. I then observed what appeared to be bloodstains on the right sleeve of French's coat and also on his right shoe.It appeared that a attempt had been made to remove these stains by rubbing them. I had Capt.Renfrew view these objects.I then asked French how he had this blood on the coat and shoes.French said that while working at the Ebb Tide on 3-12-65 that there had been two different fights and that while breaking them up he had got blood on his clothes.A later check with one Joseph Errico of 37 Atwood St.Revere,a reserve police officer

of the Revere Police Department,reveals that Errico had been working on Friday and Saturday nights at the Ebb Tide for the past month.He goes to work at 9:15 P.M. until 1:30 A.M. He stated while working on 3-12-65 that some unknown fellow had been bothering a girl and that a other unknown party had punched this fellow cutting him about the eye and causing him to bleed profusely.States that because of the numbers of people in the Cafe that he could not say if French had left the place or not.He could not remember what time that this fight had occured.Also employed as a special police officer at this cafe is one Richard Currie of 39 Agawam St.Revere from whom we received no information.

French was allowed to sign a release waiver and leave the station with his attorney John Fitzgerald.

On the morning of 3-13-65,by arrangement,I had Attornies Farese,Fitzgerald and Anthony Stahopoulos come to the detective bureau where I again asked Farese to repeat his story of the previous evening relative to his exclient calling him to tell him of Deegan and French having been arrested by the Chelsea Police.He repeated the same story.I asked if this caller was at present a client of his and he said no.I asked for the name of his informant and he refused to name him.I asked if the name of the police officer who was alleged to have left the door open was known to him and he said no.

Stahopoulos refused to answer questions on advice of his attorney.

Attorney Fitzgerald informed me that he had received a telephone call from Deegan at 8:15 P.M.on 3-12-65 and that he could hear music in the background.I asked Fitzgeral the reason for the call and he told me that Deegan called him every night to let him know that he (Deegan) was okay.

I received information from Capt.Renfrew that a informant of his had contacted him and told him that French had received a telephone call at the Ebb Tide at 9 P.M. on 3-12-65 and after a short conversation he had left the cafe with the following men; Joseph Barboza,Ronald Cassesso,Vincent Flemmi,Francis Imbuglia, Romeo Martin,Nicky Femia and a man by the name of Freddi who is about 40 years old and said to be a "Strongarm".They are said to have returned at about 11:8 P.M. and Martin was alleged to have said to French,"We nailed him".

Information received from a Mr.John T.Asten a tenant in apartment #8 at #387 Broadway. Asten states that at 9:30 P.M. on 3-12-65 he heard five sharp cracks and went out onto the fire escape which leads into the alley in question and that the lights were out in the alley and he could see or hear nothing.

I spoke with Vito Pagliarulo,age 55,of 98 Carroll St. Chelsea who is employed as a janitor at 375 Broadway and he informed me that he had left work on 3-12-65 at 3P.M. and he did not know if the rear door had been locked at this time or not.

Department of Public Safety

75.

1010 Commonwealth Avenue, Boston 02215
March 15, 1965

S BUREAU

: Captain of Detectives Daniel I. Murphy
om: Det. Lieut. Inspector Richard J. Cass

bject: Homicide of Edward C. "Ted" Deegan

On Saturday, March 13, 1965, I went to the Chelsea olice Department to aid in the investigation re the death Edward C. "Ted" Deegan, dob 1/2/30, of 17 Madison Street, alden, in accordance with your instructions.

. Officer James O'Brien, the routeman, stated that bout 10:50 P.M. on Friday, March 12, 1965, while checking he doors on his route, he entered the alley in the rear of he Goldberg Building at 375 Broadway and found a body, later dentified as Deegan, in a pool of blood in front of the open ear door of the building. He was apparently dead and was in crouched position in front of the doorstoop. A screw driver as lying on the ground near the body. He notified the tation. Dr. Kraft arrived at the scene and pronounced Deegan k . The body was removed by the Medical Examiner, Dr. . go, to the Southern Mortuary. Officer O'Brien stated that it about 9:00 P.M. he had checked the alley and put the overhead light on before continuing his rounds. When he returned at about 10:59 P.M. the light was out and he entered the alley to make a check and discovered the body.

3. The Chelsea Police brought to the station one Anthony J. Stathopoulos, dob 9/22/34, medium complexion, 5'9", 165, brown hair and eyes of 17 Madison Street, Malden, and one Wilfred Roy French, dob 3/13/29, medium complexion, 6', 210, blue eyes, brown hair, of 31 Pleasant Street, Everett. Both subjects were released after questioning. Information was received by this officer that when French had been questioned there were spots on his trousers that appeared to be blood and an attempt had been made to wash it off. Lt. Evens of the Chelsea police stated he questioned French relative to the spots and French claimed that it was blood that came from a fellow who had a fight at the Ebbtide in Revere.

4. Israel Goldberg, owner of the building, was questioned and he said he left the building between 3 and 4 PM.

5. Vito Paglinciello of 90 Carroll Street, Chelsea, custodi of the building, stated that he checked the rear door about 00 P.M. on Friday and it was locked. This door was a double door with slide locks on the top and bottom that had to be released by hand from the inside.

6. Attorneys John Fitzgerald and Alfred Farese were interviewed. Mr. Fitzgerald stated that he received a call from Deegan about 8:45 P.M. on Friday and that he received calls from Deegan every day.

7. Mr. Farese stated that about 10:15 P.M. on Friday he received a call from a client, whom he refused to identify, and the client stated that he heard Deegan had been in a gun fight with the police. Mr. Farese called the police station seeking to verify the information but the police knew nothing about it. Mr. Farese claimed that he called Stathopoulos who came over and rode him to the police station at about 11:05 PM. Upon their arrival, they were informed that Deegan was dead. They went to the scene of the crime and then returned to the police station where Stathopoulos was questioned by Lt. Evans and Capt. Renfrew and released.

8. During the investivation, information was received by this officer that Deegan, French and Stathopoulos had planned to break into the Beneficial Finance Company on the second floor of the Goldberg Building and that the rear door was to be left open for them.

9. During the eveing of Friday, March 12th, French was at the Ebbtide, 302 Boulevard, Revere, with Joseph Barboza aka Baron, Francis Imbuglia, Ronald Cassesa, Vincent "Jimmy" Fiermi, Romeo Martin, Nick Femia and a man known as "Freddy" who is a strong arm man. All the above men have criminal records. About 9:00 P.M., French received a phone call and the above group left the place with him.

10. About 9:30 P.M., Captain Joseph Kozlowski of the Chelsea Police was in the vicinity of Fourth Street about a half block from the scene of the crime and saw a red car with the motor running and three men sitting in it. Two men were in the front seat and one in the rear. The car was parked at the second meter from Broadway, on Fourt Street, between Broadway and Luther Place on the side near the Polish American Veterans Club. The Captain walked behind the car and noticed the rear number plate with the right half of the plate folded towards the center obstructing the last three digits. The first three numbers were 404---. He went to the drivers side of the car and rapped on the window notioning the driver to lower the window. The driver took off at a fast rate of speed and took a screeching turn to the right on Broadway. The Captain described the driver as Romeo Martin and the man in the back seat as stocky with dark hair and a bald spot in the center of the head.

11. Further information was received that about three weeks prior Deegan had pulled a gun on Barboza, aka Baron, at the Ebbtide and forced him to back down and that this was the cause of Deegan's death.

12. Unconfirmed information was received that Romeo Martin and Ronald Cassesa had entered the building and were waiting just inside the rear door. Stathopoulos was waiting on Fourth Street in a car and French and Deegan entered the alley. Deegan opened the rear door. He was shot twice in the back of the head and also in the body. The information at the time was that three guns were used. Lt. John Collins of Ballistics confirmed the report of three guns being used at a later time. Two men approached the car in which Stathopoulos was waiting and he took off.

13. A canvas of the neighborhood was made and Mrs. Grace Luciano of 12 Fourth Street, 2nd floor, and her daughter, Camille, both stated that about 10 P.M. or earlier they heard about 5 shots and they looked out the window on Division St., and saw two cars both racing their motors. One was a new black sedan and the other an old green sedan, make unknown. She saw a man running up the middle of Fourth St., toward Hawthorne about 5' 8", heavy build, dark hair, no hat, dark olive pants, brown waist coat. The account of the two cars was verified as a disabled car and a car that came to help him.

14. Information was also received that Martin's car had left the Ebbtide at 9:00 PM and had returned about an hour later and parked in a different place on its return.

Richard J. Cass
Detective Lieut. Inspector
Massachusetts State Police

FD-209 (Rev. 2-1-65)
Criminal Rules No. 10
Civil Rules No. 10
Sec. Adm. Reg. No. 10

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC BOSTON [redacted]

DATE: 4/6/65

FROM : SA [redacted]

☐ CI ☐ SI
☒ PCI ☐ PSI

SUBJECT: [redacted]

Dates of Contact: 3/23/65

Files and File No on which contacted

| | |
|---|---|
| [redacted] | 91-1689 |
| CRIMINAL INTELLIGENCE | 94-536 |
| CONTROL FILE FOR TOP HOODLUMS | [redacted] |
| [redacted] | 88-3042 |
| RAYMOND L. S. PATRIARCA, AR | 92-118 |
| COSA NOSTRA | 92-605 |

Purpose and results of contact

☐ NEGATIVE
☒ POSITIVE

On 3/23/65, PCI advised that JOE BARBOSA who is from East Boston and an ex-fighter, was very friendly with ROMEO MARTIN, RONNIE CASSESSI and [redacted] PCI stated that BARBOSA was supposed "to have hit" FRANCIONE from Revere and EATON. He stated that BARBOSA reportedly killed EATON with a Magnum gun. PCI stated that BARBOSA was in prison with BENJAMIN who was murdered after he left prison and beheaded.

He stated that BARBOSA is a Portuguese kid who would otherwise be accepted into the Cosa Nostra except for his nationality. He stated that BARBOSA claims that he had shot TEDDY DEEGAN with a .45 caliber gun.

PCI related that BARBOSA indicated that ROY FRENCH was with DEEGAN and another individual when DEEGAN was shot by BARBOSA and two other individuals, one of whom informant believed was ROMEO MARTIN.

| Informant certified that he has furnished all information obtained by him since last contact. | Reliability | Coverage |
|---|---|---|
| | Very good | Criminal |

Personal Data

[redacted]

1 - [redacted]
1 - 91-1689
1 - 94-536
1 - [redacted]

1 - 88-3042
1 - 92-118
1 - 92-605

HFB:rms

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____
APR 1965
FBI — BOSTON

EXHIBIT 14

000768

[redacted] f

Informant stated that he had heard BARBOSA indicate that one of the guys with DEEGAN whom they had planned to kill along with DEEGAN ran off when the law showed up and fled.

PCI stated that rumors have it that ROY FRENCH actually set up DEEGAN to be killed.

PCI stated that he had heard that JOE BARBOSA was extremely friendly with JIMMY FLEMMA from Dudley Street. He stated that BARBOSA had tried to reach JIMMY FLEMMA a short time ago and wanted to know if FLEMMA had gone to Providence to see RAYMOND (PATRIARCA).

PCI subsequently determined from a source that JIMMY FLEMMA had gone to Providence, R.I. earlier on the day that BARBOSA had tried to contact FLEMMA.

PCI stated that JIMMY FLEMMA had gone to Providence just before TEDDY DEEGAN was slain in Chelsea.

MB

SAC, Boston 6/4/65

Director, FBI
INF-INFT.
IS 919-PC
TOP ECHELON CRIMINAL
INFORMANT PROGRAM

Mr. Kelly

Advise Bureau by 7/1/65 status of your efforts to effect the development of the above-captioned target.

JEK:rad
(4)

EX 105

REC-16
137-12516-2
19 JUN 7 1965

MAILED 7
JUN - 4 1965
COMM-FBI

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

60 JUN 14 1965

TELETYPE UNIT

EXHIBIT
15

DIRECTOR, FBI [redacted] 6/9/65

SAC, BOSTON [redacted] F

BS 919-PC

[redacted]

Rebulet to Boston dated 6/4/65.

The following are the efforts to effect the development of the above-captioned target:

F [redacted]

M [redacted]

M [redacted]

On 5/10/65, BS 919-PC was contacted on [redacted]

F Informant advised that on the evening of 5/3/65 he left his home at approximately 10:30 p.m. He was going to meet with JOSEPH BARBOZA. As he approached his car two individuals stepped out of the bushes and fired at him with a shotgun. Informant said that he turned around as he fell and both of them were running with handkerchiefs to their faces.

2-Bureau
1-Boston
HPR:pot
(3)

EXHIBIT 16

0003

000024

F [redacted]

38

F [redacted]

Informant said that he fired back at them and one of them hollered, and they both ran towards the back of the building and drove away in a late model, light brown Chevrolet.

M

R.F. [redacted]

It is known through other informants and sources of this office that this individual has been in contact with RAYMOND L. S. PATRIARCA and other members of LA COSA NOSTRA in this area, and potentially could be an excellent informant.

Concerning the informant's emotional stability, the Agent handling the informant believes, from information obtained from other informants and sources, that BS 919-PC has murdered [redacted], [redacted], [redacted], [redacted], EDWARD "TEDDY" DEEGAN, and [redacted], as well as a fellow inmate at the Massachusetts Correctional Institution, Walpole, Mass., and, from all indications, he is going to continue to commit murder.

Some of the information provided by the informant has been corroborated by other sources and informants of this office. Although the informant will be difficult to contact once he is released from the hospital because he feels that [redacted] will try to kill him, the informant's potential outweighs the risk involved.

02/14/2002 10:45 3055313416 CAVICCHI PAGE 01

EXHIBIT 20

DIRECTOR, FBI 11/3/65

SAC, BOSTON [redacted]

[redacted]

STEPHEN JOSEPH FLEMMI, FBI [redacted] being designated as a target in this program.

It was ascertained through contact with the now deceased [redacted] that STEVIE FLEMMI was actively involved in the Mangland war that continues in the Boston area between what remains of the MC LAUGHLIN gang and members of the East Boston gang by JOSEPH BARBOZA, the Dearborn Square group led by STEVIE FLEMMI, TOMMY CALLAHAN's gang led by top hoodlum THOMAS CALLAHAN, and the Somerville gang now led by HOWARD WINTERS.

Although the LCN in this area has not actively taken part in this gang war, there is every possibility that they may move into the picture in the near future and since FLEMMI is in contact with the leaders of the different groups that are against the remaining MC LAUGHLIN faction, and that all these groups are very aware of the possibility of LCN moving in to support the MC LAUGHLIN group, it is felt that FLEMMI will be in a position to furnish information on LCN members in this area.

FLEMMI, when contacted on 11/1/65, advised in the "strictest confidence" that he believes that LARRY BAIONE, LCN member in this area, will eventually place his bets and openly support STEVIE HUGHES, the recognized leader of the remaining MC LAUGHLIN group. FLEMMI advised that he [redacted]

MPHipo'b
(3)

[redacted]

H-185

EXHIBIT 17

[redacted]

that LARRY BAIONE and STEVIE HUGHES were very close to each other when both were incarcerated at Massachusetts State Prison and that BAIONE, in his opinion, is an extremely treacherous and dangerous individual and that he believes that BAIONE would act upon that INFORMANT's instructions if he thought such act would benefit him.

INFORMANT further advised that he believes that the murder of JAMES J. BULGER, MC LEAN was perpetrated by STEVIE HUGHES and that he believes the getaway car used was driven by MAXIE SHACKELFORD.

Informant advised that he based this on the fact that HUGHES is the only one in the group that has the courage to go in to the Winter Hill section of Somerville, Mass., where the murder took place and that the getaway car would have to be driven by either MAXIE SHACKELFORD or FRANCIS X. "GAGA" MURRAY and that MURRAY was home the day after the murder, and if MURRAY had been involved in the murder he would have taken off out of this area.

FLEMMI advised that he realizes that he is the prime target for an execution by the MC LAUGHLIN group and that he, therefore, does not live at home. He advised that when contacts are necessary that he can be called at the Mount Pleasant Realty, GArrison 7-8760, or evenings at AVenue 2-8269 or 963-4869. He said a message could be left to have him "Call JACK from South Boston," and he will then contact the Agent telephonically at the FBI office where a meet can be arranged.

This individual appears to be emotionally stable and if he survives the gang war he would be a very influential individual in the Boston criminal element.

[redacted]

JOSEPH BARON, also known as JOE BARBOZA, was interviewed at the Massachusetts Correctional Institution, Walpole, Massachusetts.

BARON stated that he would not mind talking to the Agents if the Agents would not end up testifying against him for what he said. BARON was told that if he wanted to talk in confidence that "we would respect his confidence."

BARON advised that he has always tried to make a living outside of the law and that if anyone in law enforcement could prove that he was doing wrong, he is willing to pay the consequences. However, he said, when you find that a police officer that you know "fingered scores, acted as lookout when scores were being pulled, and divided up the proceeds of these scores" turns around and manufactures evidence and testimony against you, you have a feeling that maybe you, the criminal, have played by the wrong standards.

BARON said that he never wanted to physically hurt anyone in law enforcement but added that "If my life is ruined by this individual trying to benefit his own ambitions, the day I come out of jail could be the day this Lieutenant becomes nervous."

BARON said that he knows that INGEGNERI is friendly with the "connected people" and that these people wanted to see him hurt. BARON advised that he has always tried to get along with these people and that, as a matter of fact, he used to see RAYMOND PATRIARCA and get an "OK" before he made most of his moves. Since they killed three of his friends, however, (THOMAS J. DE PRISCO, ARTHUR C. BRATSOS and JOSEPH W. AMICO) and stole $70,000 from him (This is in reference to the money allegedly in BRATSOS' possession when he was murdered), he had made statements that he was going to kill several of them. BARON said that after thinking the entire situation over, he realized that he could not possibly

On 3/8/67 at Walpole, Massachusetts File # [redacted]

by SA's DENNIS M. CONDON and H. PAUL RICO:po'b 3 Date dictated

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



EXHIBIT 18

DMC:HPR:pob

[redacted] BARON, knows what has happened in practically every murder that has been committed in this area. He said that he would nev provide information that would allow JAMES VINCENT FLEMMI to "fry" but that he will consider furnishing information on these murders.

000787

DIRECTOR, FBI [redacted] 3/28/67

SAC, BOSTON [redacted]

INTERVIEW PROGRAM
CRIMINAL INTELLIGENCE MATTERS

Rebosairtel to Bureau, 3/10/67, and Bostel to Bureau, 3/21/67.

The following interview with JOSEPH BARRON, aka Joseph Barboza, was a follow up to interview conducted on 3/8/67, as set forth in rebosairtel.

[redacted]

INTERVIEW OF JOSEPH BARRON

JOSEPH BARRON, aka JOSEPH BARBOZA, was interviewed at the Federal Building, Boston, Mass., on 3/21/67, by SA's H. PAUL RICO and DENNIS M. CONDON [redacted] It also should be noted that he conferred with his Counsel, JOHN FITZGERALD, at approximately 12:15 p.m., at which time he received some advice from his counsel and then returned to continue his interview with the Agents.

BARRON said that he would talk to the Agents in confidence and that he would not testify to any information that he was furnishing at this time.

2-Bureau
4-Boston [redacted]

HPR:DMC:po'b
(6)

EXHIBIT 19

SEARCHED
SERIALIZED
INDEXED
FILED

[redacted]

000788

[redacted] F

BARRON stated that since he last talked to the Agents (He was interviewed on 3/8/67 at the Massachusetts Correctional Institution, Walpole, Mass.), he had come to the conclusion that the Agents and him have a common enemy in the "Italian organization." He said he realizes that this "organization" is going to try to kill him regardless of when he is released from jail, and he believes that this "organization" can reach out into local law enforcement agencies and obtain practically any information in their possession, and he would like to help the FBI in their efforts to obtain evidence against the "Italian organization."

M

BARRON said that he hopes that GARRETT BYRNE, District Attorney of Suffolk County, Boston, will appreciate his (BARRON's) assistance in obtaining this testimony and give him (BARRON) a break on the two cases that he has presently pending in Suffolk County.

M

BARRON advised that he had also discussed the last interview with the Agents with JAMES VINCENT FLEMMI and that he had told FLEMMI that he was considering having FABIANO cooperate with the FBI, and that FLEMMI indicated that he thought that that was an excellent idea.



 [redacted]

[redacted] F

It was pointed out to BARRON that he could be making a very serious mistake in talking to any other inmate concerning his interview with Agents of the FBI.

M

BARRON advised that in connection with the murder of EDWARD DEEGAN, DEEGAN had been causing some problems for a lot of people and had been "out of order" at the Ebb Tide night club in Revere, Mass., on a number of occasions. DEEGAN was also looking for some kind of an excuse to kill BOBBY DONATI who was friendly with RICO SACRAMONE. DEEGAN was killed in Chelsea, Mass., around March of 1965. He said ANTHONY STATHAPOULOS was with DEEGAN and remained in an automobile. One of the individuals in the group that killed DEEGAN went towards STATHAPOULOS carrying a 375 magnum and wearing a bullet-proof vest, but STATHAPOULOS was able to take off and get out of the area.

[redacted]





[redacted]

Pages 5 through 6 of serial 8 are being deleted in their entirety for code: F, M.

[redacted]

In further discussions of gangland murders, he made the comment that EDWARD DEEGAN had killed ANTHONY SACRAMONE of Everett, Mass., and that this was a senseless murder that DEEGAN had perpetrated just to make himself look like a big man.



[redacted]

m. 7

[redacted] F

m

BARRON was asked if he did not feel that since the "Italian organization" was doing everything in their power to hurt him, didn't he feel that he could help justice be done by testifying. BARRON stated, "If I ever testified, you people would have to find me an island and make a fortress out of it."

BARRON said that he would be willing to furnish information to the Agents, but under no circumstances could he bring himself to testify. [redacted] m

[redacted]

B On 3/23/67 [redacted] "MIKEY" FLEMMI and JOHNNY MATORANO have been up to visit VINCENT JIMMY FLEMMI in Walpole on 3/22/67, and that FLEMMI told them how JOE BARBOZA had been interviewed by the FBI at the U. S. Attorney's office and that he, BARRON, was going to get [redacted] to testify against the individuals involved in the murders of [redacted] JIMMY would probably tell other individuals about this plan and that if RAYMOND PATRIARCA hears of this, he will believe that they are part of the conspiracy to hurt members of his organization. [redacted]



[redacted]

[redacted] F

This office is aware of the distinct possibility that BARRON, in order to save himself from a long prison sentence, may try to intimidate FABIANO into testifying to something that he may not be a witness to. It is planned to interview FABIANO and ascertain from him what his testimony can be in connection with the murders at the Nite Lite and if FABIANO cannot testify as BARRON indicates, BARRON will be again contacted and be given the opportunity for himself to testify in his dealings with known LCN members.



[redacted]

5/24/67

Airtel

To: SAC, Boston (92-1132)

From: Director, FBI (92-9828)

JOSEPH BARRON, aka
JOSEPH BARBOZA
ANTI-RACKETEERING

Reurtel 3/21/67.

A review of the Bureau records reveals that no investigation of Barron has ever been conducted by your office. In view of the current circumstances, the Bureau should be cognizant of all background information. Therefore, you should submit to the Bureau an investigative report per instructions set out under the Criminal Intelligence Program containing all background and identifying data available.

MAILED 2
MAY 24 1967
COMM-FBI

MMH:skh
(4)

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

MAY 29 1967

MAIL ROOM ☐ TELETYPE UNIT ☐

REC 26 92-9828-2

8 MAY 25 1967

EXHIBIT
20

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.
UNITED STATES GOVERNMENT

# Memorandum

TO : Director, FBI

DATE: June 20, 1967

FROM : SAC, Boston

SUBJECT: SA H. PAUL RICO
EOD: 2-26-51

SA DENNIS M. CONDON
EOD: 1-29-51

RECOMMENDATIONS FOR QUALITY SALARY INCREASE

SA H. PAUL RICO has been assigned exclusively to the development of Top Echelon Criminal Informants in the Boston Office since September 16, 1963. SA DENNIS M. CONDON has been assigned to the Top Hoodlum Program since 1962.

SA RICO was successful in developing [redacted] B Based on the development of [redacted] SA RICO was able to determine the basic reasons for each gangland slaying, the identities of the majority of individuals involved, the latter information, where significant, disseminated to pertinent law enforcement agencies. Only as a result of this informant was the Boston Office able to separate the true reasons for the slayings as distinguished from the camouflage put forth by the [redacted] and/or the LCN.

During this period, SA RICO and SA CONDON were making continuing efforts to develop as an informant an active LCN member. When intensified efforts in this area were not immediately productive, SA RICO was able to have [redacted] and through this contact, able to follow the philosophy of the LCN, particularly concerning the infamous Boston gangland slayings. [redacted] and through these contacts the Boston Office had continuing high quality information concerning LCN activities. [redacted] was based on the guidance and counsel said informant received from SAS RICO and CONDON. B

67-133766-150

REC-145

Searched ..... Numbered .....
JUL 7 1967 27

(4) - Bureau
2 - Boston
JLH:CAK
(6)

JUL 12 1967
73

THREE

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

EXHIBIT
21

B

[redacted] The handling of this source, obviously, was an extremely delicate and sensitive problem requiring not only continuous skillful direction, but almost 24-hour contact on a daily basis with [redacted]

B

Realizing the potential that [redacted] might one day be victim of a homicide, SAS CONDON and RICO have continued vigorous attempts to obtain additional high quality LCN sources. Accordingly, BS 955 C-TE was developed by these agents and via imaginative direction and professional ingenuity utilized said source in connections with interviews of JOSEPH BARON, a professional assassin responsible for numerous homicides and acknowledged by all professional law enforcement representatives in this area to be the most dangerous individual known.

B, D

SAS RICO and CONDON contacted BARON in an effort to convince him he should testify against the LCN. BARON initially declined to testify but through utilization of BS 955 C-TE, the agents were able to convey to BARON that his present incarceration and potential for continued incarceration for the rest of his life, was wholly attributable to LCN efforts directed by GENNARO J. ANGIULO, LCN Boston head. As a result of this information received by BARON from BS 955 C-TE, said individual said he would testify against the LCN members.

The indictments against PATRIARCA, TAMELEO and CASSESSO are the first major blow to the LCN in New England. PATRIARCA, as LCN boss and possible Commission member, and his top lieutenant, HENRY TAMELEO, were felt to be beyond prosecution by top state and local police officials based on what for years resulted in frustration in securing witnesses who would testify. The Providence, Rhode Island Police and Rhode Island State Police have, for over twenty years, concentrated a large number of men in efforts to secure even a minor prosecution, unsuccessfully.

SAS CONDON and RICO were assigned to develop a prosecutable quality case against top LCN members in New England. They have done so via highest devotion to duty, requiring personal sacrifices, in time, on a continuing basis. Their time would have been wasted were it not for the skillful, unprecedented ability to develop the highest type criminal intelligence data, coupled with securing as a witness a professional killer who, in the past, would never furnish data other than his name to any law enforcement agency. Their performance for over twelve months

has been of the highest caliber; their drive and desire to fulfill a vital objective of the Bureau have been rewarded with the prosecution of top LCN members.

In view of the above, noting we have broken what at times has seemed to be an insurmountable barrier, I am recommending Quality Salary Increases be awarded to SAS RICO and CONDON.

On the following dates, Officer Robson was in the company of Tony Stathopolous - 22, 23, 26, 27, 29; July 1 and 3, 1967. During the course of conversations with Tony, he stated to me that while he was incarcerated at Deer Island, he had quite a bit of conversation with one Patrick Fabiano. Fabiano stated that the "beef" between he and Joe Barbosa had been cleared up. (He also stated that on the night that Teddy Deegan was killed in Chelsea, Mass; in an alley, that he; Stathopolous, was driving the motor vehicle that took him there.) He stated that one Charlie Moore had set the whole job up and told them that his brother, a Chelsea Police Officer, would see that the door was left open at the rear of the building. Stathopolous was with Roy French and Teddy Deegan and they had tried previously to bring French in, to get Shacklaford to go along on the job but Shacklaford was in New Hampshire. Stathopolous had tried to caution Deegan about going on the job, because he could not see where there would be $30,000.00, in cash in a safe in a finance company that small. (When Stathopolous heard the shots in the alley, he left the scene in the same type car as the hired killers had arrived in.) Stathopolous stated that he actually saw Ronnie Cassessa with a gun in his hand that night and Romeo Martin. He did not see the others involved. At a later time, Charlie Moore's window in his place of business in Revere was broken out by a shotgun blast because of the fact that Charle was talking to a personal friend of Stathopolous too much and was told to keep quiet.

In referring to the Sacramone killing in Everett, Stathopolous stated that this was because of Sacramone talking too much about the Puopolo job that Hannon, Delaney, etc. were involved in. He stated to Officer Robson that Populo's best friend and the only one alive, to date, of the four men involved, was the man who set the whole job up. He is also the one that wound up with complete profit from the job.

Daddy McLean from Somerville was the one who killed Hannon and Delaney. Hannon had been set up before his death on four or five(4 or5) occasions by this same

EXHIBIT
22

*CharlieMoore. Sacramone was talking to people and involving Stathopolous and Populo's best friend in the conversation in regards to the Populo theft. It was at this time that Vincent (alias Jimmy) Flammi met with Deegan and Tony Stathopolous at the Howard Johnson Restaurant with the fourth man involved in the Populo theft, to make arrangements to silence Sacramone. Shortly after, Flammi was shot in Boston and unable to complete the job. Deegan then went ahead and set Sacramone up for two other unknowns to take care of him. Stathopolous also stated that Shackleford and Steve Hughes were the two who killed McLean.*

*Stathopolous also stated that he has pretty good information that Kearns and Stillings were the two men who killed Locke.*

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

# Memorandum

EXHIBIT 23

Tolson
DeLoach
Mohr
Wick
Casper
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. DeLoach

DATE: June 23, 1967

FROM : J. H. Gale

SUBJECT: SPECIAL AGENT HAROLD PAUL RICO
SPECIAL AGENT DENNIS M. CONDON
RECOMMENDATION FOR INCENTIVE AWARDS

RECOMMENDATION, SPECIAL AGENT IN CHARGE, BOSTON

Special Agent in Charge (SAC), Boston recommends quality salary increases for the above-captioned Special Agents (SA) based upon their development and skillful handling of extremely valuable top echelon informants in the organized crime field. Special Investigative Division recommends these Special Agents receive incentive awards.

DETAILS

SA Rico through a resourceful and diligent effort in October, 1964, obtained the cooperation of [redacted] Based upon development of this source, the Boston Office was able to determine the basic reasons for the numerous gangland slayings in the Boston area and the identities of many of the individuals involved in these murders. The informant provided the Boston Office with accurate and authentic data regarding gangland strife in their division.

B

As a direct result of the shrewd guidance given the informant by SAs Rico and Condon, [redacted] This information has been vitally important in establishing the Interstate Transportation in Aid of Racketeering violation

B

1 - Mr. DeLoach
1 - Administrative Division
1 - Mr. Gale
1 - Mr. McAndrews
1 - Mr. Kelly

CONTINUED - OVER

OVER

[redacted]

Searched ____ Numbered ____
5 JUL 7 1967

XEROX

Enclosures -
JEK:bjn
JUL (6)

JUL 12 1967

See Administrative Division Addendum Page 2a.

BEST COPY

Memorandum to Mr. DeLoach
Re: Special Agent Harold Paul Rico

against Patriarca and his chief LCN henchman, Henry Tameleo, who were arrested this week by Bureau Agents.

[redacted] B

SAs Condon and Rico also developed another top echelon informant, BS 955-C-TE. He was most effectively utilized to convince Joseph Barboza, the professional assassin, that he should testify against Patriarca and his associates. The informant's efforts with skillful interviews of [redacted] by SAs Rico and Condon resulted in [redacted] appearance before a Federal Grand Jury and the indictments of Patriarca and Tameleo. D

The arrest of Patriarca and Tameleo by Bureau Agents received extensive publicity and constituted a major blow against LCN. These noteworthy achievements were brought about by the development and handling of top echelon informants by SAs Rico and Condon. Their tenacity, ingenuity, and professional skill were of the highest order.

RECOMMENDATION SPECIAL INVESTIGATIVE DIVISION

It is recommended that SAs Rico and Condon receive incentive awards for their noteworthy performance.

OVER

ADMINISTRATIVE DIVISION ADDENDUM, LDH:klb, 6-27-67.

Information furnished by SAC, Boston, and Special Investigative Division indicates performance of SAs H. Paul Rico and Dennis M. Condon in developing and handling top echelon informants warrants recognition in the form of incentive awards (Boston had recommended Quality Salary Increases, which are afforded incident to annual performance ratings; Administrative Division agrees with Special Investigative Division that they receive incentive awards). SA Rico's resourcefulness and diligent efforts to obtain cooperation of an informant, [redacted] resulted in receipt of much accurate and authentic data regarding gangland slayings in the Boston area. SAs Rico and Condon thereafter shrewdly guided him, which, [redacted] They developed still another top echelon informant and their efforts culminated in arrest of Raymond Patriarca, La Cosa Nostra leader in New England, and Henry Tameleo, his chief henchman. Based on approved tables utilized to determine amount of awards to be granted, their services are considered to be of moderate value and broad application to the work of the Bureau, entitling them to awards of $150-$300.

b

Performance of both SAs Rico and Condon during the past 3 years was satisfactory, both having been rated Excellent in their 1966 annual performance report, completely available, and overtime satisfactory.

SA Rico EOD 2-26-51, is in grade GS 13, $14,665. One censure and 4 commendations, 2 through SAC, and 2 incentive awards.

SA Condon EOD 1-29-51, is in grade GS 13, $14,665. One censure and 4 commendations, 2 through SAC, and 1 incentive award.

RECOMMENDATION:

That SAs H. Paul Rico and Dennis M. Condon each be afforded incentive awards in the amounts of $150 (amounts in line with previously approved awards for similar performances).

PERMANENT BRIEFS OF FILES OF SAS RICO AND CONDON ATTACHED.

Appropriate letters attached.



BEST COPY

July 3, 1967

PERSONAL

Mr. H. Paul Rico
Federal Bureau of Investigation
Boston, Massachusetts

Dear Mr. Rico:

For your developing and skillful handling of several confidential sources of great concern to the Bureau in the criminal field, I have approved an incentive award for you in the amount of $150.00. The enclosed check represents this award.

Through imaginative direction and professional ability, you have guided these individuals into furnishing valuable information. You have displayed devotion to duty without regard to personal convenience and your drive to fulfill a vital objective of the Bureau has been rewarded with prosecutions based on data furnished by these sources. I am most appreciative of your outstanding efforts.

Sincerely yours,

REC-145
J. Edgar Hoover

MAILED 3
JUL - 3 1967
COMM-FBI

Enclosure

1 - SAC, Boston (Personal Attention) Enclosure
You should personally present this award and should this not be possible or should presentation be unreasonably delayed by your absence official acting for you should present it. Inform employee net amount of check represents this award less withholding tax.

For your future guidance, quality within-grade increases are considered only incident to annual performance reports.

1 - Miss Usilton (Sent Direct) NLK:[illegible] (5) 67-458484 Award #916-67
Based on Gale-DeLoach memo 6/23/67 and addendum Administrative Division 6/27/67 re SAs Harold Paul Rico, Dennis M. Condon; Recommendation for Incentive Awards.
Re: [redacted] BS 955 C-TE

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

EXHIBIT
24

July 3, 1967

PERSONAL

Mr. Dennis M. Condon
Federal Bureau of Investigation
Boston, Massachusetts

Dear Mr. Condon:

In recognition of your developing and handling several confidential sources of much interest to the Bureau in the criminal field, I have approved an incentive award for you in the amount of $150.00 and the enclosed check represents this award.

You have demonstrated ability to recognize and professionally guide criminal sources, resulting in their most valuable talents being utilized to the best interests of the Bureau. Noteworthy achievements have been gained by your diligent efforts, culminating in the prosecutions of certain individuals. I commend you for your splendid performance.

Sincerely yours,
J. Edgar Hoover

MAILED 2
JUL 3 1967
COMM-FBI

Enclosure

1 - SAC, Boston (Personal Attention) Enclosure
Re: [redacted] BS 955 C-TE

You should personally present this award and should this not be possible or should presentation be unreasonably delayed by your absence official acting for you should present it. Inform employee net amount of check represents this award less withholding tax.

For your future guidance, quality within grade increases are considered only incident to annual performance reports.

1 - Miss Usilton (Sent Direct) NLK (5) 67-433766 Award #917-67
Based on Gale-DeLoach memo 6/23/67 and addendum Admin. Div. 6/27/67 re SAs Harold Paul Rico, Dennis M. Condon; Rec. for Incentive Awards.

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

JUL 14 1967

TELETYPE UNIT

EXHIBIT
25

FD-263 (Rev. 9-17-65)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| BOSTON | BOSTON | 7/18/67 | 3/20 - 7/7/67 |

TITLE OF CASE

JOSEPH BARON, aka
Joseph Barron,
Joseph Barboza, Jr.,
Joseph J. Barron,
Joseph Medeiros

REPORT MADE BY: THOMAS H. SULLIVAN

TYPED BY: maf

CHARACTER OF CASE: AR

REFERENCE Bureau airtel, dated 5/24/67.

- C -

ENCLOSURES

TO BUREAU

Original and one copy of a letterhead memorandum characterizing informants used in this report.

INFORMANTS

[redacted]

Case has been: Pending over one year ☐ Yes ☐ No; Pending prosecution over six months ☐ Yes ☐ No

APPROVED: James A. Handley — SPECIAL AGENT IN CHARGE

COPIES MADE:
3 - Bureau (92-9828)
1 - USA, Boston
2 - Boston (92-1132)
(1 - 166-629)

DO NOT WRITE IN SPACES BELOW

92-9828-3

REC 29

EX-110

JUL 21 1967

Dissemination Record of Attached Report

| Agency | | | | |
|---|---|---|---|---|
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

Notations: CC. AAG, Criminal Division, Organized Crime and Racketeering Section, Room 2601

STAT. SECT.

EXHIBIT 26

53 AUG 10 1967

163

BS 92-1132

INFORMANTS CONTINUED

B

[redacted]

B

[redacted]

B

BS 92-1132
THS:mac

ADMINISTRATIVE

B

[redacted]

[redacted] that RONNIE CASSESSA and JOE BARBOZA were responsible for the shooting of ROMEO MARTIN in Revere, Massachusetts.

[redacted]

BS 92-1132
THS:mac

B

[redacted] that JOSEPH BARBOZA was the individual who shot and killed DI STASIO and O'NEIL at the Mickey Mouse Lounge in Revere, Massachusetts, the previous weekend. The informant stated that BARBOZA had been in the Mickey Mouse Lounge a couple of weeks ago and after he left, someone took several shots at him and BARBOZA suspected that DI STASIO had set him up with the MC LAUGHLIN crowd. As a result of this, BARBOZA returned and killed DI STASIO and O'NEIL.

[redacted] that JOSEPH "CHICO" AMICO and GUY FRIZZI are always together and were usually with JOE BARBOZA before BARBOZA went to jail. The informant stated he heard reports that BARBOZA and GUY FRIZZI were the ones who "bumped off" TEDDY DEEGAN a few months ago in Chelsea, Massachusetts.

[redacted] that while JOE BARBOZA was on trial in Suffolk Superior Court he decided to make one more "hit". He was trying to hit "INDIAN AL" from Medford, Massachusetts. At the time BARBOZA made his move against "INDIAN AL", he was in the company of "CHICO" AMICO, RICK FEMIA, and GUY FRIZZI.

[redacted] that JOSEPH BARBOZA, ROMEO MARTIN and RONNIE CASSESSA are frequently in attendance at the Ebb Tide in Revere, Massachusetts.

[redacted] that JOE BARBOZA is very frequently with ROMEO MARTIN, RONNIE CASSESSA, and FRANK IMBRUGLIA. BARBOZA was supposed to have "hit" FRANCIONE of Revere, Massachusetts, and also "hit" EATON. He also stated that BARBOZA was in prison with BENJAMIN, who was murdered after he left prison.

The informant stated that BARBOZA is a Portuguese kid who would otherwise be accepted into the LCN except for his nationality. BARBOZA claims that he shot TEDDY DEEGAN with a .45 caliber gun. BARBOZA indicated that ROY FRENCH was with DEEGAN and another individual when DEEGAN was shot by BARBOZA and two other individuals, one of whom the informant believes was ROMEO MARTIN.

The informant stated he heard that JOE BARBOZA was extremely friendly with JIMMY FLEMMI. The informant added that

B

BS 92-1132
THS:mac

BARBOZA tried to reach JIMMY FLEMMI a short time ago and wanted to know if FLEMMI had gone to Providence, Rhode Island, to see RAYMOND PATRIARCA.

[redacted] stated that he had heard that JOE BARBOZA made the statement that ROY FRENCH was on the way out. Informant stated that FRENCH hangs around the Ebb Tide in Revere and appears to be friendly with BARBOZA, RONNIE CASSESSA and other individuals.

D

[redacted]

B

FD-263 (Rev. 3-8-67)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| BOSTON | BOSTON | 9/18/67 | 6/14 - 9/12/67 |

TITLE OF CASE

[redacted]

REPORT MADE BY: SA CHARLES A. REPPUCCI

TYPED BY: cmr

CHARACTER OF CASE

AR

REFERENCE: Report of SA CHARLES A. REPPUCCI dated 6/21/67 at Boston.

-P-

ENCLOSURES TO BUREAU (2)

Original and one copy of letterhead memorandum characterizing informants mentioned in this report.

LEADS

LAS VEGAS

AT CARSON CITY, NEVADA

Will at Gaming Control Board, if feasible,

| ACCOMPLISHMENTS CLAIMED | | | | | | ACQUIT-TALS | CASE HAS BEEN: |
|---|---|---|---|---|---|---|---|
| CONVIC. | AUTO. | FUG. | FINES | SAVINGS | RECOVERIES | | PENDING OVER ONE YEAR ☐ YES ☐ NO<br>PENDING PROSECUTION OVER SIX MONTHS ☐ YES ☐ NO |

APPROVED: NO

SPECIAL AGENT IN CHARGE

COPIES MADE:

3 - Bureau [redacted] (Encs. 2)
1 - USA, Providence, R.I.
2 - Las Vegas
(2) - Boston [redacted]

1-USA. Boston [illegible] SEARCHED

SERIALIZED

INDEXED

FILED

DO NOT WRITE IN SPACES BELOW

[redacted] 3053

Reppucci CAR

Notations

Dissemination Record of Attached Reports

| Agency | | | | |
|---|---|---|---|---|
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

000813

EXHIBIT 27

Pages B through S of serial 3083 are being deleted in their entirety for code: F, B, M.

[redacted] F

B.M

On August 28, 1967 BS 955-CTE furnished the
lowing information to SA H. PAUL FICO:

The informant advised that LARRY BAIONE asked the
formant to contact JIMMY FLEMMI on behalf of GENNARO J.
GIULIO to see what FLEMMI can do to keep NICK FEMMIA from
stifying against anyone and to see if FLEMMI can find some
y to destroy JOE BARBOZA's testimony against PATRIARCA
d ANGIULO. The informant advised that this puts JIMMY
EMMI in a very bad position because JIMMY FLEMMI owes
GIULIO over $15,000. and is therefore indebted to him.
e informant knows that JIMMY FLEMMI would just as soon see
TRIARCA and TAMBILLO get hurt but that he has always looked
on ANGIULO as a source of money for him and he feels
at FLEMMI would want to help ANGIULO. The informant
vised, however, that he will, when he is talking to
MMI, point out to him that BARBOZA could end up seriously





[redacted]

[redacted] F

hurting him, JIMMY FLEMMI, if he, FLEMMI, did anything to attempt to discredit BARBOZA.

Informant further advised that he has learned that LARRY BAIONE and PETER LIMONE have received information that JOE BARBOZA is going to testify for Suffolk County on the murder of TEDDY DEEGAN and that they in all probability will attempt to make sure that TONY STACOPOULOS will not be around to corroborate BARBOZA's testimony. The informant advised that he believes that STACOPOULOS' life is in danger.



[redacted]

FBI BOSTON

404PM URGENT 10/25/67 1P PJC

TO DIRECTOR [redacted] F

FROM BOSTON

CRIMINAL INTELLIGENCE PROGRAM, BOSTON DIVISION.

[redacted] D

[redacted] TESTIFIED BEFORE THE SUFFOLK COUNTY GRAND JURY THIS DATE IN CONNECTION WITH THE GANGLAND MURDER OF EDWARD DEEGAN ON MARCH TWELVE, SIXTYFIVE.

[redacted] D

[redacted] AS A RESULT OF [redacted] TESTIMONY BEFORE THIS GRAND JURY, INDICTMENTS WERE RENDERED AGAINST HENRY TAMELEO, PETER LIMONE AND RONALD CASSESSA, ROY FRENCH, "JOE THE HORSE" SALVATI, LOUIS GRECO AND JOSEPH BARON.

ABOVE BEING FURNISHED FOR INFORMATION.

END

BAP

FBI WASH DC

SEARCHED ___
SERIALIZED ___
INDEXED ___
FILED ___

000830

F [redacted] 2783

EXHIBIT
28

# D.A. Tells Judge: No Offers to Barboza

AM GLOBE NOV 4 '67

Asst. Suffolk Dist. Atty. John J. Pino told a Superior Court judge Friday that the government made no promises, offers or inducements to Cosa Nostra informant Joseph (Barboza) Baron in return for the latter's grand jury testimony.

Baron's cooperation with the government has resulted in the indictment of some 13 underworld figures including the two alleged Cosa Nostra chieftains in New England.

Pino's statement was made to Judge David L. Rose at a Suffolk Superior Court hearing on defense motions in connection with four persons under indictment in a 1966 gangland slaying.

The four are Gennaro (Jerry) Angiulo, 48, of Boston; Richard DeVincent, 34, of Dorchester; Marino LaFore, 49, and Bernard Zinna, 37, both Revere.

They are under indictment in connection with the slaying of Rocco DeSeglio, 26-year-old former Newton boxer, who was found shot to death in Topsfield.

Judge Rose granted the defense a list of the witnesses who appeared before the grand jury which indicted the quartet.

Prosecutor Pino agreed to let the defense have ballistics and fingerprint reports turned over to them.

Baron's testimony before a Suffolk grand jury last Summer was primarily responsible for the indictments against the four in connection with the DiSeglio murder.

PENGAD-Bayonne, N.J.
EXHIBIT
29

1 "
74A

November 15, 1967

Harold L. Lokos
Polygraph Examiner
3189 Northwest 19th Terrace
Miami, Florida 33125

Judge, Richard Barest
123 Northwest 12th Avenue
Miami, Florida 33128

Re: LOUIS M. GRECO
11 Judith Street
West Peabody, Mass.
D.O.B. 2/4/17

At the request of Judge, Richard Barest, a polygraph examination was initiated at approximately 4:25 o'clock P.M., November 14, 1967, at 123 Northwest 12th Avenue, Miami, Florida. The subject being administered the polygraph examination was one LOUIS M. GRECO, 11 Judith Street, West Peabody, Mass. The subject matter was relevent to the death of one TEDDY DEEGAN, who expired in the State of Massachusetts on or about March 12, 1965. The following questions were first reviewed with the subject and subsequently administered under polygraph instrumentation. They are as follows along with the subject's reply:

Q. 1. Is your name Louis Greco?
A. YES

Q. 2. Were you born in Mass?
A. YES

Q. 3. Did you shoot or kill Teddy Deegan?
A. NO

Q. 4. Have you ever committed an offense or a crime that went undetected that you could

EXHIBIT
30

000350

75A
172

Page Two
November 15, 198

have been jailed?
A. YES.

Q. 5. Were you in Florida on March 12, 1965?
A. YES.

Q. 6. Have you ever cheated?
A. YES.

Q. 7. Were you in Chelsea, Mass. on March 12, 1965?
A. NO.

Q. 8. Did you shoot or kill Teddy Deegan?
A. NO.

Q. 9. Did you shoot or kill Ralph Hastings?
A. NO.

Two (2) polygraph chart tracings were analyzed of subject's recordings, and it is the opinion of the examiner that pertinent instrumentation recorded responses of LOUIS M. GRECO are indicative of those in the past that have been interpreted as TRUTHFUL responses. Simply in layman language with regards to the death of Teddy Deegan and the period the subject states he was in Florida were considered TRUTHFUL responses.

The instrument used in the administration of this polygraph examination was a Model 6303, 3 Pen Keeler instrument.

Harold L. Lokos
HAROLD L. LOKOS
Polygraph Examiner

000351

76 A

STATE OF FLORIDA )
: ss:
COUNTY OF DADE )

I, MARIE BLANTON, a Notary Public of the State of Florida, hereby certify that the signature of one HAROLD L. LOKOS, Polygraph Examiner, is his true and correct signature.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, this 20th day of November, 1967.

Marie B. Anton
NOTARY PUBLIC, State of Florida at Large.

My Commission expires:

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES AUG. 3, 1971
BONDED THROUGH FRED W. DIESTELHORST

EXHIBIT 31

Commonwealth vs. Lewis [illegible] alias Louis Grieco, alias [illegible] alias [illegible] Grecco
Wilfr[illegible] [illegible]y French, alias Roy French, Alias [illegible] [illegible]ch
Ronald Anthony Cassesso, Joseph L. Salvati, Peter Joseph Limone
Henry Tameleo, alias Enrico Tammelleo
Joseph Baron, alias Joseph Barboza

NO. 32369

Offense: Conspiracy

| Paper No. | Date of Filing | Attorney | | |
|---|---|---|---|---|
| | | 10/30/67 Anthony F. McLaughlin 6 Beacon St. (for French) 11/1/67 Robert A. Stanziani 40 Court St. (for Limone) 11/17/67 William S. Fidgeon 261 Tremont St. (for Cassesso) (withdraws 5/21/68) 12/12/67 Joseph Balliro 44 School St. (for Tameleo) 3/5/69 David Berman (for Limone) 4/15/69 A. Hutton ~~(for Grieco)~~ | 2/27/68 Lawrence F. O'Donnell John B. Greene One State St. (for Grieco) 4/9/68 Ronald J. Chisholm 261 Tremont St. (for Cassesso) 6/10/68 Joseph J. Balliro 44 School St. (for Limone) 6/14/68 Lawrence F. O'Donnell 6/19/68 John B. Greene One State St. (for Cassesso) | 6/18/68 Lawrence F. O'Donnell One State St. (for Tameleo) (Appointed by Court and relieved by Court 7/22/68) 6/20/68 Lawrence F. O'Donnell One State St. (for French) 6/21/68 Anthony F. McLaughlin 6 Beacon St. (for Limone) 3/25/69 Paul T. Smith Manuel Katz 89 State St. (for French) |

| Paper No. | Date of Filing | |
|---|---|---|
| 1 | Oct. 25, 1967 | Indictment returned. |
| | Oct. 30, 1967 | French brought into Court - indictment read - stands mute upon arraignment and Court directs plea of not guilty be entered. French committed to Common Jail on mittimus without bail. Rose, J. - Mittimus issued. J. Brown, stenographer. J. Zelkind, A.D.A. - A. McLaughlin, Esquire for French. |
| | Nov. 1, 1967 | Limone brought into Court on warrant - indictment read - pleads not guilty. |

| Date of Filing | |
|---|---|
| Apr. 18, 1968 | Cassesso's motion for access to witnesses, after hearing, denied as to Stathopoulos, no action as to Claire Baron. |
| | Cassesso's motion to interview Robert C. Glavin, after hearing, denied. |
| | Grieco's motion for opportunity to interview Joseph Baron and Anthony J. Stathopoulos, after hearing, denied. |
| | Salvati's, Grieco's, Cassesso's and Tameleo's motions to be furnished with criminal records and probation records, after hearing, each denied. |
| | Cassesso's motion to inspect filed, after hearing, denied.(Pap. No. 28 in 32366) |
| | Tameleo's, Cassesso's and Salvati's motions for Police Department reports, and Grieco's motion for the production of Police Department records, after hearing, each denied. |
| | Cassesso's files motion to dismiss. (Paper No. 29 in case No. 32366) |
| | Court orders exhibits (1 - 4 inclusive) impounded.. Forte, J. Anderson, stenographer. |
| Apr. 22, 1968 | Cassesso's motions: for Lawful Jury; to interview Anthony J. Stathopoulos; for access to witnesses; to interview Robert C. Glavin; to be furnished with copies of the autopsy report; to inspect personal effects; to be furnished with criminal records and probation records; after rehearing, each denied. |
| 5 | Cassesso's motion for Bill of Particulars filed, after hearing, denied. |
| | Tameleo's, Cassesso's, Salvati's, Grieco's motions to dismiss and Grieco's motion to dismiss because Grand Jurors improperly drawn, after hearing, each denied. |

(Continued)

000627

FORTIETH DAY
Volume 42
Pages: 5670 - 5942

Condon - nothing re testimony or reports

Commonwealth of Massachusetts

Suffolk, ss.

FITZ
5920
1st Spoke to Condon

Superior Court
Criminal IX

| | | |
|---|---|---|
| Commonwealth v. | Louis Grieco, alias, and Wilfred Roy French, alias | No. 31601 |
| | Henry Tameleo, alias | 32365 |
| | Ronald Anthony Cassesso | 32366 |
| | Peter Limone | 32367 |
| | Joseph L. Salvati | 32368 |
| | Louis Grieco, alias, et als | 32369-70 |

Before: Forte, J., and Jury.
Begun: May 27, 1968, at Boston, Massachusetts.

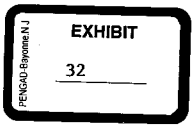
Transcript of the Evidence

Proceedings of July 19, 1968

(Appearances as heretofore noted.)

Arthur E. Baker
and
Donald O. Anderson

Official Court Stenographers



Q And is it fair for me to say that that is to preserve the purity, so to speak, of the man's testimony?

A Yes, sir.

Q In other words, you would not want the impression created later on during the course of a trial, Mr. Condon, that you had anything to do or an agent of the FBI had anything to do with the story that the man was telling? That's part of it, isn't it?

A Yes, sir.

Q Now, that is a matter of concern then, is it not?

A Yes, sir.

Q Now, during the period of time that Mr. Barboza was transferred to Barnstable County, or from that period of time until the present day, to your knowledge, do you know that he has been in Federal custody, so to speak?

A Yes, sir, he has.

Q So that the Federal authorities have been responsible for his protection and his custody, his confinement?

A Yes, sir.

Q Is that right?

A Yes, sir.



Q And is it fair to say that you and Agent Rico have

been major figures, so to speak, with regard to the investigations surrounding the information furnished by Mr. Baron?

A No, sir.

Q It is not?

A No, sir.

Q Well, you have been participating in it, is that correct?

A As it pertains to Federal matters, yes.

Q But not as it pertains to State matters?

A We have not been the principal figures, no, sir.

Q I see. But you have been part of it, is that correct?

A Yes, sir.

Q And concerned with it, is that right, as an agent?

A Would you explain what you mean by concerned, please?

Q Well, interested in seeing, for example, that the purity of the story that Mr. Baron had to tell was preserved?

MR. ZALKIND: I must object to that, your Honor, because, frankly, I don't understand it.

MR. BALLIRO: Maybe he does.

THE COURT: If the witness does not understand it, he need not answer it.

Q Do you understand that or not?

August 5, 1968

PERSONAL

Mr. H. Paul Rico
Federal Bureau of Investigation
Boston, Massachusetts

Dear Mr. Rico:

The manner in which you performed in the investigation of a local murder case involving Roy French and others was splendid and I want to commend you.

The successful prosecution of these subjects was a direct result of your noteworthy development of pertinent witnesses. I want you to know that I am most appreciative of your fine services.

MAILED 27
AUG 5 - 1968
COMM-FBI

Sincerely yours,

J. Edgar Hoover

1 - SAC, Boston (Personal Attention)

1 - Miss Usilton (Sent Direct)
JMP
(5)

67-458484
Based on Boston teletype 7/31/68 and addendum Special Investigative Division 8/1/68 re Criminal Intelligence Program, Boston Division.

67-[illegible]-144
Searched ____ Numbered ____
AUG 6 1968

REC-136

Tolson
DeLoach
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

AUG 9 1968

MAIL ROOM ☐ TELETYPE UNIT ☐

EXHIBIT
33

August 5, 1968

PERSONAL

Mr. Dennis M. Condon
Federal Bureau of Investigation
Boston, Massachusetts

Dear Mr. Condon:

In recognition of the excellent fashion in which you performed in the investigation of a local murder case involving Roy French and others, I am pleased to commend you.

You were highly instrumental in the development of principal witnesses and, through your effective testimony at the trial, all the subjects were successfully prosecuted. I do not want the occasion to pass without conveying my appreciation to you.

Sincerely yours,

J. Edgar Hoover

MAILED 27
AUG 5 - 1968
COMM-FBI

67- 433766-166
Searched ..... Numbered 60
AUG 6 1968

REC-149

1 - SAC, Boston (Personal Attention)

1 - Miss Usilton (Sent Direct)
JMP:bla
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67-433766
Based on Boston teletype 7/31/68 and addendum Special Investigative Division 8/1/68 re Criminal Intelligence Program, Boston Division.

Tolson
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Holmes
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AUG 9 1968
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OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. DeLoach

DATE: November 15, 1968

FROM : J. H. Gale

SUBJECT: DEPARTMENT OF JUSTICE TASK FORCE CONCEPT ON ORGANIZED CRIME

Tolson
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CRIMINAL INTELLIGENCE PROGRAM - GENERAL

SYNOPSIS: This memorandum is written to set forth the FBI's views with reference to the Department of Justice "Task Force" (also called "Strike Force" concept on organized crime. This involves formation of groups consisting of Department attorneys and investigators from different Federal agencies concentrating combined prosecutive and investigative functions in selected areas.

The basic objectionable aspects of the Task Force concept consist o the following: (1) Combining of investigative and prosecutive functions to the detraction of desirable impartiality; (2) loss of economy and efficiency by super imposing a new group in areas where regular prosecutive and investigative agencies exist; (3) absence of specific responsibility because of diverse organizations and assignments of personnel; (4) added peril to personnel in dangerous situations encountered; (5) difficulty in maintaining security of confidential informants. Another principal objection is that the FBI's accomplishments would be submerged in the claiming of credit by the Task Force beyond its actual contribution, and they will wind up grabbing the lion's share of favorable publicity.

Proponents of Task Force operation stress ability to concentrate on an objective without diversion caused by multiplicity of investigative matters. Regularly constituted investigative agencies, however, can concentrate and specialize its personnel, and United States Attorneys' offices can be strengthen by changes and additions of competent attorneys where needed. Current accom plishments of existing Department of Justice Task Forces are dwarfed by accomplishments of the FBI in areas where prosecutions are handled by a regular staff of United States Attorneys and initiated by the FBI.

ACTION: For information, as an outline of the FBI views regarding the Task Force, or Strike Force, concept.

REC-47 62-9-1152

1 - Mr. DeLoach
1 - Mr. Bishop
1 - Mr. Gale
1 - Mr. Staffeld
1 - Mr. Green
CLG:rdr/jny
(6)

DEC 1968

DETAILS - PAGE 2

EXHIBIT
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Memorandum to Mr. DeLoach
Re: Department of Justice
Task Force Concept on
Organized Crime

DETAILS

Department of Justice Task Force

The Task Force idea began with a visit to Bureau officials on October 27, 1966, by representatives of the Department's Criminal Division. They announced that they were suggesting a group be formed in the Department of Justice consisting of attorneys and representatives from the Treasury Department, Labor Department, Bureau of Narcotics, the Internal Revenue Service, and the FBI who could sit down and review in the Department of Justice all available information gathered by the various agencies concerning the activities and criminal personalities involved in organized crime in the Buffalo, New York, area. Investigations would then be conducted by the various personnel in the Buffalo area. They pointed out that the FBI reduces its investigations to reports, which is not the case with some of the other agencies, but that these other agencies have a great wealth of information which has never been made available because it had not been reported.

The Director said that he would never agree to this and that the Department should take steps to correct the procedures of the other agencies and not muddy the procedures of the FBI. The recommendation that we not participate in the "Task Force" was approved by the Director, and the Department was notified of the Bureau's decision on November 7, 1966. It was stated and reiterated to the Department that the FBI would continue to vigorously conduct investigations in organized crime cases and continue to submit to the Department our detailed reports of the results of these investigations. They were also told that the FBI desired to have reported to it any alleged violations of law within its jurisdiction which might be discovered by the "Task Force," and such alleged violations would be promptly, completely, and vigorously investigated. On later contacts with the Special Agent in Charge in Buffalo, members of the "Task Force" were similarly advised of the Bureau's desires in this regard. Liaison has been maintained with the "Task Force" and the United States Attorney's office continuously by the Buffalo FBI Office.

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Re: Department of Justice
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On their contact with Bureau officials, Department representatives said that the Buffalo, New York, area had been selected for the pilot operations of the Task Force idea. They indicated that Buffalo had a very active La Cosa Nostra family which had been determined by the Department based on examination of regularly submitted FBI intelligence reports on organized crime by its investigations over a period of several years. It was formed and began operations in the Buffalo area in the beginning of 1967. Additional Task Forces have been formed and are presently in existence. They are at Detroit, Philadelphia, and the Eastern District of New York (Brooklyn). The Buffalo Task Force was disbanding its personnel and operation during October, 1968. Assigned to the Department of Justice "Task Force" in the Buffalo area were the following:

Five Department attorneys, headquartered at Washington, D. C.

An Alcohol and Tobacco Tax Division investigator headquartered at Washington, D. C.

Two Internal Revenue Service agents, one headquartered at Los Angeles, California, and the other at Pittsburgh, Pennsylvania.

One Immigration and Naturalization Service investigator headquartered at Washington, D. C.

One U. S. Customs Service investigator headquartered at Washington, D. C.

One Federal Bureau of Narcotics investigator headquartered at Baltimore, Maryland.

Claimed Accomplishments of "Task Force" in Buffalo area.

In a speech by the Attorney General and in a press article inspired by the Department, it was claimed that the "Task Force" produced indictments of 31 persons in the Buffalo area including suspected members of La Cosa Nostra.

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Re: Department of Justice
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We do not have specific knowledge of the indictments mentioned. However, undoubtedly the statements include indictments charging Anti-Racketeering - Conspiracy under the provisions of the Hobbs Act and another one charging conspiracy to rob a bank in Buffalo. None of the criminal acts forming the basis for these indictments were ever actually perpetrated. The indictments in the Hobbs Act - Conspiracy concerned two local robberies which were allegedly planned for Los Angeles, California. Included in the indictment was a count charging conspiracy to violate the Interstate Transportation of Stolen Property statute. This Task Force case involved Fred G. Randaccio, Pasquale A. Natarelli, and three other associates.

Randaccio and Natarelli were important figures in the organized crime picture in Buffalo--both being members of the Steve Magaddino family of La Cosa Nostra in that area and Randaccio holding the high-ranking position of underboss to Magaddino. In United States District Court in Buffalo, all defendants were convicted on November 21, 1967. Randaccio, Natarelli, and defendant Stephen A. Cino were each sentenced to 20 years in prison. The other two defendants, Charles Caci and Louis Sorgi, each received sentences of 10 years. These convictions have been affirmed by the United States Court of Appeals, Second Circuit, and petition for certiorari has been filed with the United States Supreme Court.

In the indictment charging conspiracy to rob a bank in Buffalo, four individuals were charged, but only one, Salvatore Pieri, could be considered as an organized crime figure in the area. Pieri is an important La Cosa Nostra member in Buffalo. At the conclusion of a trial of the four in United States District Court in Buffalo, Pieri was acquitted, and the jury disagreed on the other three who were convicted in a subsequent trial.

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Re: Department of Justice
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As a basis for comparison, examples of prosecutive achievement against organized crime are those involved in FBI investigations in Boston and the Southern District of New York in New York City. In Boston in a case investigated by our Boston office and prosecuted by the U. S. Attorney, Raymond L. S. Patriarca, "boss" of the New England family of La Cosa Nostra and one of the most important organized crime figures in the United States, together with two of his high-ranking associates, Henry Tameleo and Ronald Cassesso, they were convicted in U. S. District Court on June 20, 1967, on charges of Interstate Transportation in Aid of Racketeering - Gambling, and each was sentenced to five years imprisonment and fined $10,000.

Also, as a result of FBI investigation, in State court in Boston, Massachusetts, six more were convicted in the 1965 slaying of Edward Deegan. La Cosa Nostra members Henry Tameleo, Ronald Cassesso, Peter Limone, and Louis Grieco were all sentenced to death while two confederates were given life sentences.

Also based on FBI investigation, Raymond Patriarca has been indicted by the State of Rhode Island for the 1965 conspiracy to murder Willie Marfeo. This charge is based on substance to the same set of facts involved in the ITAR - Gambling prosecution of Patriarca, Tameleo, and Cassessa.

The key factor in the foregoing prosecutive achievements in the New England area was the development as a cooperative witness of Joseph Baron, commonly known as Barboza, who was an important crime figure in his own right and performed as a hired killer for La Cosa Nostra leaders. Conceivably, a "Task Force" could have had the initial contact with Baron and developed some of the same prosecutive achievements. However, in such an event, it would have been the additional unnecessary expenditure of personnel and money in having this operation handled by a group superimposed on the regular prosecutive and investigative establishments in the area.

Similarly, in the Southern District of New York, the FBI developed an important witness against organized crime figures in the person of Herbert Itkin. This was a significant factor in the ensuing prosecution handled by the U. S. Attorney, Southern District of New York, which resulted in the conviction of important La Cosa Nostra figures Antonio Corallo, James L. Marcus, former Commissioner of Water, Gas, and Electricity for the City of New York, and three other defendants. These convictions which occurred on June 19, 1968, involved violations of the Interstate Transportation in Aid of Racketeering - Bribery statute. Additional prosecutions are expected as a result of information furnished by Itkin. Conceivably also, a "Task Force" could have handled this or a similar case, but it would have been a superimposed superflous group considering that the regular investigative and prosecutive establishments were in existence ready, willing, and able to perform their functions.

## BASIC OBJECTIONAL ASPECTS OF "TASK FORCE" CONCEPT

### Combining of Investigative and Prosecutive Functions

Over the years, the FBI has adhered to the policy of a separation of the investigative and prosecutive functions pertaining to alleged violations of the laws of the United States, which are the responsibility of the FBI to investigate. This policy and practice of separating the two functions provides an investigative, fact-finding agency of trained career personnel. Because of the career status of the investigative personnel, the person charged with developing the true facts is entirely disinterested since he has nothing to gain personally through a conviction of a defendant. On the other hand, prosecutors in some instances are political appointees who have further political ambitions and who are often subject to community pressures.

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As an added protection, even though the investigator has reason to be disinterested, he is not in a position to decide whether or not a defendant is to be prosecuted; and there exists the additional safeguard of placing the decision to prosecute in another person who will make his decision based on a completed investigation.

Loss of Economy and Efficiency

By having investigative functions solely in the province of a regularly established investigative agency with a permanent office in the area, we have the utmost economy of effort and resulting economy of money expenditures. The office in the area has personnel with geographical familiarity, necessary equipment, established sources of information, channels of communication, confidential informants, and all other facilities available for economical operation.

In addition, each field office is part of a nationwide organization with field offices covering all areas. The investigative personnel have a common training, reporting system, and jurisdiction which enables it to request investigation in other parts of the country which can be handled immediately and most economically. By this coordination of a nationwide organization of field offices, there are no unnecessary travel costs and incidental costs, such as per diem, to the investigator.

An example of the Department of Justice "Task Force" at Buffalo, New York, and the personnel assigned to it shows expense to the Government which could be avoided by having the investigation conducted by investigative agencies regularly assigned in that area, and prosecution handled by the personnel of the United States Attorney's office there. The initial personnel assigned to the Buffalo "Task Force" included five Department of Justice attorneys from Washington, D. C., four investigators from various Federal investigative agencies from Washington, D. C. one Federal investigator from Baltimore, Maryland, one Federal investigator from Pittsburgh, Pennsylvania, and one Federal investigator from

Los Angeles, California. The travel and per diem expense incurred by these 12 members of the "Task Force" could have been avoided by having the regularly established investigative personnel in the area conduct those investigations of alleged violations coming within their respective jurisdictions, and the necessary legal problem and prosecutive efforts could have been handled by the office of the United States Attorney. In the event any supervisory advice was needed by the United States Attorney or by any of the investigative agencies involved at the headquarters level, this could have been obtained by written correspondence or by telephone, where necessary.

Absence of Specific Responsibility

The FBI has always held the position that jurisdiction should be jealously guarded. This attitude occasionally brings forth critical comments from the uniformed. However, it is believed this attitude is necessary in order that those agencies charged by law with specific areas of responsibility should not seek to avoid them and should always be held strictly accountable for those shortcomings in discharging its responsibilities. On the other hand, the public and the Congress should be in the position to determine whether an agency is efficiently discharging its responsibilities. There is also an added protection to the citizen in having jurisdiction specifically fixed so that there will be no "crusading fishing expeditions."

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Added Peril to Personnel
in Dangerous Situations

In "Task Force" type operations, with investigators from different agencies who have been given different types of training and subjected to different administrative disciplines, there always exists the problem of cohesive, unified efforts involving dangerous situations, such as raids and arrests. There is obviously less danger to participating personnel when they all belong to the same organization. Although nothing untoward happened in the arrests in June, 1967, of five defendants in a case investigated by the Buffalo "Task Force," it is noted that participating were representatives from the Treasury Department investigative agencies, local and state police, and members of the United States Marshal's forces. Some of the five defendants arrested had extensive criminal backgrounds. We were invited to participate in those arrests and declined, one of the reasons being the number of different law enforcement agencies participating.

Possible Exposure of Informants

One of the most necessary tools of a law enforcement agency is the use of confidential informants. The identity of a good confidential informant must always be protected because of danger to his safety, even his life, if members of the underworld learned of his cooperation with law enforcement. In addition to being a valuable adjunct to law enforcement, the confidential informant's cooperation is usually developed only by long, careful, and persistent contact. The traveling "Task Force" is not usually equipped to develop such informants. Investigators would obviously endanger their informants by making contact and reporting in a group made up of men from several different agencies. It would be difficult to conceal the informant's identity in the absence of established protective administrative practices in reporting and physical facilities designed for adequate security.

Memorandum to Mr. DeLoach
Re: Department of Justice
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SUMMARY

In conclusion, and as a result of our analysis of the Department's Task Force concept, it is firmly recommended that we continue our present policy that we not place our personnel at the disposal of any of the Department's Task Forces. We will, however, continue to provide them with copies of our investigative reports pertaining to organized crime matters and continue to maintain daily liaison with the Task Forces in order that we will be able to protect the interest of the FBI. Our reasons for recommending against participation in the Task Force concept are briefly restated as follows:

1. The Task Force concept combines the investigative and prosecutive functions eliminating the added protection of impartiality by having an investigative function separated from the prosecutive function.

2. The Task Force concept being a "superstructure" imposed on the regularly established investigative and prosecutive (U. S. Attorneys) agencies causes a loss of economy and efficiency in law enforcement operations.

3. The Task Force concept creating a group comprised of personnel from several different agencies establishes a situation in which specific responsibility cannot be assigned properly as to jurisdiction of violations of laws.

4. Detaching FBI personnel from their regular assignments to place them with a Task Force would lessen the FBI's ability to discharge its responsibilities in the broad areas of jurisdiction.

5. In the investigation of violations of law, there will exist many dangerous situations involving raids, arrests and other contacts with persons of criminal background. Having such situations handled by attorneys and officers of varying disciplines and training obviously adds to the dangers when compared with handling of the same situations by investigators of one organization.

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6. The FBI has clearly indicated to the Department of Justice that we will handle any investigation which the Department of Justice desires us to conduct which falls within our investigative jurisdiction. Our only reservation is that the supervision of these investigations will remain exclusively with the FBI and that we will direct the activities and the assignment of our personnel so that maximum utilization of available personnel can be achieved at all times. This is necessitated by our continuing and mounting investigative responsibilities which demand the most careful deployment of our personnel so that maximum, efficient utilization of our people can be had at all times.

7. One of the principal objections to a Task Force superimposed on the existing prosecutive machinery in the form of United States Attorneys' offices and the existing offices of the various Federal investigative agencies is the fact that the FBI's accomplishments would be submerged in the claiming of credit by the Task Force beyond its actual contribution.

The FBI's program embodies the separation of the investigative and prosecutive aspects of the drive against organized crime. Historically, we have found it to be true that greater efficiency results and responsibilities are clearly established when investigators investigate and prosecutors prosecute. Under this system, supervisory direction and assignment of personnel are left where they properly belong--in the hands of professionals charged with the responsibility of conducting extremely sensitive investigations in a most complex field of activity.

DIRECTOR, FBI 4/14/69

[redacted]

JOSEPH BARON, aka,
Joseph Barboza,
[redacted]

B.F

Investigation is being initiated in connection with the TECIP to develop Subject as a top echelon criminal informant; therefore, Subject is being designated a target under this program.

The Boston Office by letter dated April 1, 1969, furnished pertinent background concerning Subject, which is set forth below. The Boston Office advised that there will be occasions when that office will desire that Subject be contacted on various matters of extreme importance to the Boston Division. Further, as PC becomes acquainted in the San Francisco area, he will undoubtedly be in a position to furnish worthwhile information concerning criminal activities.

M, B

EXHIBIT
35

[redacted]

P

F

[redacted]

SERIALIZED 14 FILED
APR 18 1969
FBI — BOSTON

2 - Bureau (RM)
2 - Boston ([redacted]
2 - [redacted]

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F. M. B

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[redacted] F

CNH:jab

B

[redacted] federal convictions were obtained on March 8, 1968, on RAYMOND L. S. PATRIARCA, recognized leader of the LCN in the New England area; HENRY TAMELEO, LCN member and lieutenant for RAYMOND L. S. PATRIARCA; and RONALD CASSESSO, LCN member, for violating the AR Statutes [redacted] the gangland death of EDWARD "TEDDY" DEEGAN [redacted] this information was disseminated to Suffolk County [redacted] in a murder trial which resulted in the conviction of LCN members HENRY TAMELEO, RONALD CASSESSO, PETER LIMONE and LOUIS GRIECO, all of whom received "the death sentence." Also convicted at this trial were ROY FRENCH and JOSEPH SALVATI, also known as "Joe, the [redacted]se." B

IDENTIFICATION RECORD

B [redacted]

L E A D

BOSTON

At Boston, Massachusetts. [redacted]

B

Henry E. Petersen
Deputy Assistant Attorney General
Criminal Division

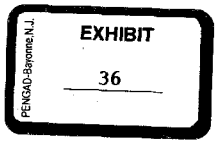
February 12, 1970

Walter T. Barnes and Edward F. Harrington
Attorneys, Boston Strike Force
Organized Crime and Racketeering Section

Joseph Baron

This memo relates to a request made by former Government witness Joseph Baron. Joseph Baron testified in Federal court in Boston in the successful prosecution of Raymond L. S. Patriarca, Henry Tameleo and Ronald Cassesso. He also testified for the State of Massachusetts in the successful murder prosecution of Tameleo, Cassesso, Louis Greico, Joseph Salvati, Peter Limone, and Roy French. He was also the chief witness for the State of Massachusetts in the unsuccessful murder prosecution of Gennaro Angiulo and three other underworld figures. Patriarca is the head of the LCN in New England. Tameleo is his "underboss". Angiulo is the leading LCN figure in Boston, Massachusetts and Limone is his "underboss."

The fact that Baron, his wife and two children, were provided with Government protection and relocated to another part of the country has been the reason why in the ensuing two years John J. Kelley, William Daddieco, Charles Lombardi and Vincent Teresa have decided to cooperate with the Government and to testify against their former associates in the New England underworld. Baron's testimony and his example as an individual who the Government was able to protect against the violent Boston underworld, has been the single most important factor in the successful fight on organized crime in New England in the last 50 years. The Patriarca prosecution itself has been described by many as the single most important prosecution over this same period.




BSF-00914

I think it fair to state that it was agreed by all in the Department of Justice that at the time Baron was released from Government protection every effort would be made to provide his with a job and an unspecified sum of money. However, in the event it was impossible to obtain a job for him because of Baron's extensive record (38 years old - 17 in prison) and inability to do anything, it was agreed that he would be provided additional money. This position was made known to Baron. A year has passed and we have been unable to provide Baron with a job. At the time he was released from protective custody he was given only $1,000 in Government funds, the reason being he was difficult to handle and the protective custody was most expensive. However, we feel as does all law enforcement in New England that this expenditure was well worth it. Baron has been working at odd jobs whenever he could land one. However, he is now almost penniless and feels that he has not been given a fair chance to begin a new life. He is being evicted from the house he is renting through no fault of his. The owner simply wants to sell instead of rent.

In addition, it should be noted that F.B.I. Intelligence indicates that Baron has been recognized at his present location by an individual who knows some of the Massachusetts hoodlum element. In fact, the individual is from Baron's home town of New Bedford, Massachusetts. This information will be confirmed by F.B.I. in writing. He feels he must move again or obtain plastic surgery, preferably the latter. He does not have the money to do either and of course he is easily recognizable. He needs approximately $9,000 for the operation and to make ends meet during the recovery period. I verified the cost of the operation itself as $5,000.

Baron is now desperate. He states he is without any money and feels that the Government has reneged on its promise to provide him with sufficient money. He has indicated that he will publicly retract his testimony given in the aforesaid cases and will make known to the press that the Government did not give him a fair chance to go "straight."

In the opinion of the writers if either of the above should occur, the Federal Government will receive a severe setback as the Patriarca and Tameleo cases might be overturned and plunge the Government into protracted and acrimonious litigation. In addition, informants willing to testify will be almost impossible to secure.

We recommend that by some manner or means Baron's request be honored to the degree possible. Of course it would be made perfectly clear to him that such money would be all that he would ever receive.

8/3/70

AIRTEL AIRMAIL

TO: DIRECTOR, FBI [redacted]

FROM: SAC, BOSTON [redacted]

SUBJECT: [redacted]

On 8/3/70, Deputy Chief of the Strike Force EDWARD F. HARRINGTON met with Suffolk County District Attorney GARRETT BYRNE and Assistant District Attorney JACK ZALKIND, who prosecuted the DEEGAN case. Mr. HARRINGTON advised that at this meeting, the District Attorney said that the affidavit signed by JOSEPH BARBOZA BARON and filed in connection with the motion for a new trial on the DEEGAN murder case was not sufficient to warrant a hearing as it simply contains a general statement. The District Attorney is going to confer with Superior Court Judge FELIX FORTE and request that the motion be denied on this basis. The District Attorney also plans to confer with Attorney JOHN FITZGERALD who testified in the DEEGAN case.

For the information of the Bureau, Boston informant reports that BARON had been seeking $250,000 from the defense on the promise of helping them out.

Attorney FITZGERALD has advised that BARON, in the past, wanted him with BARON to contact Chief Defense Attorney JOSEPH BALLIRO and try to obtain money from him with promise of changing testimony. [redacted]

2 - Bureau
1 - San Francisco (Info)
2 - Boston [redacted]
(6)
DMC/ras

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EXHIBIT 37

[redacted] F

It is pointed out that during the past week, Attorney F. LEE BAILEY telephonically contacted BARON's wife and in his contact he told her not to pick up a Western Union money order that had been forwarded to her but that other funds would be sent to her.

A copy of this communication is being designated for the Information of the San Francisco Office.

2*

8/25/70

TELETYPE URGENT ~~IMMEDIATE~~

TO: DIRECTOR [redacted] F

FROM: BOSTON [redacted]

[redacted] M

REBOSTEL AUGUST TWENTYFOURTH LAST.

PURSUANT TO A TELEPHONIC REQUEST OF DONALD BARBOZA, BROTHER OF JOSEPH BARON, DONALD BARBOZA WAS INTERVIEWED LATE PM YESTERDAY AND EARLY AM TODAY. DONALD SAID BARON REQUESTED HIM TO CONTACT SA DENNIS M. CONDON AND TO RELATE THE FOLLOWING TO HIM:

HE, BARON, IS SCHEDULED TO BE TRANSPORTED FROM MCI, WALPOLE, MASS., FOUR AM, AUGUST TWENTYSEVENTH NEXT, IN CONNECTION WITH HEARING IN SUPERIOR COURT, BOSTON, THAT DATE. BARON WANTED SA CONDON, WALTER BARNES, CHIEF OF STRIKE FORCE, BOSTON, AND JOHN PARDINGTON, DEPUTY USM, PROVIDENCE, R.I., WHO WAS IN CHARGE OF BARON'S DETAIL, TO MEET AND TALK TO HIM AT FIVE AM, AUGUST TWENTYSEVENTH NEXT SO THAT F. LEE BAILEY WOULD NOT BE AWARE OF THIS CONTACT.

[redacted] F

(2)
RES/ras

F 000970

[redacted] /R3

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EXHIBIT 38
PENGAD Bayonne N.J.

8/25/70

TELETYPE URGENT ~~IMMEDIATE~~

PAGE TWO

DONALD BARBOZA SAID BARON MADE STATEMENT THAT THERE WOULD BE NO POLYGRAPH AND THAT HE, BARON, WAS JUST TRYING TO MOVE THESE PEOPLE FOR SOME MONEY; THAT HIS ARREST IN NEW BEDFORD, MASS., "SCREWED UP" THIS MOVE; THAT ATTORNEY JOE BALLIRO "SCREWED HIM UP" BY GOING INTO COURT WITH THE AFFIDAVITS. BARON TOLD HIS BROTHER TO RELAY THE FACT THAT HIS WIFE HAS HIS PAPERS RE DEEGAN MURDER TRIAL AND ON WHICH NUMEROUS HANDWRITTEN NOTATIONS OF ASSISTANT SUFFOLK COUNTY DA ZALKIND APPEAR, WHO PROSECUTED THIS CASE.

BARON ALSO TOLD HIS BROTHER THAT F. LEE BAILEY ASSURED HIM THAT THE PROBATION VIOLATOR WARRANT RECENTLY SERVED ON HIM WOULD NOT BECOME EFFECTIVE UNTIL THE END OF HIS PRESENT SENTENCE ON OCTOBER FIFTH NEXT; THAT SINCE HE WILL ACTUALLY BE RELEASED FROM THE PAROLE VIOLATION ON SEPTEMBER TWENTYTHIRD, NEXT, BECAUSE OF HAVING GIVEN BLOOD, THE LATTER WARRANT WILL NOT AFFECT HIS CONTINUED INCARCERATION. BARBOZA TOLD HIS BROTHER THAT BAILEY ALSO ASSURED HIM THAT THE DISTRICT ATTORNEY IN BRISTOL COUNTY COULD NOT DO ANYTHING WITH THE DRUG AND GUN CHARGES FOR

8/25/70

TELETYPE URGENT ~~IMMEDIATE~~

PAGE THREE

WHICH HE WAS ARRESTED IN JULY LAST.

BOSTON OFFICE WILL ADVISE BARNES OF BARBOZA'S DESIRE TO SEE HIM AND UACB, SA CONDON WILL NOT SEE BARBOZA.

END

# Baron returning to Walpole for week on parole violation

AM GLOBE AUG 28 '70

By Robert E. Walsh
Globe Staff

Gangland informer Joseph (Barbara) Baron [redacted] at least one more weekend in Walpole State Prison.

Baron was returned to Walpole under heavy guard last night following an explosive appearance on the witness stand in Suffolk Superior Court.

Judge James C. Roy took under advisement Baron's petition for a writ of habeas corpus to free him from Walpole, where he is confined for violation of parole.

Baron, paroled in March of last year on condition that he stay out of Massachusetts, was arrested in New Bedford in July on gun-carrying and and narcotics charges.

He flushed and sputtered with rage yesterday when Asst. Atty. Gen. John Irwin revealed that he and his family have been staying in California since his release.

"You would do this to my wife and children," Baron shouted to the startled Irwin. "Thanks a lot. I'll do my time."

Baron, fearful of gangland reprisals against him and his family, was apparently saying he would rather remain behind bars than have details of his present life revealed.

Baron's whereabouts had been a closely guarded secret since he was freed as a reward for his testimony against six men on trial for the 1965 slaying of Edward (Teddy) Deegan in Chelsea.

JOSEPH BARON
. . . . to Walpole

Four men are now in Death Row at Walpole largely because of Baron's decision to testify as a means of "getting even" for an underworld double-cross.

Under direct questioning by F. Lee Bailey, Baron's lawyer, Baron admitted visiting Massachusetts, despite terms of his parole, on five occasions. But he claimed he did so under FBI auspices on four of those five occasions.

Baron and Bailey both testified that Baron came back to Massachusetts because his wife was visiting her mother in Malden and he was afraid she would be harmed by the underworld.

Baron said he returned to the state only after the FBI told him they could not spare the manpower to protect his wife on a 24-hour basis during her visit.

On other occasions, Baron testified, he was asked to come east by Federal authorities, but could not pinpoint the dates under questioning by Irwin. He said that, on one occasion, he was asked by Federal agents to testify on a case involving the theft of a $500,000 painting.

Firearms and narcotics charges against Baron were later dropped, but Baron was sent back to Walpole for violation of parole.

Judge Roy, in reserving decision on the Baron petition, ordered lawyers for both sides to file briefs at 10 Monday morning.

PENGAD-Bayonne,N.J.

EXHIBIT
39

1 THE COURT: We've gotten past that point.

2 MR. HYLAND: Yes, but the objection, your Honor, concerning

3 whether he knows-- this would require a knowledge of federal

4 structure.

5 THE COURT: No, the objection to this question is sustained.

6 Presumably a witness who is more versed than Mr. Hughes in what

7 the task force is will be here.

8 MR. MILLER: Q. Who did you personally talk with concerning

9 your trip to Texas?

10 A. Who did I personally talk with? Dennis Condon, Jack Zalkind--

11 Q. Will you stop right there for a moment. Dennis Condon?

12 A. Yes.

13 Q. When was that, sir?

14 A. Around December of 1970.

15 Q. Where did that conversation take place?

16 A. At 4 Lewis Farm Road, Dedham, D-e-d-h-a-m, Massachusetts.

17 Q. And who else was present?

18 A. Mr. Jack Zalkind.

19 Q. And what does he do, sir?

20 A. Assistant District Attorney for Suffolk County.

21 Q. Who else was present?

22 A. John Doyle.

23 Q. And what does he do, sir?

24 A. He's the commanding officer of the District Attorney's office.

25 Q. Anyone else present?

26 A. My wife.

27 Q. Anyone else?

28 A. No.

PENGAD-Bayonne,N.J.
EXHIBIT
40

1 Q. This 4 Lewis Farm Road, you were residing there at the time?
2 A. This is a place where I was under protective custody, myself,
3 my wife and my daughter.
4 Q. What did you call that, again, what kind of custody?
5 A. Protective custody.
6 Q. So we have Dennis Condon. He, you said, is an FBI man?
7 A. That's correct.
8 Q. And Jack Zolkind?
9 A. That's correct.
10 Q. John Doyle?
11 A. Correct.
12 Q. And your wife?
13 A. Yes, sir.
14 Q. Approximately, sir, how long would you estimate that conversa-
15 tion lasted that you had with these individuals?
16 A. A few minutes.
17 Q. A few minutes
18 A. Uh huh.
19 Q. And it was at this time that it was decided by Mr. Condon,
20 was it, that you would be sent to Texas?
21 A. No.
22 Excuse me, your Honor, it's all mixed up. Could I possibly
23 tell why I was at 4 Lewis Farm Road?
24 THE COURT: Well--
25 THE WITNESS: I mean, it has a reason for my being here,
26 your Honor.
27 THE COURT: Yes, the problem is this, Mr. Hughes: statements
28 like that might or might not be admissible, and the Court has to

1 rely on the attorneys to make that sort of determination. So if
2 you are not asked that question by one of the attorneys,
3 specifically by Mr. Miller, on redirect examination by the
4 District Attorney, if in his judgment it's admissible, it can
5 be gone into.
6 Now, that's about all I can say to you.
7 THE WITNESS: All right, sir.
8 THE COURT: Under the rules, you answer whatever questions
9 are asked of you, without volunteering information.
10 THE WITNESS: All right, sir.
11 MR. MILLER: Q. Back to our few minutes of conversation
12 involving Mr. Condon, Mr. Zolkind, Mr. Doyle, yourself, and your
13 wife. Was it suggested by Mr. Condon or any of the others I
14 mentioned that you be taken to or placed in Texas?
15 A. Yes.
16 Q. At this time?
17 A. Yes.
18 Q. And by which of these individuals, sir?
19 A. By all of them.
20 Q. In unison, they all suggested it, or did one of them--
21 A. Well, the telephone rang, and the police officer that was
22 there, you know, with us-- there were policemen living with us
23 around the clock-- and the police officer that was there put
24 Mr. John Doyle on the telephone. And Mr. John Doyle said that
25 he was coming out with Mr. Condon and Mr. Zolkind, that I was
26 being moved.
27 Q. He said that on the phone?
28 A. Correct.

1 Q. That was Mr. Doyle, then?
2 A. That was John Doyle.
3 Q. Is he a friend of yours?
4 A. Is he a friend of mine? No, he is not.
5 Q. Did you see Mr. Doyle?
6 A. Yes, I did.
7 Q. On more than one occasion?
8 A. I sure did.
9 Q. Quite often?
10 A. Quite often.
11 Q. Then after the phone call these individuals arrived?
12 A. Yes.
13 Q. And they discussed your being moved to Texas?
14 A. Correct.
15 Q. And approximately how long after this meeting did you in
16 fact make your move to Texas?
17 A. About a week later.
18 Q. So this would have been after Christmas or so?
19 A. This was after the first of the year, it was in 1971.
20 Q. The meeting would have been late December, if you left in a
21 week?
22 A. Yes, after Christmas, probably, yes.
23 Q. Was there any discussion about your being found a job back
24 in Texas?
25 A. Yes, there was.
26 Q. What?
27 A. Yes, there was. Also being given a new identity.
28 Q. And didn't they get you a job, didn't they live up to their

AFFIDAVIT

I, Anthony Stathopoulos, being duly sworn, depose as follows:

I am the Anthony Stathopoulos who testified in the case of Commonwealth v. French, in 1968, in the Superior Court for the County of Suffolk. To the best of my memory, I testified at that trial that the defendant Louis Grieco, in my opinion, looked like the man I had seen come out of the alley at 4th Street in Chelsea on March 12, 1965. Officer Doyle told me that Baron had told him that Grieco was in the alley shooting Deegan. Someone from the District Attorney's staff had told me the seating arrangement of the defendants in the courtroom before I testified.

On September 8, 1967, I was taken by Boston police officers to the County Jail at Barstable where I had a talk with Joseph Baron. We talked about the events of March 12, 1965, and about testimony that both he and I were going to give before a grand jury about that night. I told Baron that I wasn't sure that Charles Moore had set up the shooting so that, since I wasn't sure, I would not want to involve him. I asked Baron about Flemmi because Baron had told me in Charles Street Jail that he, Baron, could straighten me out with Flemmi. Baron told me that he was going to keep Flemmi out of it because he said that Flemmi was a friend of his and the only one who treated him decently.

Anthony Stathopoulos

PENGAD Bayonne, N.J.
EXHIBIT
41

Before the trial in 1968, I talked with Mr. Zalkind about the lawyers for the defendants wanting to talk with me before the trial. I thought that I would so that I would know what kind of questions they would ask me when I was on the witness stand. Mr. Zalkind told me that I shouldn't do this because someone was trying to kill me.

Since the trial I learned from Mr. Bailey about police reports and I talked with Mr. Zalkind about the reports. The reports were attached together and the first was headed "John Doyle's office" and related to the events of September 8, 1967, and the second related to certain statements made by Officer Robson about talks with me in June and July of 1967. Mr. Zalkind informed me, in August or September of 1970, to the best of my memory, that the second report had been delivered to Mr. Zalkind by Officer Doyle sometime after the trial was over and that Mr. Doyle believed that a copy of the second report had been delivered to one of the lawyers for the defendants by a police officer. I also talked with Officer Doyle who had some papers in his hand. He said that this was what the defense lawyers were talking about. He read parts of it to me. He asked me if parts were accurate and I agreed with him.

Anthony Stathopoulos

Anthony Stathopoulos

SUFFOLK, ss. January 5, 1971

Then appeared the above named Anthony Stathopoulos and made oath to the truth of the foregoing.

Before me,

Walter J. Harvey

Notary Public

EXHIBIT
42
PENGAD-Bayonne, N.J.

Joseph Bentley
P.O. Box B36509
Aug 22 1972

Dear Ted + Vinny,

You know I was never one to beat around the bush + if I've developed a great sense of paranoia its because I was taught by the best, both sides!

Roy Beard suddenly gets paranoid about Heraway, my brother after talking to Bedell gets paranoid about Heraway, my Atty + Investigator suddenly get paranoid. The story is coming from somewhere in Boston.! or Bluffone County or where?

People make Heraway out to be some monsterous genious + not capable of living up to his confessions.

But where the heart of all this lies is in the Deegan case, + Raymond's case. Don't upset the success of the past even if it means letting Joe rot in prison + letting his family fend for themselves.

Well I don't know if you read the confession of Heraway's, I suspect you have by now. My sole interest is the conspiracy admitted by him, between Chisholm, Simone, + Caesso instrumented by Jerry, + the invisable hand of Bailey. I would think a conspiracy that was nurtured in Mass. + finalized in Calif would be considered a Federal charge. If our admission of $200,000.00 + being told wha

to say etc, etc.

But the fear of others concern is the Martin case, & Stewarts police report to Jerry on the Deegan matter & if Kerawy is leading us into a trap? Well I am not concerned at this point about Romeo or any other matter. I am concerned over Kerawy's admission of the things he said about my case which show perjury & conspiracy.

I sit here with people of different branches of law enforcement now knowing that the Mafia hatched a plot in my case in revenge for the help I gave various law branches which enabled them to achieve a a success unparallel in any other time in the history of criminology in New England. So much so that I should be sacrificed in order not to upset the apple cart. No Sir!

If I knew that come April when I see the parole board I'd make a parole, I'd forget the whole thing. But I have no assurances, none whatsoever! I am the one who rots in prisson, + my wife + kids suffer + fend for themselves. Again its give give give Joe, but no here, here Joe! Even in my trial in Santa Rosa I was duped! But that cool!

Everybody was so sure I was making a

deal with the office in the Woods with Davis, & with Bailey, that they in anger & spite threw me upstairs over Dealk Row & near Heraway. But nobody thought & took into consideration that I had a reporter in disguise to listen to the whole thing. If I was sincere believe me he wouldn't have been there. But everybody else in all their super sleuthing think they got it figured to a tee & sent me out of spite to Walpole. I had no right going to Wiscasset, just as a snowball doesn't belong in hell!

Well I am in a different position now. Regardless of all the bull — people had put in newspapers lies & dramatics for effect which makes Bacon a cuckoo today & not capable of beating a legit self defense. I am going to try again to beat it, with or without Marlon Miller, I am able to retain a private Atty if need be. I am interested in this case, not any other. I dont care how much the Boston mouths try to dissuade people to help me, I'll do it my way. I am not rotting in no prison going befor a parole board year after year turned down.

Are you two going to help me on this matter or not?

T

Do you actually believe Hraway, the Bear + Ronnie are friends? The Bear + Ronnie would whack him out in a minute, + I think Hraway knows this, + I know for a fact the Bear hates Ronnie, all it is, is a vicious evil trio gaming each other.

Read those confessions, look how he as committed himself. The traps can be avoided by not going near the trap. But in my case he said enough to open it.

Tell me would you not in prison? Would you say no I'll wait for a parole 2 3 4 5, 6, 7 years from now. If I knew I'd make a parole in April I'd leave it die, but I don't know that!!

I would appreciate a reply from you on this letter it would be to both our advantage.

Why don't you come + see me on this matter since a Federal conspiracy is involved.

I await your answer anxiously!

Joe B.

P.S. Tell me this! Where I come from + been, does it stand moot or not that I should just up + shoot a dopper in front of his wife + 18 year old girl who I knew was a snitch.

BSF-00782

12.6a

FD-36 (Rev. 5-22-64)

FBI

Date: 2/1/74

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL AIRMAIL
(Priority)

TO: DIRECTOR, FBI

FROM: SAC, BUTTE (92-546) (RUC)

SUBJECT: CHANGED
JOSEPH BARON,
aka Joseph Costa, etc.
AR
Joseph BARBOZA
JOSEPH BENTLEY

Title is changed to include additional alias of Joseph Costa for Subject BARON.

Re Butte airtel to Bureau, 1/29/74.

Enclosed for the information of the Bureau and receiving offices are two copies each of FD-302 setting forth detailed interview with captioned individual.

ENCLOSURE

2 - Bureau (Enc.2) (AM)
2 - Boston (92-1132) (Enc.2) (AM)
2 - San Francisco (92-2366) (Enc.2) (AM)
1 - Butte
AJFM/sdj
(7)

92-9828-48

REC-90

[redacted]

22 FEB 4 1974

Butte to BS, BS
2-11-74
RFH, Wam

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

U.S.Government Printing Office: 1972 — 455-574

EXHIBIT
43

FEDERAL BUREAU OF INVESTIGATION

2/1/74

JOSEPH BARBOZA, who states he is also known as Joseph Baron and Joseph Bentley, was interviewed at his request in the Missoula County Jail, Missoula, Montana.

He stated he is being held in the Missoula County Jail in protective custody under the name Joseph Costa.

BARON advised he is a former "button" and "hit man" of the RAYMOND PATRIARCA gang that operates in the New England States. He further advised that in previous matters concerning PATRIARCA, he has furnished information under Departmental aegis to Congressional Hearings concerning organized crime and in Grand Jury and trial proceedings.

He is currently completing his incarceration for a second degree murder conviction in the State of California.

BARON advised that he desired the Justice Department be informed of the fact that he is willing to furnish new testimony against RAYMOND PATRIARCA and his henchmen concerning the murder of ROMEO MARTIN, who was shot and killed in July, 1966.

He stated his motives for doing this were that he has a grudge against PATRIARCA and his lieutenants and wishes them to remain in jail and also because of the fact that PATRIARCA and the "New England Family" have a contract for his death outstanding in the amount of $100,000.00.

BARON stated that ROMEO MARTIN was shot and killed for the following reasons:

MARTIN furnished information to Suffolk County, Massachusetts, Detective BILLY STEWART (phonetic) concerning the shooting and death of TEDDY DEGAN. At that

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| | | |
|---|---|---|
| 1/29/74 | Missoula, Montana | BT 102-343 |
| SA ALBERT J. P. MURPHY, Jr./sdj | | 2/1/74 |

time STEWART was in the pay of the PATRIARCA family and furnishing them police information on a day-to-day basis.

Secondly, prior to furnishing this information, MARTIN attempted to buy into and control a penny arcade located in Nantucket, Massachusetts, in which PATRIARCA was interested. He stated he does not recall the name of this arcade; however, it is along the boardwalk located between the BLUE BUNNY CLUB and DUFFY'S CLUB. This arcade, which grosses over one million dollars a year, had formerly been owned by LOUIE FOX, who died of natural causes and left it to his nephew, name unrecalled. PATRIARCA was interested in putting money into this operation, using it as a legitimate front, and MARTIN without advising his lieutenant, and in turn PATRIARCA, attempted to force his way into this business.

This, coupled with MARTIN's furnishing information concerning the family to the police, brought about his death.

BARON stated that on the day MARTIN was killed, he and WILLIAM GARAGLIAN, who is currently incarcerated in the Barnstable County Jail, Barnstable, Massachusetts, made several phone calls setting up MARTIN, advising him that a meet was wanted between MARTIN, RONALD CASSESSO, also known as Chico, and JOSEPH DINICO (deceased).

BARON's assignment during this murder was to drive a back-up car, and immediately prior to the meeting, he made the last phone call to MARTIN giving him the time of the meeting and thus setting him up.

BARON stated that MARTIN was shot five times in the body and three times in the head by DINICO and CASSESSO. The shooting occurred in a vehicle occupied by CASSESSO, DINICO, and MARTIN, and he, BARON, witnessed the shooting.

As noted, the murder was ordered by RAYMOND PATRIARCA, and the plans for it were formulated by his lieutenants, HENRY TUNIALLO (phonetic) and JERRY ANGILO (phonetic).

BARON was asked what his "price" was for furnishing this information to either Federal or local grand and petit juries. He stated that he desires to appear before the California board of Parole, noting that he was due to appear before this board in May, 1973, and has never appeared. Upon achieving his parole, he desires to leave the United States.

He further advised that he is aware his return to the State of California is imminent, and he stated he is fearful of being taken to Folsom Prison because, if he is, he feels he will be killed in view of the contract PATRIARCA has issued for him.

Relative to funds, BARON stated he is not seeking any money for his testimony, as he has written a book concerning "The Mafia," which is to be published by Doubleday. He stated he co-authored this book with HANK MESSICK, a native author, who resides at 1515 Southeast 10th Street, Fort Lauderdale, Florida. He is receiving $20,000.00 for his rights to this book, and he advised that he has other funds "stashed away," which he will use to leave the country.

He further stated that he desires the above information also be furnished to Rhode Island Attorney General (MR.) ISRAEL, whom he understands is actively investigating the murder of MARTIN.

BARON stated that while PATRIARCA is imprisoned his family is being run by JERRY ANGELO, mentioned above, and it is his further understanding that PATRIARCA has indicated if and when he is released from prison he will issue a contract for ANGELO for holding out on him some of the money coming to the family during his jail term and because he has become too powerful.

He noted that PATRIARCA currently holds in order of importance the sixth position on the ten man commission overseeing organized crime in the United States and he believes, if PATRIARCA requests a contract on ANGELO, it will be granted. He personally doubts that PATRIARCA will

go through with the issuance of this contract, because of the fact ANGELO has other interests acquired outside of the family influence for which he is paying PATRIARCA approximately $2,000.00 a week. He does not believe PATRIARCA's financial position is so strong at this time that he can afford to give up these monies, as they would cease upon ANGELO's death.

BARON was informed that the interviewing Agent could only pass on his information to the Justice Department, that this would be done, and he would have to await any further contact from the Department. He did note that BARONAY, mentioned above, is also willing to furnish testimony concerning the death of MARTIN.

FD-81 (Rev. 5-22-64)

FBI

Date: 1/29/74

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL AIRMAIL (Priority)

TO: DIRECTOR, FBI

FROM: SAC, BUTTE (92-546)

SUBJECT: JOSEPH BARON, aka
AR

For information Bureau and receiving offices, BARON currently held Missoula County Jail, Missoula, Montana, under name JOSEPH COSTA, after having become involved in altercation with guard while at Montana State Prison, Deer Lodge, Montana.

According to Undersheriff, Missoula, California returning BARON in immediate future to a California prison.

On 1/29/74, BARON requested contact with BuAgent and advised he is willing to furnish information concerning July, 1966, murder of ROMEO MARTIN. States murder ordered by RAYMOND PATRIARCA and his lieutenant, HENRY TURMALLO. Participating in the murder were JERRY ANGELO, RONALD CASSESSO, and JOSEPH DIMICO (deceased), all of the PATRIARCA family.

BARON states he drove back-up unit and witnessed murder, MARTIN being shot by CASSESSO and DIMICO. Prior to murder, BARON made phone call setting up meet with MARTIN, and prior to his call WILLIAM GARROWAY, who is presently confined Barnstable County Jail, Massachusetts, made preliminary phone calls.

92-9828-415

12

FEB 1 1974

2 - Bureau (AM)
2 - Boston (92-1132)(AM)
2 - San Francisco (92-2366)(AM)
2 - Butte
AJFM/sdj
(8)

Approved: _____ Special Agent in Charge

Sent _____ M Per _____

U.S. Government Printing Office: 1972 — 455-574

54 FEB

BT #92-546

GARROWAY also willing to testify.

BARON was asked what he expected for his testimony, and he stated he has received word family has $100,000.00 contract out on him and, when returned to California if he is housed in Folsom Prison, he feels he will be killed. Further states he is due to appear before California Parole Board and, if paroled, all he desires is opportunity to leave country. Advises has written book concerning "Mafia," which will be published by Doubleday and is receiving $20,000.00, which he will use to leave country.

He requested that in addition to FBI, Rhode Island Attorney General (FNU) ISRAEL be advised of above information as ISRAEL still investigating MARTIN's murder.

Bureau and Boston requested to advise Butte any further details desired from BARON, together with circumstances surrounding MARTIN's murder so that interview may be intelligently conducted.

airtel

2-11-74

To: SACs, Butte (92-546)
Boston (92-1132)
REC-90
From: Director, FBI (92-9828) — 44

JOSEPH BARON, aka
AR

Re Butte airtels to Bureau 1-29 and 2-1-74 and Boston airtel to Bureau dated 2-5-74.

Bureau concurs fully with Boston's suggestion set forth in last paragraph of referenced Boston airtel.

Due to the fact it is likely Baron might contact the Justice Department, Butte and Boston will incorporate information in your referenced communications in a letterhead memorandum suitable for dissemination to the Department.

NOTE: Joseph Baron, a former hit man of the New England LCN, was developed as a Government witness in 1967. He was relocated by the U.S. Government in California, but unknown to Government officials, he returned to the Boston area where he was arrested on gun and narcotic charges. It was later ascertained that he had murdered an individual in California and in December, 1971, he was sentenced to five years to life. He was eventually sent to Montana for his safety by California authorities and in May, 1973, Montana voted for Baron's parole and California authorities are holding the matter in abeyance. He now appears to be bargaining for a quick release and has furnished information concerning the murder of a New England hoodlum, Romeo Martin, July, 1965. Baron's information concerning the Martin murder has been furnished to Massachusetts officials and they have concluded that Baron would not make a credible witness and William Gerroway, who is presently incarcerated in Massachusetts and whom Baron has stated would corroborate his information, is also considered by Massachusetts officials as a pathological liar.

The Boston office sees no useful purpose to be served in detailed interviews of Baron at this time, and Butte has been so advised by Boston airtel dated 2-5-74.

RFH:bam
(6)

14 FEB

MAIL ROOM ☐ TELETYPE UNIT ☐

EXHIBIT
44

In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Boston, Massachusetts

February 19, 1974

JOSEPH BARON, also known as
Joseph Barboza,
Joseph Bentley,
Joseph Costa

On January 29, 1974, Joseph Baron furnished information to the Butte Office of the Federal Bureau of Investigation relative to the murder of Romeo Martin in the Boston, Massachusetts area in July, 1965.

This murder took place prior to Baron's debriefing and his testimony on other organized crime matters during 1967 and 1968 and Baron did not furnish information regarding the Martin murder at this time.

Strike Force Head Gerald McDowell, Boston, Massachusetts, and Justice Department officials have previously indicated they would not proceed with Baron as a major witness in future prosecutions as his credibility has been diminished by events since 1968. Mr. McDowell additionally points out that the statute would have run on any Federal violation concerned with the Martin murder in 1965.

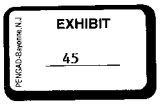
Attorney General Richard Israel, Rhode Island, advised Mr. McDowell he would not proceed on any future prosecutions with Baron as a major witness and there is no known venue in Rhode Island.

District Attorney Garrett Byrne, Suffolk County, under whose jurisdiction the Romeo Martin murder case is, advised he would not proceed with Baron as a major witness in future prosecutions as happenings since 1968 have detracted from his value as a witness. He points out Gerroway is regarded as a pathological liar and any testimony from him would be most suspect.

92-9828-47

BEST COPY

ENCLOSURE



District Attorney Byrne does not want Baron advised of his opinion as he does not want to completely alienate him. He feels that the organization may continue its efforts to overturn previous convictions where Baron testified and it may become necessary to use Baron to combat this.

Baron's information regarding Martin may be brought up at this time as another effort to obtain support in his bid for parole.

By way of background information, Joseph Baron was developed as a Government witness in March-April, 1967. His testimony in the U. S. District Court, Boston, Massachusetts, resulted in the conviction of LCN Boss Raymond Patriarca, LCN Top Lt. Henry Tameleo and LCN member Ronald Cessesso for Interstate Transportation in Aid of Racketeering - Gambling in March, 1968. His testimony in Suffolk County Superior Court, Boston, Massachusetts, in July, 1968, resulted in the conviction of the above-mentioned Tameleo and Cessesso, as well as Top LCN Lt. Peter Limone, LCN Louie Grieco, Joseph Salvati and Roy French on murder charges. All of the foregoing are still confined.

Baron was re-located by the U. S. Government in California. Unknown to Government officials he returned to the Boston, Massachusetts area where he was arrested on gun charges and for possession of marijuana. He was confined at Massachusetts Correctional Institution, Walpole, Massachusetts, as a result of this arrest. Just prior to this arrest, he was in contact with well-known attorney F. Lee Bailey and allegedly indicated to Bailey he would recant his testimony which resulted in the aforementioned convictions for $250,000. He also met with an associate of Raymond Patriarca in connection with this same possible recantation.

While in custody at MCI, Walpole, he was quartered near one William Gerroway. On information supplied by Gerroway California authorities discovered the body of one Cley Wilson buried in Sonoma County. Baron pled guilty to second degree murder and received a sentence of five years to life in December, 1971. Reliable informant information indicated that Baron never did tell Gerroway about the murder in California as Gerroway had claimed. Baron discussed it with one Herbert Jesus, a close associate. Jesus, who was endangered of being eliminated by the organization because of his association with Baron, told them about the murder and they, in turn, arranged for Gerroway to furnish the information to authorities as though it came to him directly from Baron.

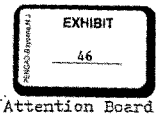
Prior to his removal to California, although Baron indicated he might recant his testimony, he never carried out this threat. However, Gerroway, who testified against Baron in California, also furnished many affidavits to defense lawyers for those convicted on Baron's testimony in an effort to upset the convictions. These affidavits by Gerroway alleged that Baron told him he, Baron, had lied in the earlier prosecutions set forth herein.

Baron was sent to Montana for his safety by California authorities after he testified before Senator Peppers' Committee in Washington, D.C. In approximately May, 1973, Montana voted for Baron's parole and California authorities are holding the matter in abeyance.

In early February, 1974, Baron was transferred back to California from Montana after striking a prison guard.

This memorandum contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

M E M O R A N D U M




DATE: 11-29-76

TO: Board of Pardons, Special Attention Board Member Gershengorn

FROM: Joseph M. Williams, Jr., Superviso, Warrant, Investigation Ur

RE: Joseph L. SALVATI
W-31833

CONFIDENTIAL

As you advised on 11-17-76, the above subject has applied for a commutation of his sentence, one major reason being that subject claims he wasn't in on the murder.

For your information, please be advised of the following:

1. Subject prior to his present offense was associating openly with alleged members of organized crime. He has been described as a runner, hanger around, coffee man, and also the driver for Larry Bione.

2. His known associates have been Cassesso, Barboza, LaMattina, etc

3. Please see attached confidential Field Investigation Reports fro Boston Police. The total attached are 20 in number. They indicate the following:

   A) Page 1, 1) Associated with Joseph Cartolano former parolee of this Officer re: Insurance risk, 2) Association with Gaetano Ancuitto;

   B) Page 2, 1) Association with Fred Sarno (now doing time), 2) Association with Russell Saia;

   C) Page 3, 1) Association with Anthony Andrella, 2) Association with Peter Plaganga, 3) Association with Tony Canadian (this Officer had Tony's adopter son on parole. His uncle was Leo Santaniello former MCI Walpole);

   D) Page 4, 1) Associated with Ralph Lamattina (did time for conspiracy to morder Bratos Joe Barboza's friend who was collecting money for Barboza's trial and was killed in LaMattina's Bar.)

   E) Page 6, 1) Associated with Joseph Spinale (presently on parole nickname Skinny, M.O. is receiving stolen goods, and flim flams;

   F) Page 7, 1) Associated with John Iocco. who in turn associates with organized crime figures;

Joseph L. SALVATI
W-31833

CONFIDENTIAL

G) Page 8, 1) Associated with Freddy Sarno (now doing time for Arson of a furniture store in Woburn;

H) Page 12, 1) Associated with Henry Tagliari, considered by law enforcement to be closely associated with Raymond Patriacc

I) Page 14, 1) Associated with Anthony Troisi known receiver;

J) Page 19, 1) Associated with Angelo Mercurio (on parole and is still on for murder, and known to associate allegedly with organized crime figures).

4. The "word" from reputable law enforcement officers was that subje was just thrown in by Barboza on the murder because he hated subject, that Joseph Barboza was asked by people was this true an that Barboza denied this.

THE ABOVE IS FOR INFORMATION PURPOSES.

JMW:js

COUNTY OF POLK

AFFIDAVIT

Comes now your affiant, RICHARD BAREST, who is a practicing attorney in the State of Florida for approximately 17 years, a former City Judge for the municipality of Opa Locka, Florida, and a former Assistant State Attorney for Eleventh Judicial Circuit of Dade County, Florida, who states as follows:

1. That on or about November 1, 1967, while a part-time City Judge in the municipality of Opa Locka, Florida, who had permission to conduct a private practice, I was contacted and retained by Mr. Greco to attempt to prove his innocence to a murder charge that he felt he was being "set up" on involving the alleged murder of one Teddy Deegan, which was approximately two years old.

He advised me of things to check out because he felt he could prove he was in Florida at the time the offense was committed, and that he was "totally" innocent of that offense, and that he would be willing to take a lie detector test on that specific crime.

2. Pursuant to his request, my investigator set up an examination with a respected polygraph operator who was then working as the official police polygraph operator for the City of Miami Police Department. I gave my approval of the test, with the only specific instructions to the polygraph operator was that he confine his questions strictly to the Teddy Deegan homicide, and that he could ask anything he desired about that case with reference to Louie Greco's alleged participation therein.

My recollection is that Mr. Greco's responses were truthful and that he did not participate in the Teddy Deegan homicide.

Subsequent thereto, other information was received by my office during the course of the investigation that tended to corroborate Greco's story that he was in Florida at the time the offense was

we were able to put Mr. Greco in Florida very shortly before and after the offense was allegedly to have been committed by specific testimony, and by innuendo and circumstantial evidence which could have been concluded that he was actually here at the time the offense was committed.

Based upon the information and polygraph results I filed a Petition with the Governor of the State of Florida requesting a hearing to contest extradition, a copy of which is attached hereto, which I believe was meritorious and sincerely believe the allegations set forth therein.

A hearing was set up with the Governor of the State and upon instructions from Massachusetts counsel that would be representing Mr. Greco, and after discussing it with the client, a decision was made not to fight extradition, but to waive and have Mr. Greco to return to the State of Massachusetts for trial.

The total investigation conducted in Florida by my office was turned over to Massachusetts counsel, Ronald Chisholm and John B. Green, physically in my office in Dade County, Florida, shortly after the decision to waive extradition was relayed to the authorities. Unfortunately, I did not make or keep a copy of the investigation and I have no knowledge of what has transpired with the investigation since that time.

Richard Barest

RICHARD BAREST
2920 Franklin Street
Lakeland, Florida 33801
(813) 683-6475

Sworn to and subscribed before me this 21st day of December, 1977.

Carrie B. Welch
Notary Public, State of Florida

My commission expires:

# AMERICAN POLYGRAPH ASSOCIATION

CASE REVIEW COMMITTEE

TO: Whom it May Concern

FROM: Charles R. Jones

DATE: October 11, 1978

SUBJECT: Results of polygraph examination regarding Louis Grieco

On April 29 and July 1, 1978, Mr. Grieco was given two polygraph examinations by Mr. Kenneth Boothe a member of the American Polygraph Association.

This polygraph examination was given to Mr. Grieco by a request from his attorney, Mr. John Cavicchi.

The main purpose of this polygraph examination concerned the murder of Teddy Deegan in Chelsea, Massachusetts on March 12, 1965.

During the pretest interview, Mr. Grieco denied that he was involved in the death of Teddy Deegan as alleged. Mr. Grieco claimes that during the time Teddy Deegan was murdered, March 12, 1965, he was in the state of Florida.

On April 29, 1978, the subject was given a polygraph examination, and apparently due to a specific fatigue factor, the results of the test were inconclusive.

On July 1, 1978, Mr. Grieco was re-examined. The polygraph test consisted of the following questions:

Q. Were you in Chelsea, Massachusetts when Mr. Deegan was killed?
A. No.

Q. Were you present when Mr. Deegan was killed?
A. No.

Q. Were you in Massachusetts on March 12, 1965?
A. No.

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TEST FINDINGS: It is the opinion of this polygraphist, based on the evaluation of the polygraph charts that there were no reactions to the relevant questions to indicate deception.

It is further the opinion of the polygraphist that Mr. Grieco was truthful in his answers to the foregoing questions.

000348

DEDICATED TO TRUTH

(6)

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CRIMINAL NO(s). 32368, 32369, 32370

COMMONWEALTH ]
V. ]
JOSEPH SALVATI ]

AFFIDAVIT

I, James M. McDonough, depose and state:

1. Since 1953 I have been an attorney in Massachusetts.

2. Between 1964 and 1979, I was a Legal Assistant in the Suffolk County District Attorney's Office.

3. During 1967 and 1968, I was assigned to assist the Assistant District Attorney (Jack Zalkind) in the prosecution of the defendant, Salvati.

4. In such capacity I had access to police reports and in general all documents connected to the case that were in the files of the prosecutor.

5. I was aware of and saw a report that had been authored by a Lieutenant Thomas Evans of the Chelsea Police Department about the Deegan murder.

6. I have read a copy of the foregoing report, that is presently in the prosecutor's file, and to the best of my memory and belief the copy of the report is the same copy that was in the prosecutor's file during prosecution of the defendant's case.

Signed under the pains and penalties of perjury,

James M. McDonough

Date: 10/12/93



0065w/39-40

LAW OFFICES
JACK I. ZALKIND
AND ASSOCIATES
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SUITE 1100
BOSTON, MASSACHUSETTS 02108
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JACK I. ZALKIND
NEIL F. FAIGEL

OF COUNSEL
MELVIN FOSTER
ELLEN Y. SUNG

March 16, 1993

PERSONAL & CONFIDENTIAL

Robert P. Gittens,
First Assistant
Suffolk County District Attorney's Office
New Court House
Pemberton Square
Boston, MA 02108

Re: Commonwealth
Vs: French, et al

Dear Bob:

If you will recall, some weeks ago I asked you if the file of Commonwealth v. French, et al could be retrieved so that I could inspect its contents to determine whether or not a particular investigative report was contained therein. To date, I have not heard from you, and if you are having a problem with the file and need my help in trying to locate it, please call me so that I can be of assistance.

I am concerned that this document may be the subject of some activity, and I want to be sure that I have exhausted all of the remedies available to me in formulating my opinion as to its existence.

Awaiting you reply, I remain

Sincerely,

Jack I. Zalkind

JIZ/ls

BY HAND

DICTATED BUT NOT READ

LAW OFFICES
JACK I. ZALKIND
AND ASSOCIATES
FIFTEEN COURT SQUARE
SUITE 1100
BOSTON, MASSACHUSETTS 02108
(617) 227-3950
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October 20, 1993

JACK I. ZALKIND
NEIL F. FAIGEL

OF COUNSEL
MELVIN FOSTER
ELLEN Y. SUNI

PERSONAL & CONFIDENTIAL

Robert P. Gittens,
First Assistant
Suffolk County District Attorney's Office
New Court House
Pemberton Square
Boston, MA 02108

Re: Commonwealth
Vs: French, et al

Dear Bob:

I have just been provided with a copy of the Commonwealth's Memorandum of Law submitted in opposition to the defendant, Joseph Salvati's, new trial motion in the above-referenced case. I was astounded to learn that in the file were the very investigative reports that I referred to in my letter of March 16, 1993. (A copy of said letter is enclosed).

To be sure that my professional integrity is not questioned, I ask that you set up a conference as soon as possible with the District Attorney, Jack Cinquegrana, Bob McKenna and myself so that we will all understand how this unfortunate situation came about and what can be done to "set the record straight" without further eroding the judicial process.

Very truly yours,

Jack I. Zalkind

JIZ/ls

cc: Ralph Martin,
District Attorney

Robert J. McKenna,
Assistant District Attorney

Jack Cinquegrana,
First Assistant District Attorney

PERCAD Secaucus, N.J.
EXHIBIT
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*The Commonwealth of Massachusetts*
DISTRICT ATTORNEY OF SUFFOLK COUNTY
RALPH C. MARTIN, II

55 Court Street
Third Floor
Boston, Massachusetts 02108

October 27, 1993

Jack Zalkind, Esq.
Zalkind & Associates
15 Court Square
Boston, MA 02108

Re: Commonwealth v Salvati, et al.

Dear Attorney Zalkind:

Please be advised that I have talked with Bob Gittens and Jack Cinquegrana about your October 20, 1993 letter in which you request a meeting to discuss the affidavit that you filed in the above-entitled case.

Because the case is before the Superior Court, amendments, supplements or withdrawals of affidavits should appropriately be filed with, and presented to the court rather than discussed ex parte. See in this regard Mass. R. Crim. P., Rule 30(c)(3) and the Reporters Notes.

For the foregoing reason, your request for a meeting must be respectfully declined. Should you desire to address the court about the issues raised in your letter, I believe that the case is assigned to, and presently before Judge Robert Banks, who is sitting in Room 914 of the Suffolk County Courthouse.

Very truly yours,

Robert J. McKenna, Jr.
Assistant District Attorney

RJM/bb:1322/76

xc: Honorable Robert Banks
Victor Garo, Esq.
Anthony Pelusi, Esq.
Oscar Wilde, Esq.
Robert Sheketoff, Esq.
John Cavicchi, Esq.

EXHIBIT
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# THE JUSTICE DEPARTMENT'S USE OF INFORMANTS IN NEW ENGLAND

**THURSDAY, DECEMBER 5, 2002**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
*Boston, MA.*

The committee met, pursuant to notice, at 10 a.m., in Courtroom 6, 15th Floor, J.W. McCormack U.S. Post Office and Courthouse, 90 Devonshire Street, Boston, MA, Hon. Dan Burton (chairman of the committee) presiding.

Present: Representatives Burton, Shays, Tierney, and Lynch.

Also present: Representatives Delahunt and Meehan.

Staff present: James C. Wilson, chief counsel; Chad Bungard, Hilary Funk, and Matt Rupp, counsels; Blain Rethmeier, communications director; Allyson Blandford, assistant to chief counsel; and Robert A. Briggs, chief clerk.

Mr. BURTON. I ask that the tabular material referred to be included in the record and without objection so ordered. I ask you now to consent that a binder of exhibits for this hearing be included in the record and, without objection, so ordered.

I also ask you now to consent that questioning in the matter under consideration proceed under Clause 2J2 of House Rule 11 and Committee Rule 14 in which the chairman and ranking minority member allocate time to the committee counsel as they deem appropriate for extended questioning not to exceed 60 minutes divided equally between the majority and minority and, without objection, so ordered.

I also ask unanimous consent that Representatives Delahunt and Meehan, who are not members of the committee, be permitted to participate in today's hearing and, without objection, so ordered.

We may have another Member appear later. If not, that's fine. If he does, we will ask that there be no objection to him participating in the hearing as well.

I want to thank my good colleague, one of our subcommittee chairman, Mr. Shays, for being here, especially with the weather being like it is in the northeast today. It is nice having my colleague on the committee, Mr. Tierney and Mr. Lynch with us. Mr. Meehan and Mr. Delahunt, we appreciate you being here as well.

We are here today in Boston because the Government Reform Committee has been conducting an investigation for the last 2 years into how the FBI used informants here in organized crime cases.

What we have found has been absolutely shocking. When I was growing up in Indiana, the FBI was revered. J. Edgar Hoover had

been put up on a pedestal. I thought he could walk on water. I remember watching Jimmy Stewart in "The FBI Story," and watching Herbert Filbrick in "I Led Three Lives," and how they referred to Mr. Hoover like he was deified.

There was no organization in the country that was more highly regarded than the FBI. So it is very disturbing when we dig into something like this episode in Boston and discover a level of corruption that is absolutely appalling. And it is extremely disappointing to learn that so much of what was going on here was brought directly to J. Edgar Hoover's attention in Washington. It seems that he and his aides just let these terrible injustices slip by.

I want to make it clear that I am a strong supporter of the FBI. There are many, many good people in the FBI who are dedicated law enforcement officers. So when I single out one group of FBI officials for criticism, it is not meant to denigrate the entire organization.

But I really believe in congressional oversight. And when we see the type of abuse that happened here in Boston, we have an obligation to dig into it. We have an obligation to get the facts and lay them out for all of the American people to see.

Hopefully, the FBI and the Justice Department will be stronger organizations as a result. Maybe if congressional oversight had been more vigorous, we wouldn't be sitting here today. And when we finish, I hope we will have done our best to make the system better.

We first got involved in this because we heard about the case of Joe Salvati. I see him sitting here today, along with his wife Marie. Joe Salvati went to prison for 30 years for a crime he didn't commit. He was convicted because the FBI let their star witness, Joe "The Animal" Barboza, commit perjury on the witness stand.

The Justice Department had lots of evidence of who the real killers were. But they let Barboza put Joe Salvati away for life. Other defendants were given the death penalty, although it wasn't carried out. That was in 1967. It took 30 years for Joe Salvati to get out of prison. When he went to prison, he had four little kids. When he finally got out, they were grown men and women.

He isn't the only one. Peter Limone, who I also see here today, spent 34 years in prison. That is pretty shocking. But that is just the tip of the iceberg. That was the beginning of nearly four decades of corruption involving the Justice Department: Informants committed murders with impunity. Killers were tipped off so they could flee before being arrested. Local investigations of murders, and drug dealing and arms smuggling were limited to Boston. They sent Joe Barboza into the compromised. When people went to the Justice Department with evidence about murders, some of them wound up dead.

One FBI agent, John Connelly, has been convicted and sent to prison. A second agent, Paul Rico, took the Fifth before our committee. When he first appeared before our committee he didn't take the Fifth. He was very recalcitrant.

I asked him if he wanted to take his Fifth Amendment privilege and he said, "What can you do to me?" After we questioned him and after he found out how grievous the problem was, he came back the next time with several lawyers and did take the Fifth.

I never thought I would see the day when an FBI agent took the Fifth. But what makes what happened here so bad is that it wasn't just one or two people. The pattern of corruption and ethical shortcuts went on for nearly 40 years.

The damage that was done wasn't just limited to Boston. They sent Joe Barboza into the witness protection program in California. They gave him a new identity and he killed again. An FBI agent and a Justice Department lawyer flew out to California to testify on Barboza's behalf and they helped him get a lighter sentence.

We held a hearing on that episode back in February. One of the local law enforcement officials from California said it all in his testimony: "The FBI at the time was considered pretty sacrosanct. They had damaged our case to the point that we didn't think the jury would give us a first degree murder verdict."

At the end of the day, people's respect for the rule of law was destroyed. And the reach was wide—Bulger and Flemmi's cozy relationship with law enforcement caused problems in Massachusetts, Rhode Island, Connecticut, Florida, Oklahoma, Nevada and California.

Today, we're going to hear about a murder in Tulsa, Oklahoma. A prominent businessman named Roger Wheeler was murdered in 1981. In Boston, the FBI had reason to believe that Whitey Bulger and Stephen Flemmi were involved. But they didn't share the evidence. It's hard to believe that people in Oklahoma were trying to solve a murder and Federal law enforcement officials were protecting the killers.

Now we know a lot more. Flemmi and Bulger were prized informants. They were protected. Worse still, the hit man in the Wheeler murder has said former FBI Agent H. Paul Rico was part of the conspiracy. That is the same Paul Rico who came before our committee and took the Fifth.

We're going to hear today from Sergeant Mike Huff of the Tulsa Police Department. He's going to tell us about the stone walls he kept running into when he tried to conduct this investigation. We're also going to hear from Mr. Wheeler's son, David. I think that's important. We can never forget, we aren't talking about abstract ideas. People died because of what FBI informants did. Lives were destroyed. And we shouldn't ever lose sight of that.

In addition, we're going to hear from two former Federal prosecutors, Jeremiah O'Sullivan and Paul Markham. Mr. O'Sullivan led the prosecution of a horse race-fixing case. James "Whitey" Bulger and Stephen "The Rifleman" Flemmi were deeply involved. They were named as co-conspirators, but they were never indicted. We'd like to know why. Mr. O'Sullivan also played a major role in a lot of other matters involving Whitey Bulger and William Bulger.

Mr. Markham was the lead prosecutor in the trial of Raymond Patriarca. He relied heavily on the testimony of Joe "The Animal" Barboza. In the course of that investigation, Mr. Markham and his staff had access to wiretaps of Patriarca. Those wiretaps revealed that Patriarca talked to Joe Barboza and Stephen Flemmi about killing Teddy Deegan—the murder for which Joe Salvati and others were convicted.

Some of the documents say Patriarca authorized the killing. But Jimmy Flemmi was given a free pass. Patriarca was given a free

pass. We have a number of questions for Mr. Markham, including whether he became aware of the facts in the Deegan case, and if he did, what he did with them. I just want to remind you of what happened when we were last here and the prosecutor in the Deegan case appeared before us.

He said: "I must tell you this, that I was outraged—outraged at the fact that if [the exculpatory evidence] had ever been shown to me we wouldn't be sitting here . . . I certainly would never have allowed myself to prosecute this case having that knowledge. No way. . . . That information should have been in my hands. It should have been in the hands of the defense attorneys. It is outrageous, it's terrible, and that trial shouldn't have gone forward."

The prosecutor concluded by saying that he believes that Barboza's FBI handlers "knew from the beginning that Joe Barboza was lying. . . . They have a witness that they knew was lying to me, and they never told me he was lying." It's just unbelievable.

I'd like to thank all of our witnesses for being here today. I know some of you aren't here by choice. And I know that these are difficult questions to answer, and that it's tough to dredge up these old cases. But I wouldn't have stuck with this investigation for so long if I didn't feel like this investigation was so important.

We cannot have the FBI winking and nodding while their informants commit murders. We cannot have the Justice Department being complacent in perjured testimony that sends innocent men to death row or to prison. The American people have a right to know what happened. We need to lay this all out in the open so we can restore the faith of the people in their government. And we need to make sure that nothing like this ever happens again.

Before we go to our first panel, I want to say a few words about tomorrow. I have called William Bulger to testify. Mr. Bulger is well-known in this state. He was the President of the Senate. He is the President of the University of Massachusetts. He's a very prominent person I am sorry he has to answer questions, but if we didn't talk to him, there isn't a person here who could say we did a thorough job.

This has caused quite a stir in the press. I did not make the decision to call him lightly. We do not intend to make unfair allegations. Our purpose is not to embarrass him. I think there are a number of fair and legitimate questions that ought to be asked, and that's what we plan to do.

We were initially informed by his attorney that Mr. Bulger would not appear before the committee, so I issued a subpoena. I think it's very unfortunate that I had to take that step. I had hoped that Mr. Bulger, as a prominent member of the community, would appear voluntarily and cooperate with the committee's investigation.

Yesterday, the Boston Globe published excerpts of Mr. Bulger's grand jury testimony. As everyone knows, grand jury testimony is secret, and it's against the law to release it. This committee has never been in possession of that testimony. I want it noted for the record that we were not the source of that information. I also think that whoever did leak it acted in a very irresponsible manner.

We've had a very difficult time getting documents from the current Justice Department during this investigation. We had to fight for months just to get an opportunity to read prosecution memos

we asked for. That fight wasted a lot of time. We found out just this week that very important documents had not been turned over to us.

More time will be wasted. It's very frustrating that at the same time that important documents are being withheld from a congressional committee, grand jury testimony is being leaked to the press. That's not the right way to do business.

I want to again thank everyone for being here today. I want to thank Mr. Delahunt who is very informed about a lot of these issues. He's not a member of the committee, but he's been an active part of this investigation from the outset, and he deserves a lot of credit.

I also want to thank Mr. Shays, who made the suggestion almost 2 years ago that we start looking into this, and he's made valuable contributions all along the way. Thanks also to my other colleagues for taking time during their holiday break to be here and work with us on this issue.

With that, I'll go to Mr. Tierney for an opening statement.

[The prepared statement of Hon. Dan Burton follows:]

**Opening Statement**
**Chairman Dan Burton**
**Committee on Government Reform**
**"The Justice Department's Use of Informants in New England"**
**December 5, 2002**

Good morning.

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- Informants committed murders with impunity.
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compromised.

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*"The FBI at the time was considered pretty sacrosanct. They had damaged our case to the point that we didn't think the jury would give us a first degree murder verdict."*

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We've had a very difficult time getting documents from the Justice Department during this investigation. We had to fight for months just to get an opportunity to read prosecution memos we asked for. That fight wasted a lot of time. We found out just this week that very important documents had not been turned over to us. More time will be wasted. It's very frustrating that at the same time that important documents are being withheld from a Congressional committee, grand jury testimony is being leaked to the press. That's not the right way to do business.

I want to again thank everyone for being here today. I want to thank Mr. Delahunt. He's not a Member of the Committee, but he's been an active part of this investigation from the outset, and he deserves a lot of credit. I also want to thank Mr. Shays, who made the suggestion almost two years ago that we start looking into this, and he's made valuable contributions all along the way. Thanks also to my other colleagues for being here and working with us.

Mr. TIERNEY Thank you, Mr. Chairman. Mr. Chairman, I think that I for one want to thank you for having the half a dozen hearings that we've had over the past 2 years on this committee. We've made a vigilant effort in pursuit of the facts of this case. We have attempted to shed light on what appears to be a disgraceful relationship between the FBI and members of organized crime in Boston.

Over the next 2 days I expect we are going to continue that vigilant search for the truth and will be asking questions that long ago should have been answered. We will seek the truth about those crimes that should have been adverted.

You are right in saying that for nearly 40 years FBI agents in Boston recruited members of organized crime to act as bureau informants. The facts bear that out. It also appears that meanwhile these same agents may have also been recruited by organized crime.

The result was a corrupt system where FBI agents protected the informants at the expense of innocent citizens. What is most disturbing is that the FBI and other branches of the government are alleged to have been complacent in the miscarriage of justice perhaps knowing that the wrong man had been convicted and imprisoned.

We have a particular responsibility to see that the Department of Justice ensures that the victims of this corrupt relationship between FBI agents and members of Boston's organized crime see justice done. I urge the Department of Justice to explore a wide range of options including the establishment of a victim's compensation fund to address the claims of those most adversely affected by these crimes.

You indicated, Mr. Chairman, that you support the FBI and the Justice Department. I think that is obviously true for every Member of Congress. We are not doing our job unless we make sure that those in our organizations that are properly functioning and that people can have confidence in them in that they are representing the true values of the country.

We have to keep in mind that one critical component of this inquiry is to determine what has to be done in the future so that these shameful activities don't happen again. We had one very specific hearing on this a while back with recommendations of what we might do about informants and protected witnesses and how the law might be applied as it stands or be amended so it would be more effective and not lead to situations as this one has apparently done.

We need to have another hearing, I suspect, Mr. Chairman, before we wrap up to make sure that we are pointed in the same direction to make sure that any improvements are, in fact, put in place.

We also have to question how appropriate it is for the FBI headquarters to bear the name of J. Edgar Hoover. I thank you for filing a bill and co-sponsoring that with several others here. If, in fact, as the evidence seems to indicate, the director at that time knew of the situation and knew that innocent people being sent to jail it seems to me we are not doing a justice to anybody to let that name remain on that building.

While it's symbolic more than anything else, it is at least a good measure of our seriousness of purpose in moving forward and making sure that we try to make it real to the Department of Justice and the FBI employ agents that uphold the law rather than undermine it.

There is much that we have to scrutinize and condemn about the past but we do have to look forward to the future and see what we are going to do to correct the situation and prevent it from happening again.

Before I close, I just want to extend my heartfelt sympathies to the family of Roger Wheeler whose killer remains unpunished. I also want to express the concerns again that I did to the Limone family and the Salvati family. I appreciate that all of you have testified before this committee in trying to help us do our job of oversight. I hope in some small way that this process will bring some measure of justice to your families and other families that might have been scarred by this sorted saga.

Mr. Chairman, thank you.

Mr. BURTON. Thank you, Mr. Tierney. We will now hear from one of very important subcommittee chairman Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman. Mr. Chairman, the truth is sometimes stranger than fiction. For me it sure was over 25 years ago when our Connecticut State's Attorney said that former FBI employees were killing his witnesses. I looked at Austin McCreggan with some disbelief. He was right. He talked about how there was a corrupt FBI organization in the greater Boston area, in the New England area. I didn't believe him. I didn't believe my friend.

I care mostly about this hearing because of Joe Salvati and Marie and Peter Limone, and obviously the other two gentlemen who were in prison and who passed away in prison. And for who knows how many other families that may still have loved ones in jail because of a corrupt FBI in the northeast.

So this is a very important hearing. We need to make sure that the FBI cleans up its act. And we need to get better cooperation, I think, from the FBI. The fact that they still are so reluctant to cooperate with us and, frankly, the Department of Justice is very disconcerting.

I know that you will continue to pursue this next year. Whoever is chairman of this committee will continue to pursue it. I can't say I look forward to this hearing today but I know it's an important hearing and I thank you for having me.

Mr. BURTON. Thank you, Mr. Shays.

Mr. Lynch is a very valuable member of the committee. Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman. Mr. Chairman, and also Chairman Shays and our ranking member in attendance, Mr. Tierney. I want to thank my colleagues for the bipartisan efforts that have been in place and the efforts to resolve this troubling matter.

In the course of these hearings and in the transcripts of the Federal court proceedings before Judge Wolf we have retraced a long history of misconduct and criminal behavior undertaken and supported by the Boston and Washington offices of the FBI. Specifi-

cally the use of informants to infiltrate and prosecute organized crime in New England in the last 40 years.

The nature and extent of the wrongdoing by agents and supervisors, which are the subject of these hearings, go to the very core of our legitimacy as a government. While there have been important procedural questions raised in the press recently, which the chairman has touched upon, I think it is important to refocus on the factual basis of these hearings.

It is important to recall that under the color of law there have been what we would fairly describe in other countries as atrocities committed here. Let us remember that with the aid and assistance of law enforcement there have been brutal murders of innocent committed here. Let us be reminded that under the watchful eye of the FBI completely defenseless women have been strangled here.

Let us not forget that based upon the findings of fact, that people who return to the FBI for protection were led to their deaths by the very people who held the duty to protect them. Let us not for a moment forget that based upon the evidence before this committee, that the FBI allowed innocent men to be implicated and to be convicted and imprisoned while they remained silent.

These were innocent men, husbands, fathers who spent over 30 years, and in some cases the remainder of their lives, in prison. It is also important to remember that while these innocent men went to trial and were convicted for a murder that they did not commit.

For every moment that these men sat in jail year after year for 30 years separated from their families, watching their children grow up without fathers, watching their wives raise families without husbands, during all this as all this transpired, the FBI and law enforcement officials either failed or refused to come forward with the evidence that would have allowed these men to be free.

In closing, I find it impossible to ignore the human cost that these events have caused. The families whose lives have been destroyed, the sons and daughters, brothers and sisters who have been taken, the lives of fathers and husbands who have been stolen—stolen all under the color of law.

Mr. Chairman, I must compliment you on your energy and your persistence during these hearings. As we have seen during these hearings, in some of these atrocities the FBI and others were active participants. In other instances they simply looked the other way.

I am pleased to say that with your help, Mr. Chairman, and the good work of Mr. Waxman and Mr. Tierney and Mr. LaTourette and Mr. Delahunt and my colleagues here today along with Chairman Shays that looking the other way has never been an option for this committee.

Simply put, we seek the truth. It may in the end turn out to be the painful truth. It may be the ugly truth, but in the end we need the truth. We owe it to the victims, some of who were not even afforded a decent burial. We owe it to those like Maria Salvati and Joe Salvati and their kids and their families.

We owe it to their esteemed counsel, Mr. Carrillo who has also been a true hero on the part of justice in this matter. While we can never restore has been taken away, if we aren't vigilant and thoughtful and loyal to the principles that underlie this country,

our democracy and our constitution, perhaps in the end we may prevent something like this from ever happening again.

Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Lynch.

Mr. Meehan, welcome.

Mr. MEEHAN. Thank you, Mr. Chairman. Thank you for inviting Congressman Delahunt and me to this hearing. We are both members of the House Judiciary Committee with jurisdiction over the Justice Department. In fact, back in July 1998 I was the first Member of Congress to call for hearings on this matter. About a year and a half later Congressman Delahunt, Congressman Frank, and I sent letters to the chairman of the Judiciary Committee seeking hearings on this matter.

Chairman Burton, I just want to say for the record the work of this committee has been outstanding and shedding light on so much of the horrible corrupt actions of so many people in positions of public trust are very, very important.

I think these hearings have a special importance to all the people of Massachusetts, to every Member of Congress, to me as a former state prosecutor in this state.

What happened between Federal prosecutors, Boston FBI agents, and Boston gangsters is really outrageous. It has damaged the FBI's credibility. It has exposed terrible flaws in the informant management and undermined cases against these gangsters and many others.

This special relationship helped dangerous felons flee justice. It cost people their lives. People were murdered. There were people in this room whose lives have been shattered forever.

There is nothing wrong with the FBI and the U.S. Attorney's Office cultivating informants for cases, but there is something very wrong when the relationship goes from agents using informants to informants using agents. Guidelines were supposed to govern the use of informants. The existing guidelines were clearly inadequate, but regardless of the adequacy of the existing guidelines, these guidelines were completely and totally ignored anyway.

Interactions between FBI agents and gangsters weren't documented or disclosed. In many, many instances we have found out they were falsified. Oversight by the Justice Department, the FBI headquarters, was the exception instead of the norm.

Inevitably maintaining relationships with informants may require law enforcement to make tough decisions about an informant's criminal actions. I think any former prosecutor or prosecutor knows that is the hard truth. But, Mr. Chairman, there is a difference between making careful case-by-case decisions about how long the leash should be and the notion of not only giving informants a blank check but allowing the system of corruption to take place.

Unfortunately, Stephen "The Rifleman" Flemmi, Whitey Bulger, and others headed to nothing. In fact, some FBI agents went out of their way to keep their criminal enterprise and operation. They identified FBI and police informants for their gangsters. They lied and they dissembled. They shut down leads in crimes of violence in other cases.

Perhaps worst of all they hindered and obstructed Michael Huff and the Wheeler family from learning the truth about these gangsters and their role in their father's murder. And, yes, some Federal prosecutors in Boston facilitated this incestuous relationship between the officers and the gangsters.

The Judge Paul Wolf found despite some of their denials, Federal prosecutors knew Whitey Bulger, Stephen Flemmi were long-time FBI informants. These prosecutors made grave errors that allowed Boston gangsters to commit and continue to commit these heinous crimes. Worst of all, some of these Federal prosecutors lost sight of their most solemn duty.

Above all, prosecutors with the enormous power they have must maintain the public's trust and have balance. Here in Boston with the victim's families here today, the trust was completely and totally shattered. Sadly, some of these prosecutors let their zealousness blind them into the duty that they had to maintain the integrity of their office.

With these hearings, Mr. Chairman, and the light that has been shed on, I hope that we are never in a position again to have a case like this unfold, but it is more than just regulations. It's more than just making sure they follow the rules. It's shedding light and making sure that we change the culture of these agencies that have committed such corruption.

Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Meehan.

Mr. Delahunt, once again, I want to thank you very much for all the hard work you've put in with this committee even though you are not a member of it. You are now recognized.

Mr. DELAHUNT. Thank you, Mr. Chairman. I mean that in a very sincere and genuine way. The work of the committee in your leadership has been extraordinary. I think I would be remiss not to also note that it was Judge Wolf back four or 5 years ago that started this process, if you will. I find it particularly disturbing that a judge, a Federal district court judge, had to threaten with contempt an associate attorney general to produce a response.

As you have indicated, the cooperation on the part of the Department of Justice and the FBI has been remiss, has not been willing. But you have persevered. You persisted and, yes, we have accomplished something. Let me suggest this. I truly hope that whoever succeeds you, whether it be another committee of the House, possibly even the Judiciary Committee, that we continue to pursue and continue this effort.

As I was reading the briefing board this morning, there are so many individuals whose testimony could be valuable to this effort. I just took a list of them if I can find them. If you would just indulge me.

I suggest that we should be hearing from special agent in charge Larry Sarhardt, from Anthony Ciulla, from John Connelly, from maybe Mrs. Steve Flemmi, from Mr. Martarano, from John Morris, from Assistant Special Agent in charge Robert Fitzpatrick, from one Frances Greene, from former Governor and former U.S. Attorney Bill Weld. We should also extend an invitation to the current director of the FBI Robert Meuller who was first Assistant U.S. Attorney here in this jurisdiction.

I think it's important, as others have said, to lay it all out on the table and let the chips fall where they may. But, again, your efforts to date that were impeded by a lack of cooperation from the Justice Department and from the FBI have born great fruit and you are truly to be commended.

I think it's particularly noteworthy that you, Mr. Chairman, took on an Attorney General of your party who had recommended to the President of the United States executive privilege and you succeeded and prevailed. That should never go unnoticed. If there ever is any suggestion about partisanship, that is simply not been the case in this particular matter.

I would ask, Mr. Chairman, if through you we could inquire in the audience here if there is any representative from the FBI, from the U.S. Attorney's Office, or from the Department of Justice. If they could just simply stand and identify themselves as maybe at some point in time you or a member of the committee may have a question to ask of them. With that, I'll yield back.

Mr. BURTON. Thank you, Mr. Delahunt. I will exceed to your wishes. Are there any members of the Justice Department, the FBI, or any of the other agencies that are relevant to this investigation here? If you are, just stand up so we can see who you are. Anyone else? Could you identify ourself, please?

Mr. WYSHAK. I am Fred Wyshak, Assistant U.S. Attorney.

Mr. BURTON. Thank you.

Mr. HERBERT. I am James Herbert, Assistant U.S. Attorney.

Mr. BURTON. Thank you very much.

Once again, Mr. Delahunt, thanks for all your help. We really appreciate that.

We will now hear testimony from our first witness panel, Michael Huff and David Wheeler. Please approach the witness table. Mr. Huff, you are here on my left.

We will also ask Frank Libby, who is Mr. Wheeler's attorney, if he would join us at the table.

Mr. Huff, Mr. Wheeler, Mr. Libby. Would you raise your right hands?

[Witnesses sworn.]

Mr. BURTON. Let the record show that the witnesses answered in the affirmative.

Mr. Huff, do you have an opening statement?

Mr. HUFF. Yes, sir.

**STATEMENTS OF MICHAEL HUFF, SUPERVISOR OF THE HOMICIDE SQUAD, TULSA POLICE DEPARTMENT; AND DAVID WHEELER, SON OF MURDER VICTIM ROGER WHEELER; ACCOMPANIED BY FRANK LIBBY, ATTORNEY**

Mr. HUFF. Thank you, sir, for having us here. I appreciate the chance to share some of these thoughts.

Mr. BURTON. Would you identify yourself and in what capacity you are here, please?

Mr. HUFF. I am Sergeant Michael Huff of the Tulsa Police Department. I am supervisor of the Homicide Unit and the leading investigator on the Roger Wheeler homicide for the past 21 years.

On May 27, 1981, a sunny, spring afternoon, Roger Wheeler, Sr., family man, oil man, CEO of Telex Corp., and owner of World Jai

Alai, was murdered in Tulsa, Oklahoma, at the Southern Hills Country Club, with one shot between the eyes from close range, in full view of the crowded swimming pool. The murderers were Winter Hill hit men from Boston, killing at will, with no fear, and empowered by corruption from within the FBI.

Mob hits don't happen in Tulsa, let alone at the Southern Hills Country Club, where prestigious golf tournaments like the U.S. Open grab the media attention. With this in mind, the Winter Hill Gang and associates chose Tulsa, with an assumption that the Tulsa Police Department wouldn't solve the case. They were wrong.

The impact of this murder was tremendous and immediate. The Wheeler family was torn apart; the Telex Corp. went away, taking thousands of high-paying jobs with it. The Tulsa Police Department launched a tremendous commitment and investigative effort that has spanned over 21 years. A task force of over a dozen dwindled down to me, the first detective at the scene.

I became consumed and obsessed with this case. The stress of it all destroyed my family also. I can only imagine how life would have been so very different had the Winter Hill Gang not come to Tulsa that day in May. Early in the investigation the leads came in fast and furious.

The investigation led us in the direction of the killers of Sheriff Buford Pusser, made famous by the Walking Tall movies, to international intrigue of CIA spies, to the investigation of the Lancaster Street garage conducted by the Massachusetts State Police, including my good friend Trooper Rick Fraelick. The Massachusetts State Police were the first to offer information on suspects from the Winter Hill Gang, as we came up here in July 1981.

In July 1982, myself, my partner, and detectives from the Connecticut State Police traveled to Boston to meet with the Massachusetts State Police to gain information on activities and whereabouts of John Callahan, the former president of World Jai Alai, who had been fingered by Brian Halloran as offering him the hit on Wheeler.

Halloran had been killed several weeks earlier after telling his story to the FBI. The FBI had cut him loose without telling us about Halloran's cooperation. Hours later, he and Michael Donahue were gunned down on the Boston waterfront.

We then met with Strike Force Prosecutor Jerry O'Sullivan. In a meeting that lasted over an hour, we came away in shock with the information exchanged. Flemmi and Bulger were hit men known to the Feds. Retired FBI Agent Paul Rico, then vice-president of World Jai Alai, was described as a "rogue agent" that caroused with the Winter Hill Gang members during his tenure in Boston.

FBI Agent John Connelly was mentioned as having some real estate transactions with the Winter Hill Gang. All the while, the official FBI line was that these agents were the "cream of the crop." Callahan was also discussed with O'Sullivan during this meeting and was subsequently murdered and found in the trunk of his car at Miami International Airport just weeks later.

These are just a few tidbits of that meeting. I was shocked and upset to the point I completed my 1982 reports on this meeting concerning members and activities of the Winter Hill Gang to in-

clude FBI Agents Paul Rico and John Connelly as associates of the Winter Hill Gang.

Over the past 20 years, there have been many such instances of surprise and disappointment during this investigation. I look back to the July meeting in this very building as an "end of innocence" in my career in law enforcement. I had never been exposed to such a cesspool of dirt and corruption.

The investigation sputtered for years. In January 1995, I received a phone call from the Massachusetts State Police. They had put together a case on Flemmi, Bulger, and others. I was so excited—help had arrived. The Massachusetts State Police had always been in the thick of it—hardworking, honest investigators.

In the next few weeks, I traveled to Boston with 60 pounds of reports and phone records—most pre-dating the careers of many of the troopers working on this case—I also arrived with the message to these fine men that I knew they were about to step off into unimaginable corruption within the FBI.

During this trip, I had a conversation with now-retired FBI Agent Connelly, who talked of his "deal" with the FBI to come back to Boston to "take down the LCN" and not work "his Irish." That comment from the now-convicted, corrupt agent has come to have a greater meaning to me.

As Flemmi dropped his bombshell that he was a protected informant of the FBI, the Wolf hearings uncovered some dirty truths about the FBI in Boston. As a result, the investigation of the Justice Task Force led by John Durham and Garret Byrne, and staffed with some excellent investigators, including Special Agent Tim O'Rourke, one of the finest investigators I have ever worked with, John Connelly was indicted for his sickening, cowardly, and corrupt acts. I admire, respect, and appreciate the work of the Justice Task Force.

Were there more corrupt FBI agents from the Boston office? I think so. We continue to accumulate evidence and information in the investigation of Roger Wheeler's death concerning the involvement of a retired FBI agent. The Tulsa Police Department and the Tulsa County District Attorney recently had a very productive and promising meeting concerning additional charges reference the Wheeler murder.

I have no agenda in this situation other than solving the murder of Mr. Wheeler and arresting all of the involved parties. I encourage anyone that may have information concerning Mr. Wheeler's murder to contact me.

I have spent nearly one-half of my life working murder cases, and I am sickened by the thought of law enforcement officials, or anyone else for that matter, protecting murderers. They are scum bags that should be locked up along with the killers.

I must say, the stress and emotions of this investigation have taken their toll on relationships and friendships. But if not for the work of AUSA Fred Wyshak, DBA Agent Dan Dougherty, Troopers Tom Foley, Steve Johnson, Tom Duffy, and others, we would not be here today. They have my sincere respect and thanks.

In closing, I would like to say that the fugitive Whitey Bulger is a degenerate lowlife. I look forward to the day he is in custody, and I hope to be part of the arrest team. My final question is why

doesn't the FBI turn that fugitive case over to the U.S. Marshal's Service, an objective agency with an outstanding reputation that specializes in the capture of fugitives?

Thank you very much for your time.

Mr. BURTON. Thank you, Mr. Huff. We are going to try to accommodate you before this is over with.

Mr. HUFF. Thank you, sir.

Mr. BURTON. Mr. Wheeler, you are recognized.

Mr. WHEELER. Thank you, Mr. Chairman, for your invitation to appear before this committee today. I was 29 when this started so this is not as easy for me now.

Roger Wheeler started life as the son of a Boston newspaper proofreader. He joined the Navy during WW II and later met my mother, then a student nurse from Kansas, at an ROTC tea dance. The jukebox had broken down, and my mother asked him to fix it. She was impressed and a year later, they were married.

My father went to college and got an engineering degree on the GI Bill. He went looking for work and found it, in the oil fields of Oklahoma and Venezuela. My father believed in hard work—he considered hard work a good thing—and he passed that belief, and others, on to my three brothers, my sister and myself.

More than anything, my father believed in the American Dream. As a depression-era child living north of Boston, he started and ran his own neighborhood businesses, ranging from bicycle repair to selling potholders and firewood. He was a natural entrepreneur. After the war he built businesses that ultimately grew to employ thousands.

His first interests were the oil and mineral industries; he was an expert in the engineering of oil pipelines. But he later recognized the promise of a brand new industry with a bright future, computers. He became chairman of Telex Corp., one of the first to companies to separately manufacture computer hard drives. From his vision and hard work came companies, such as Telex, that competed with IBM, Dow Chemical, and other major corporations.

This was a man who didn't steal, who tried not to harm people. He employed people, thousands of people who ultimately lost their jobs when he was murdered. This was a son of Boston the city can and should be proud of. He was, after all, one of them. He was also my father.

In the late 1970's, at home in Tulsa, my father was approached with a business opportunity, an opportunity presented to him by the bank formerly known as the Bank of Boston, whose main offices were right down the street from where we sit today. The opportunity was a company known as World Jai Alai, founded back in the 30's by some old-line New England families.

My father was a careful businessman, and he looked into this proposal for some time before deciding to commit to purchasing WJA. My father had the greatest respect for the Federal Bureau of Investigation.

My father wasn't much for television; the time spent with us kids was mainly reserved for the out of doors: Hiking, water skiing; fishing—one day we caught the same fish, on separate hooks—and working together, outside. But there was one television program, I recall that he would religiously watch with us kids: "The FBI."

My father's faith in the Federal Bureau of Investigation carried over into his decision to purchase WJA. On more than one occasion, my father said that, with all of the rumors of organized crime's involvement the gaming industry, he had solid comfort, knowing that his executive staff was made up of former FBI agents, and they had told him his company was "clean."

My father's life represented what many consider to be the American ideal: vision, hard work, a good sense of opportunity and maybe a little bit of luck, leading to great financial success. Sometimes his patriotism overflowed, like the time he installed a large flagpole in the front yard of our home and had the first flag raising dedicated by several ministers complete with a marching band.

In May 1981, I was working at World Jai Alai in Miami; my father had hired me, a computer software engineer some years out of college, to learn all I could about the WJA computerized accounting systems. One Wednesday afternoon I received a call, telling me only that my father had been shot in the head and had been taken to a Tulsa hospital.

In a race to see my father before he died I picked up my wife and 8-month old son, threw clothes from the wash cycle into a suitcase, and headed to the airport. With soapy water dripping behind us I raced from counter to counter looking for a quick flight to Oklahoma. Only when it became obvious that we had a 2-hour wait did I make a call to the hospital to check on my father. The operator said she had no record of his admission and, after a long pause, told me simply that I should call home.

My family and I got on the plane and flew to Tulsa. Police officers met the plane as it arrived, and came directly down the aisle looking for us by name, instructing other passengers to sit back down. My wife, child and I were escorted off, taking the stairs directly to the tarmac; we were whisked into a pair of unmarked vehicles. Weapons were everywhere as my family was pressed between officers for safety.

In fewer than 7 hours our lives had become surreal. The next day I had to repeatedly negotiate between the funeral home and my mother. She kept asking to see her husband. They kept asking for more time and finally, in desperation, asked me, "Do you realize where he was shot?"

When we arrived at the funeral home to view my father, I finally started to lose control. My mother kissed my father's body. I almost passed out fearing that part of dad's face would fall apart.

Twenty-one years have now passed. In spite of all of the FBI corruption uncovered to date, I am still working with the FBI. I believe that there are many good people in law enforcement, prosecutors such as John Durham and FBI agents such as Tim O'Rourke. And there is at least one courageous judge, Federal Judge Mark Wolf, who dug into all of this by holding hearings, day after day, for months. Without their perseverance, it's likely that none of this corruption would have been uncovered.

Sadly, I also realize that there are others who have themselves been corrupted over time; corrupted in their deals with informants from one element of organized crime, in their misguided efforts to bring down another element of organized crime. And there are the other agents and law officers, otherwise decent and honorable peo-

ple, who stood quietly by, tolerating this in their midst, so as not to upset careers or give the Bureau a black eye.

Forgotten in all of this are the people the Agency is sworn to serve, the people it was designed to protect: People like my father. People like all of the others murdered by this Agency's informants, whose families, some of them present today, in this room, grieve to this day.

Something else has been lost, too, perhaps forever, as a result of these disclosures of FBI abuse; trust and confidence. The trust of people who, like my father, believed the FBI served a good and honorable purpose. People who would like to trust the Bureau, but now, sadly, do not. Where there was once trust, there is now fear. And that is a loss we cannot afford.

Twenty-one years have passed since John Martarano, the hit man for informants working for FBI, Boston, came up to my father and shot him in cold blood, between the eyes. We know precisely how this happened, 20 years after the fact, from Mr. Martarano's own testimony.

Martarano testified as a government witness in the recent corruption case against former FBI Agent John Connelly. We know that Bulger shot Brian Halloran, and that Martarano, at the direction of Bulger and Flemmi, later shot John Callahan, the former president of WJA, to keep them quiet about my father's murder.

How many others were involved, in these and other FBI informant murders? Who else at the Bureau knew about these secret relationships with these known criminals, but turned away, said nothing, as others were murdered? Did any Supervisors or other agents care to ask any questions, connect the dots between these murders and their own informants?

How could the FBI pretend to investigate itself, give itself a clean bill of health and then a year later bring criminal charges against John Connelly, Whitey Bulger and Steve Flemmi? Where was the Justice Department in all of this? Was there no oversight at all?

I think that this committee's work, in seeking records from the FBI and the Department of Justice, and in conducting hearings such as this, is critical to finding the answers to these questions. It is the place to start the process of restoring some measure of faith in the FBI. I am deeply concerned that little has changed.

My family and the families of several others who have been murdered as a result of these abuses have come forward with claims of wrongful death against the government. We want the truth to come out and have come into Federal court to seek it. The government defends itself from our claims on grounds almost too absurd to believe.

It says we are all too late in bringing our suits; the same government that just prosecuted John Connelly for this corruption, says that we should have come forward sooner, that somehow we were supposed to know more about the FBI's misconduct, and sooner than the FBI itself.

For all of these reasons, I urge the committee to continue its work on this, in the next session of Congress. No other arm of government can or will take this up, and it is too important to leave

alone. The integrity of the FBI, and much of our faith in Federal law enforcement is in the balance.

Let me close by briefly mentioning two special people, two individuals who are responsible for me being here today, and who helped me survive since that horrible day, more than 20 years ago. My wife, Laurie, was and is today, always there for me regardless of how bad things became. She gave me stability when the rest of my world came apart. I am grateful to her for that and I want to publicly thank her.

Like Laurie, Sgt. Det. Mike Huff, of the Tulsa Police Department Homicide Unit, has been there with me. Mike was among the first law officers responding to the scene of my father's gruesome murder, in May 1981.

Mike, sitting next to me, is with my family and me to this day. When I began to complain to him about my situation, Mike took me around to see and speak with others less fortunate. Mike often showed me how crime can be solved by dedication to duty, and hard work—not by trading one life for another.

Inspired by Mike, I spent time developing a new type of software, designed to assist law enforcement in evaluating apparently unconnected pieces of evidence developed in crime investigations. A derivative of this technology is going to be part of the new Transportation Department's computer search for terrorists.

Thank you, Mr. Chairman, for your invitation to appear and testify before this committee. I would be pleased to answer whatever questions you might have.

Mr. BURTON. Before we start the questioning, I want to say two things, Mr. Wheeler. First of all, I want to thank you very much and your family for putting a human face on this tragedy. Too many times we read in the paper somebody has been killed and the next day that's all there is to it.

Today you have put a human face on your dad and your family and what you've gone through. I think that is very, very important because I think one of the other things we need to do is tug at the heartstrings of America to let them know how important it is that this sort of thing never, ever happens again and that we hold law enforcement officials accountable who participate in this kind of thing.

The second thing I would like to say to you before we start our questioning is if you would send to this committee a letter enumerating the problems you've had with the civil suit including the statute of limitations that evidently they said has passed so you couldn't pursue it.

We will take a look at it and see if we can't help you in some way with that civil suit because it is obvious to me, and I think to the rest of the committee, that there is no way you could have started the civil suit unless you knew that the FBI was involved and you couldn't have known that for a fact until some time later. If you will get that to us and to Mr. Wilson, we will see if we can't be of some assistance to you.

Mr. WHEELER. Thank you, sir.

Mr. BURTON. With that, I don't know how we're going to run this clock. I'll tell you what we will do. We will just try to keep a rough idea on the time. I'll let my colleagues ask questions if you guys

would try to stay within—you know what the parameters are. When Mr. Wilson asks questions, if any of my colleagues want to interrupt and ask followup questions, you are welcome to do so.

Let me start. For the record, I'll ask——

Mr. HUFF [continuing]. Jack and James Herbert and his crew came on board, absolutely they helped. Prior to that we had roadblocks to say the very least.

Mr. BURTON. To you think that former FBI agent Paul Rico has been protected by the actions of the Justice Department?

Mr. HUFF. I do want to say that my investigation concerning Paul Rico is still ongoing and it has been publicly reported before that we are seeking murder charges against Paul Rico in Tulsa for the murder of Mr. Wheeler.

Mr. BURTON. Would you care to elaborate on any of that information that you have?

Mr. HUFF. Well, in respect, sir, to that ongoing investigation, any information with regards to evidence I can't. But I can tell you that, yes, we did feel that the Justice Department hindered our investigation. There is one particular time, November 1982, when the Justice Department convened a meeting in Tulsa, Oklahoma, where they invited investigators and prosecutors from all the agency locations where these murders had happened out to Tulsa for a meeting and it was a sham.

It was under the guise of information sharing, although little information was shared. At the very end of the meeting it was, "OK. All you guys, what do you know on Paul Rico? Stand up and tell us now." That was because Paul Rico was due to be a witness against Judge Al C. Hastings in a Federal corruption trial in southern Florida. They were allegedly looking for discovery material in relation to Paul Rico.

That meeting with fine troopers from Massachusetts State Police and Connecticut State Police ended in everybody getting up and walking out. We felt we had been misled. We felt that it was a very poor attempt to try to share information. We felt at that time that we weren't going to get anywhere with Paul Rico with the help of any Federal people.

Mr. BURTON. You've touched on this a little bit but 20 years ago you thought it was important to interview Whitey Bulger and Stephen Flemmi about the Wheeler murder. Can you tell us what happened and whether or not you got any assistance in interviewing those guys?

Mr. HUFF. I do want to say that the FBI agent that we were working with in Tulsa was attempting to help us to a certain point. I think he was being lied to also. As time as gone on and I've had access to look at other information and reports and whatever, I do feel that he was trying to straddle the fence, if you will, trying to keep the FBI happy and not assist us to a certain extent.

We felt that we needed to talk to Whitey Bulger and Stephen Flemmi. We had no idea that they were informants. We kept pressuring the FBI in Tulsa to be the liaison. That never happened. It turned out later on we see in reports where they convened a high-level meeting in Washington to discuss this. We were just led on by the FBI. "Yeah, we will get you there. We will facilitate that."

All the while we're thinking in the back of our naive minds that surely the FBI has targeted these guys as some sort of organized crime targets. They were going to take him down. We didn't want to step in the way of that. We just wanted to do our job but it was totally opposite of that. They had targeted the Wheeler case to not get soft.

Mr. BURTON. Now, in 1982 you met with Jeremiah O'Sullivan. I believe he was a prosecutor at the time. You met with him in Boston. I guess a year had passed since the Wheeler murder and they were looking for leads—you were. You and others met with Mr. O'Sullivan in Boston. Is that correct?

Mr. HUFF. Yes, sir. Myself, my partner, Dick Bishop, two Connecticut state troopers who were actual investigators. It was Andy Osuf and Dan Toomey, as well as a very excellent Massachusetts state trooper by the name of Greg Foley.

Mr. BURTON. As I understand it, O'Sullivan laid out the Halloran story and told you guys about the alleged involvement of Flemmi, Bulger, and Martarano. Can you go into that?

Mr. HUFF. Yes, sir. It was what has become known as the Halloran story, the Halloran debriefing, where Flemmi, Bulger, Martarano were involved. He down played that. He said Halloran was a liar, that he was only given a percentage of the truth and it couldn't be corroborated. They cut him lose and they never told us about him while they had him and he was still alive.

Shortly after they cut him lose he wound up dead here in Boston, he and Michael Donahue. He down played Halloran's credibility. He talked in detail about his knowledge about Bulger and Flemmi doing murders. They were doing murders for the LCN here in Boston. Being able to travel cross-country on murders. Other than Tulsa and Florida the only other cross-country murder I've later become aware of is the one of, I believe, Peter Paulus in Nevada which occurred in the 1970's.

It appeared to us, especially hindsight is always 20/20, but he really knew quite a bit about these guys. We thought in the back of our mind surely these guys have got to get ready to take a fall.

Mr. BURTON. Would you have liked to have known about this a year earlier?

Mr. HUFF. Oh, absolutely. I believe that if Halloran came forward in January 1981, I would have liked to have known that. We could have worked with that and worked alongside them, or at least had some input to contribute to their investigation.

Mr. BURTON. I have more questions but I'll yield to Mr. Tierney.

Mr. TIERNEY. Thank you. I just want to ask, Mr. Huff, when you were talking to Mr. O'Sullivan about this Halloran thing, did he tell you specifically why it was that he was discounting his credibility?

Mr. HUFF. He said that Halloran had become a coke freak over time and that Halloran had a diminished respect in the Boston circle of organized crime people that one time he had been a very well respected hit man but, for other reasons, he was not as well respected now.

He also said that Halloran chose not to offer information on Howie Winters which apparently was a man of interest to them

here. Because of that and because they couldn't corroborate some of the things he said they cut him lose.

Mr. TIERNEY. Did your information have Mr. Halloran having any contact with the World Jai Alai?

Mr. HUFF. Not that I recollect at the moment. That was a question I wasn't anticipating. I would imagine in my several thousand pages of reports I address that but I don't think that——

Mr. TIERNEY. But none that you are aware of, or none that you can recall, at least?

Mr. HUFF. No, sir. Not right at the moment other than his association with John Callahan who was the former president of World Jai Alai.

Mr. TIERNEY. Did you know that association?

Mr. HUFF. Yes, sir. I did know that association. He was very closely associated with John Callahan here in Boston.

Mr. TIERNEY. Mr. Wheeler, you didn't know Mr. Halloran, did you?

Mr. WHEELER. No, sir.

Mr. TIERNEY. Did you have any subsequent meetings with Mr. O'Sullivan?

Mr. HUFF. That was my one and only meeting. It lasted about 90 minutes. It was, I believe, July 8, 1982.

Mr. TIERNEY. And you said at that time it was pretty clear that he had a lot of information not just about Martarano but also about Flemmi and Bulger?

Mr. HUFF. Yes. Quite a bit of information on Flemmi and Bulger on how they did hits. We felt that reading between the lines that he knew of specific hits they had been involved in. He also appeared to be very familiar with Paul Rico and aware of John Connelly also.

Mr. TIERNEY. And Mr. Rico at that time held a position with World Jai Alai?

Mr. HUFF. Yes, sir.

Mr. TIERNEY. Was he security vice president?

Mr. HUFF. He was in the management. I think after Mr. Wheeler's death he became vice president of World Jai Alai.

Mr. TIERNEY. Now, Mr. Huff, did you have a meeting last year with the Justice Department lawyers in 2001?

Mr. HUFF. Yes, sir. Which ones are you talking about?

Mr. TIERNEY. How many did you have last year?

Mr. HUFF. Well, I've had meetings with Fred Wyshak. I've had meetings with John Durham. I am trying to think if there was a lawyer involved when the Department of Justice did the leak investigation last year. I've had several meetings.

Mr. TIERNEY. And the purpose of those meetings?

Mr. HUFF. The exchange of information primarily in regards to these ongoing cases as well as the Wheeler case specifically.

Mr. TIERNEY. And the cooperation level that you find at this point in time?

Mr. HUFF. At this point in time it's wonderful between Wyshak, John Durham, and those people. They are fine people.

Mr. TIERNEY. Mr. Chairman, I have no further questions.

Mr. BURTON. Mr. Shays, do you have questions?

Mr. SHAYS. I would like to allow my Massachusetts colleagues to ask some questions and then I would like to jump in again.

Mr. BURTON. Mr. Lynch.

Mr. LYNCH. Mr. Huff, I am going to ask some obvious questions but we are trying to create a record here so bear with me. Why is it in your mind you think the FBI clearly withheld relevant information from you for so long? The second part of my question is bring us up to date more recently your dealing with the Justice Department and the FBI and has the relationship and their level of cooperation changed?

Mr. HUFF. Yes, sir. In looking back obviously the reason why they were withholding information is that they were protecting Flemmi and Bulger. I guess individually we see that John Connelly was probably protecting them not only for career reasons but for personal reasons.

I feel that they knew that Paul Rico was a target of ours and that didn't set well with them for one reason or another. Yes, I think it's very obvious why they protected these guys and withheld information recently. When I say recently, I am going from 1995 on when I first became aware of indictments on Flemmi and Bulger.

The level of cooperation changed and that's because of state troopers here in Massachusetts, the DEA agent Dan Dougherty and Fred Wyshak, James Herbert, Brian Kelly. They have one goal in mind and I thought this as I heard each of your opening statements—they are seeking the truth. Wherever that leads, they are heading in that direction. That has changed.

John Durham, outstanding man. He has been very helpful in furthering our specific investigation on the death of Mr. Wheeler. Yes, it's a different group of people we're dealing with today.

Mr. LYNCH. One final question, Mr. Wheeler. I understand that after your dad's passing that Mr. Rico was elevated to the position of Vice President with World Jai Alai. Would in the internal structure of that company, if you know, would Mr. Rico have been able to rely on the fact that he might have moved up in the organization or succeeded in the organization with your father's absence or if your father was unable to serve?

Mr. WHEELER. Yes, I do. I think that based upon their understanding of how my older brother would be the general partner that they would be in a position to do that. They would be in a position to do basically what they wanted as far as management control.

Mr. LYNCH. How old was your brother at that time? Do you remember?

Mr. WHEELER. He was 34 but he had no experience running a business. Basically he would follow my father's direction. When my father was killed the business just—Roger, Jr. relied upon Donovan and Rico.

Mr. LYNCH. Thank you, sir. No further questions.

Mr. BURTON. Mr. Meehan.

Mr. MEEHAN. Mr. Huff, you indicated that you had one meeting with Mr. O'Sullivan that lasted about 9 minutes.

Mr. HUFF. Ninety minutes.

Mr. MEEHAN. Ninety minutes.

Mr. HUFF. An hour and a half, yes.

Mr. MEEHAN. During the course of that hour and a half meeting did you find at that time your conversation and his statements credible, truthful, and honest at that time?

Mr. HUFF. At that time I thought they were honest. I was wondering what was not being said.

Mr. MEEHAN. Given your experience over the last 20 years, looking back and reflecting on that 90-minute conversation with Mr. O'Sullivan, would you to the extent it's possible consider, looking back, his conversation and his statements to be truthful, credible, and honest?

Mr. HUFF. Well, in some ways I would think that they—I think that the decision to cut Brian Halloran lose, there was a story behind that we have since come to know, I think, why that happened.

I found in looking back 20 years later his statements, some of them may have been truthful but they were outlandish to find out now that he knew that Flemmi and Bulger were informants working for them and knowing specifically about murders and how they do murders. He seemed to have some real inside information and I just couldn't imagine law enforcement using cold-blooded killers to let them run lose like vicious animals.

Mr. MEEHAN. Did you at anytime after that 90-minute conversation request any additional meetings or communication or conversations with Mr. O'Sullivan?

Mr. HUFF. Well, not directly with Mr. O'Sullivan. I think in writing. I wrote to our U.S. Attorney in Tulsa requesting that we call Paul Rico before a grand jury. That never happened.

Subsequently, we did call, I believe, Dick Donovan to a grand jury in Tulsa which was very unproductive even to the point of—I mean, all this minutia of what happened way back when, but when you recall the day that Dick Donovan came to a grand jury and we were positioned in the hallway waiting to talk to him afterwards, the FBI was facilitating the grand jury and the FBI sneaked him out of the building, into the basement, into an FBI agent's personal car, and drove him directly to the airport to keep him from us. I mean, those kind of things add up and they accumulate.

Mr. MEEHAN. Sure do. Thank you, Mr. Huff.

Thank you, Mr. Chairman.

Mr. BURTON. Mr. Delahunt.

Mr. DELAHUNT. Thank you, Mr. Chairman.

Our condolences to you, Mr. Wheeler. Your testimony was particularly moving and poignant. We all emphasize with what you've endured for years.

Let me direct my questions to Mr. Huff. Subsequently have you become aware of what FBI agents developed, Bulger and Flemmi, as informants?

Mr. HUFF. Yes. It all tracks back to Paul Rico.

Mr. DELAHUNT. So you now understand given the information that has been made public that Whitey and Stevie Flemmi were developed as informants by H. Paul Rico?

Mr. HUFF. Yes, sir. I have.

Mr. DELAHUNT. Upon his retirement, Mr. Rico became an employee of World Jai Alai?

Mr. HUFF. Yes, sir.

Mr. DELAHUNT. And subsequently have you learned that Mr. Martarano was an associate of Mr. Bulger and Mr. Flemmi?

Mr. HUFF. Yes, sir. I have.

Mr. DELAHUNT. And obviously you have learned through the testimony of Mr. Martarano that he traveled to Tulsa, Oklahoma, and committed the murder of Roger Wheeler?

Mr. HUFF. Yes, sir.

Mr. DELAHUNT. During your meeting with Mr. O'Sullivan back in 1982, did Mr. O'Sullivan disclose to you that he was aware that Bulger and Flemmi were informants of the FBI?

Mr. HUFF. He did not disclose that to us.

Mr. DELAHUNT. He did not disclose it?

Mr. HUFF. No, sir.

Mr. DELAHUNT. But you came to that meeting with the intention of securing assistance in the investigation of the murder of Roger Wheeler.

Mr. HUFF. Absolutely.

Mr. DELAHUNT. At that point in time did you have information which led you to believe that Bulger and Flemmi were involved in that murder?

Mr. HUFF. Yes, sir. That initial information was received from that Massachusetts State Police approximately a year prior to that.

Mr. DELAHUNT. So that information came from the Massachusetts State Police to you and then you came and had that meeting with Mr. O'Sullivan who, at that point in time, do you remember what his particular role was in the U.S. Attorney's Office?

Mr. HUFF. He was the chief Strike Force prosecutor on the organized crime Strike Force.

Mr. DELAHUNT. So he headed the organized crime Strike Force?

Mr. HUFF. Yes, sir.

Mr. DELAHUNT. And he never disclosed the fact that both Bulger and Flemmi were informants of the FBI?

Mr. HUFF. No, sir.

Mr. DELAHUNT. You said during that meeting with Mr. O'Sullivan that references were made to Mr. Connelly, the former Special Agent of the FBI, the now convicted former Special Agent of the FBI, had certain real estate transactions with Bulger and Flemmi or associates. Did that occur during that meeting with Mr. O'Sullivan?

Mr. HUFF. Yes, sir. That was an exchange between the Massachusetts State Trooper and O'Sullivan.

Mr. DELAHUNT. So was that information that was disclosed by Mr. O'Sullivan to the Massachusetts State Police, or was it presented by the Massachusetts State Police to Mr. O'Sullivan?

Mr. HUFF. It was presented to Mr. O'Sullivan at which time he tried to downplay that.

Mr. DELAHUNT. What was his response, if you can remember? I understand that this is very difficult. This is 20 years ago.

Mr. HUFF. There are certain things in the past 20 years that you remember pretty vividly and I remember that hour and a half pretty vividly. In that downplay of that it was him trying to change the subject. He seemed to be very protective of Mr. Connelly. In fact, he even—I believe that he even told us that this whole situation

was being handled by, I believe, Agent Gerry Montanari who was not even in Mr. Connelly's squad. He was in a labor racketeering squad and Connelly was in organized crime squad.

Mr. DELAHUNT. Suggesting that they didn't even talk together?

Mr. HUFF. Suggesting that, but even when he said that, I recalled that months back shortly after Wheeler was murdered when we were reaching out to other agencies to help us gather information, that it was Connelly of the FBI that they sent to talk to John Callahan about this.

Mr. DELAHUNT. Not Special Agent Montanari but Special Agent Connelly?

Mr. HUFF. Absolutely. Hindsight is 20/20 but I look back on that and thought why would they send Connelly to talk to Callahan where Callahan, I believe, gave him a prepared statement. You know, quite candidly you look back——

Mr. DELAHUNT. Callahan gave who a prepared statement?

Mr. HUFF. Callahan gave Connelly a prepared statement denying his involvement with the Wheeler murder.

Mr. DELAHUNT. I see. If you know, was there any followup in terms of inquiry or was it just simply the acceptance of a signed statement?

Mr. HUFF. I think it was the acceptance of a—I believe the statement was faxed to him.

Mr. DELAHUNT. Faxed?

Mr. HUFF. Which really——

Mr. DELAHUNT. It was an in depth investigation, in other words, Mr. Huff?

Mr. HUFF. Right.

Mr. DELAHUNT. Getting back to those real estate transactions, when this was presented to Mr. O'Sullivan by an official of the Massachusetts State Police, did he indicate that he would investigate that allegation?

Mr. HUFF. No, sir. He did not.

Mr. DELAHUNT. He did not? Can you remember with any specificity whatsoever the assertions that were made by the Massachusetts State Police official relative to real estate transactions?

Mr. HUFF. I believe it was a transaction of a piece of real estate, maybe a home. I know that Whitey Bulger's name came into it like maybe he was the seller or something of that nature.

Mr. DELAHUNT. Was O'Sullivan surprised by the allegation?

Mr. HUFF. Not necessarily surprised but maybe alarmed. I know that the state trooper also said that Connelly had been seen several times with Bulger. Those were the kind of things I was soaking in like a sponge. I couldn't imagine that.

Mr. DELAHUNT. But you were unaware at the time that Bulger and Flemmi had become informants for Special Agent Connelly?

Mr. HUFF. Totally unaware of that.

Mr. DELAHUNT. Did Connelly ever disclose that to you? You made reference earlier to how they were going to focus on the LCN, La Cosa Nostra, and they were going to use—I think they weren't going to do the Irish. I think maybe that's the word you used.

Mr. HUFF. Those are his exact words. I recall that conversation. I had attempted to contact Connelly direct several times when he was still an FBI agent and never got a reply from him. I tried to

communicate with him through an FBI agent in Tulsa. That didn't really happen much either. When I came up here in 1995 after the Massachusetts State Police had worked their investigation on Flemmi and Bulger, I brought a load of reports.

At that time Connelly had gone to work for the power company or Boston Edison somewhere here. I was trying to get a meeting with him. All I was able to do was get a phone conversation with him which lasted several minutes.

In that his very specific words is "his deal," and that was his word, with the FBI was to come back to Boston to take down the LCN—those were his specific words—and not work "his Irish." I really recall that specifically. I don't think that we talked at that time about them being his informants. He was wanting to talk about there was going to be a movie made on him or something.

Mr. DELAHUNT. A movie made on Mr. Connelly?

Mr. HUFF. Yes, sir. I acknowledged to him that I had seen on television on Top Cops or something. I am trying to change the subject back to something important and he's wanting to talk about himself. I ended up ending the phone call and didn't get to the point with him.

Mr. DELAHUNT. Thank you. I yield back.

Mr. BURTON. Mr. Shays, did you have something?

Mr. SHAYS. Mr. Wheeler, I don't think I owe you an apology more than I just want to say that you should have been on my list and your family should have been on that list alongside of Joseph Salvati. Mr. Salvati's children have him back in the family minus 30 years. You don't have your dad. Your children don't have their grandfather. I am just interested how old your dad was when he was killed?

Mr. WHEELER. That's kind of an interesting thing. I am not very good with ages actually. It seems like he was about 52, 55.

Mr. SHAYS. She he potentially would still be living today.

Mr. WHEELER. Yes. His mother is still alive today.

Mr. SHAYS. I want to ask you about your civil suit. I would be willing to have your attorney participate but he wasn't sworn in so if it's necessary for him to participate, we would need to swear him in. I want to understand where the civil suit lies right now and what your task is to move forward.

You need to be sworn in.

[Witness sworn.]

Mr. LIBBY. Briefly, Mr. Shays, the Wheeler suit was filed roughly a year or more ago. We're not alone. There are eight or 10 other families similarly situated including another case that is not a wrongful death case but an extortion case involving the South Boston Liquor Mart scenario where a claim has been made against the United States and many former FBI agents for their wrongdoings.

We have a collection of cases pending before three different Federal judges in this district. The Justice Department Civil Division, not the Massachusetts U.S. Attorney but the Justice Department Civil Division down in D.C., is handling the defense of each of those cases.

It's gone into just beginning just now after more than a year to get into discovery which, of course, is somewhat ticklish because of all the various claims of privilege and grand jury testimony, con-

fidential law enforcement information material and the like. We're talking about 20 or 30 years worth of material.

The defenses which have been raised today, and I trust that this is the heart of your question, has been singular and that is it's not been a denial so far as we know. There may be one or two answers where there have been—in the way of a denial of liability but it's focused primarily on timeliness, or rather untimeliness of bringing these claims.

The essence of that is that you sat on your right so if you sue the United States you have to sue within a certain period of time—2 years I believe is the statute—or you lose those rights forever. The claim from the government, the very government that is prosecuting the criminal actions here, they are defending the very same kind of conduct on claims that these private citizens should have brought these suits, should have known about this FBI misconduct earlier than the FBI did essentially.

This FBI gave itself, as I understand it, responsibility back in as late as 1997 so that they couldn't find any wrongdoing. The Connelly indictment didn't come until the following years. These civil suits followed on the heels primarily on the remarkable yeoman work of Mr. Wyshak and others who have been involved in the so-called Salenni hearings held by Judge Mark Wolf over the course of nearly 2 years.

He finally in September 1999 put together a nearly 700-page report of findings of those hearings which span decades of these secret relationships. Only then did the nature of his misconduct come to light. From that you saw the families finally understand how it was the Government was somehow answerable, reliable, responsible for their harms. The suits have been filed. In virtually every instance, as I understand, the defense is that we're all too late.

Mr. SHAYS. The bottom line is, though, you filed within 2 years of learning of that.

Mr. LIBBY. We certainly filed within 2 years of Judge Wolf's decision where he has pulled all that information together. Before then it's been speculation, conjecture, rumors, newspaper reports of OC figures on the one hand and speculation about internally in the FBI on the other.

Mr. SHAYS. I understand why you need statutes of limitation but it seems to me the law is flawed if you are not able to move forward.

Mr. LIBBY. Well, some have been ruled on. One or two, as I understand, have been ruled on and have been denied by one of the judges handling the case. There are others—I don't want to comment beyond that—that are still pending.

Mr. DELAHUNT. Would the gentleman yield for a moment?

Mr. SHAYS. I would be happy to yield.

Mr. DELAHUNT. I think in response to the gentleman's question, myself, Mr. Meehan, and Mr. Frank sent a letter to the Department of Justice expressing our dismay that the Department of Justice would interpose such a defense. I have never heard a theory as put forth by Justice in the history of American juris prudence to defend a case that obviously lies with both Mr. Wheeler and others. Hopefully Justice will revisit the fact that defense is simply unconscionable and insulting.

Mr. LIBBY. If I may, Mr. Chairman, just a final point. I am familiar with that letter, Mr. Delahunt, and all of the various families are familiar with it as well. We appreciate the sentiment behind it. We think it is perfectly appropriate. Understand we are simply looking to get our day in court.

We're not looking for a leg up or any of that. In fact, we have some serious logistics issues to deal with that we are confronting with respect to various agencies spanning from Oklahoma, Florida, Connecticut, Massachusetts, as you might imagine over 20 to 30 years, as I mentioned. We just simply want to be heard.

Mr. SHAYS. I would say when you said would Justice revisit, I read that two ways. Will the Department of Justice revisit and will Justice be revisited. I know that my chairman and I have talked about this kind of issue and I would think that both of us would love to kind of add our names to that letter as well. It just seems so obvious to, I think, both of us that there has to be a statute of limitations but at a point which you are aware that you have a case.

I want to ask you, Mr. Huff, you are on record obviously as saying your investigation was hindered by the FBI and the Department of Justice. Correct?

Mr. HUFF. I believe so.

Mr. SHAYS. And you have subsequently concluded that the FBI and the Department of Justice hindered your investigation because?

Mr. HUFF. Because goes off in several different directions, I guess.

Mr. SHAYS. You can go off on more than one.

Mr. HUFF. I guess because they wanted to keep Flemmi and Bulger on board because John Connelly didn't want his house of cards to fall. Because they were protective of H. Paul Rico for whatever reason, whether it be the Judge Alcee Hastings case they had put effort into, or the fact that they just wanted to protect Rico.

And because they didn't want embarrassment from the FBI for the FBI. I think that is probably a pretty narrow focus there, too, I think, as this thing further unfolds. I mean, I look back on so many things. For example, one that I got kind of upset about last night when I recalled where supposedly Connelly wrote an FBI report shortly after Callahan's death to say that Flemmi told him that this would be a group of Cubans that Callahan had begun to deal with in Florida.

The assertion was that Flemmi just gave that to Connelly to report because Flemmi had told Martarano to drop the watch off in Little Havana, Callahan's watch which they took from the body, Little Havana in Miami. When in actually that tracks back to us because in July 1982 prior to Callahan's death we had begun to investigate a man of Cuban decent that had a lose connection with World Jai Alai as a pretty good suspect.

We shared that information with the FBI. It doesn't take much to connect the dots there that information gets to Connelly and Connelly feeds that to Flemmi and off of that they leave the watch in Little Havana knowing that is going to be a red herring that we're going to chase like a dog chasing a bone, which we did unfortunately. It just fed on each other. You know, there are so many

instances of that kind of information that so much time was wasted. They sent us off chasing ghosts. I got to tell you, this has been 21 years of my life.

This isn't the only murder case I've investigated. I investigate a lot of murders and we solve 90 percent of them in Tulsa but, boy, did this distract me and this totally screwed up my life. I am mad about that. That's me talking to you. That's not the Tulsa Police Department. My ex-wife is mad about it, too. My kids are mad about it.

Mr. SHAYS. Mr. Chairman, thank you. Mr. Huff, I really appreciate you coming to testify today.

Mr. Wheeler, I was a State Legislator when you dad was killed. At the time I thought gambling is a messy business, you know. It's controlled by organized crime. It's kind of my stereotype. My first pass was to think, "Well, this is a man involved in organized crime."

Austin McGreggan told me your dad was a man of impeccable character. Just a beautiful man who had come up from a more modest beginning. Your testimony today obviously just makes that so personal. I am so grateful you are here today. So grateful you testified.

Mr. WHEELER. Thank you very much.

Mr. BURTON. Thank you, Mr. Shays. I think Mr. Tierney has one or two questions. Then we will try to wrap this up. I think the chief counsel has a couple of questions and then we will try to wrap up this panel.

Mr. TIERNEY. Thank you. I just wanted to see whether or not you've given us everything you can recall with respect to that 1982 meeting with Mr. O'Sullivan. You said a moment ago in answer to somebody's question that the story behind cutting Halloran lose has since come to be known by you. Have you told us everything that you believe is related to that story about Halloran being cut lose or is there something else you want to add?

Mr. HUFF. I believe I've told the crux of it. I mean, I think that Halloran was cut lose. I think that probably there was some input from John Connelly to O'Sullivan to get rid of this guy. I mean, the FBI line for many, many years until recently was that Halloran was a liar. He might have lied about some things but he didn't lie about this. It was right in line with.

Now, in talking to people that were involved to a certain extent in these murders, we know that Halloran was being truthful. In that meeting there were other things that came out. There was a lot that came out. He told us that John Martarano, the fugitive John Martarano, was in the Fort Lauderdale area with some specificity.

Certainly he was in the Ft. Lauderdale area. He was staying in and around the apartment of John Callahan. You know, when John Callahan was murdered, we told the Metro Dade Police that, "Hey, John Martarano is a figure in this somewhere or another."

Little did we know that some 20 years later we would find out that John Martarano was a traitor man that killed Callahan. We told them that John Martarano was a fugitive and he was in the Fort Lauderdale, Southern Florida area and they acted upon it. I see no indication that the FBI, the feds, acted on it at all.

Mr. TIERNEY. Was Trooper Dana Toomey with you at that meeting in 1982?

Mr. HUFF. Dan Toomey. Yes, sir. Connecticut State Trooper.

Mr. TIERNEY. I am just looking at a report filed by him on this. He indicated that Mr. O'Sullivan described Halloran as somebody that had information that wasn't corroborated. Do you recall that?

Mr. HUFF. Yes. Yes.

Mr. TIERNEY. O'Sullivan said that Halloran would not testify against Howie Winters. That was apparently by way of disparaging?

Mr. HUFF. Yes. Apparently they really wanted to get at Howie Winters and since he wasn't going to help him that way, I kind of thought the pay back was, "We're cutting you loose."

Mr. TIERNEY. Do you recall Mr. O'Sullivan indicating that he didn't think that either Martarano, Bulger, or Flemmi were brilliant and that he called them not brilliant?

Mr. HUFF. He did call them not brilliant. I thought that was kind of interesting. He would say they traveled across the country to commit murders. They didn't put the amount of effort or planning into it that the Italians did.

Mr. TIERNEY. Thank you.

Mr. BURTON. I just have two questions here and then we will let Mr. Wilson sum up. In that 1982 meeting in Tulsa, Oklahoma, can you give us the names of the FBI agents and the people that were in attendance? We would like to have those for the record.

Mr. HUFF. I was fearing you were going to ask that. I did a pretty thorough report except for that. Agent Bob McKechnie from Tulsa, Oklahoma, was there.

Mr. BURTON. Bob McKegney?

Mr. HUFF. McKechney.

Mr. BURTON. McKechney?

Mr. HUFF. Yes, sir. Agent Gerry Montanari from Boston, Joe Usher from Miami.

Mr. BURTON. FBI agent?

Mr. HUFF. Yes. And maybe Tom Diehl from Miami.

Mr. BURTON. Those are the four that you recall? Anybody else?

Mr. HUFF. I think there were FBI supervisors from Boston and I don't recall their names.

Mr. BURTON. Can you check and give that to us for the record. John Morris maybe?

Mr. HUFF. I don't believe it was Morris. It was their Agent Hannigan. Maybe an Agent Hannigan sticks with me.

Mr. BURTON. Was it a state trooper Hannigan?

Mr. HUFF. No, sir. Then there were two Department of Justice people from Washington.

Mr. BURTON. Do you know who they were? Do you have a record some place that you can get those to us and get those names for us?

Mr. HUFF. I am sorry to say I don't. I am certain the FBI has a record somewhere. And I do have a record which, as far as our case file, it was the FBI agenda to the meeting.

Mr. BURTON. If you could check on that and I'll tell you why. Because we have subpoenaed documents and, as you know, we had to move. We requested documents. We threatened a subpoena but

we requested documents and we were even at one time in the possibility of holding the president in contempt on that executive privilege issue. We did get documents but there are still documents we just don't have. If you have any additional information that would be helpful to us, we would appreciate it.

Mr. HUFF. I'll research it and I'll make contact with other participants at the meeting.

Mr. BURTON. We have specifically asked for this information on the 1982 meeting and they have stonewalled us. I would just like to say to the Assistant U.S. Attorneys who are here if you could pass on to your compatriots at the Justice Department that this isn't going to go away. We would really appreciate it if they would give those to us.

It would be very helpful because we are going to continue to plug on either through the Judiciary Committee or our committee or the Senate because we've got a lot of people that are now interested in this. It would be a lot easier if they would just give us that information whether than force us to keep fighting for it. It's not going to do any good. We're going to keep pounding on this until we get it so if you could help us with that, we would appreciate it.

The four investigators that were looking at the Callahan murder in Miami. Tell us just real quickly about their attitude toward the lack of cooperation or cooperation that we're getting?

Mr. HUFF. Detective Shelton Merit was a primary investigator at first. He put his heart and soul into it and felt that he was being followed by FBI people. He felt that he was really kind of in jeopardy. Ultimately ended up going through a divorce and getting transferred out.

Mr. BURTON. The pressure on him was great like yourself.

Mr. HUFF. Yes, sir.

Mr. BURTON. Before we turn it over to Mr. Wilson, is there anything you think ought to be added to the record that we haven't asked you questions about real quickly? You think we covered it pretty well?

Why don't you take the mic then, Mr. Wilson.

Mr. WILSON. I'll be very brief. Mr. Huff, I wanted to ask you some questions about two documents. We got them last night and I reviewed them very late. Mr. Tierney referred to one and I think somebody is going to bring this down to you. It's an investigative report from the Connecticut State Police. It's dated July 8, 1982. It was prepared by Trooper Toomey. This is the document that Mr. Toomey referred to.

Mr. HUFF. Yes, sir.

Mr. WILSON. This can be included in the record.

Mr. BURTON. Without objection.

Mr. WILSON. The final full paragraph on the page, I'll just read this and I was going to ask you for some comment on a couple of sentences. "Mr. O'Sullivan told us he had third-hand information that Halloran was offered the Wheeler hit and he [Halloran] discussed it with the Winter Hill Gang and Callahan. The hit was done by Martarano, Bulger, and Flemmi.

Later in our meeting Mr. O'Sullivan told us Halloran told him this information. Mr. O'Sullivan said that at the time of the murder of Roger Wheeler, Sr., Halloran was not in the gang's inner cir-

cle. He also said H. Paul Rico was connected to the Winter Hill Gang. Now, this document will be included in the record of the hearing. We just got it last night and it won't be released today because we haven't had a chance to redact it for personal information.

I wanted to ask you about the first sentence here. It says that, "Mr. O'Sullivan told us he had third-hand information that Halloran was offered the Wheeler hit." Now, that doesn't appear to be accurate. Is this inaccurate information?

Mr. HUFF. I believe that line may be inaccurate. I mean, O'Sullivan talked of his direct exchange between Halloran and he.

Mr. WILSON. This is what I am driving at. Did he first try and put you off this trial by saying that he didn't have the direct information?

Mr. HUFF. I don't recall that, Mr. Wilson, no.

Mr. WILSON. But you don't recall one way or the other?

Mr. HUFF. No, but I do feel like he was trying to put us off the trial and more to the fact of him talking about how unreliable Halloran was and how it was all uncorroborated.

Mr. WILSON. OK. But you don't have any reason to disagree with Mr. Toomey's report here that Mr. O'Sullivan did say it was initially third-hand information?

Mr. HUFF. No. I didn't quite understand that. I am OK with Toomey's report.

Mr. WILSON. Fair enough. Now, the final sentence says that he, that would be Mr. O'Sullivan, said that H. Paul Rico was connected to the Winter Hill Gang. Do you have a recollection of that?

Mr. HUFF. Yes, sir.

Mr. WILSON. Can you tell us everything you can tell us about that one observation?

Mr. HUFF. I recall his initial words were that Rico caroused with the Winter Hill Gang guys. He played cards and pool with them, drank with them. He said this was in the timeframe when some of the criminal activities that some of the Winter Hill Gang Members were committing were not under a Federal statute. Everybody felt that it was OK. The activities that he was talking about were murder so everybody is looking the other way because there's no Federal law against murder so Rico can hang out with these guys. That was a big point of conversation for us after we left.

Mr. WILSON. And Mr. O'Sullivan had no doubt about this statement that he made?

Mr. HUFF. It seemed very matter of fact, very specific. I mean, it was so specific and I was so alarmed by it that I put it in my—I listed them in my report on all the information that I had gathered about people associated with the Winter Hill Gang. I don't know if it was right or not but I was naive and shocked. I came back and did a 20-some-page report and I listed him as an associate of the Winter Hill Gang.

Mr. WILSON. Let me cut you off here because that is the last thing I am going to ask you about. Another document has just been put in front of you.

Mr. LIBBY. This can be included in the record as well, Mr. Chairman.

Mr. BURTON. Without objection.

Mr. WILSON. If you could take a quick look, the document I am looking at is what appears to be a Tulsa Police Department. It appears to be prepared by yourself. It's in conjunction with the Roger Wheeler Homicide. I wanted to ask you two questions. If you go to the third page of the document, at the bottom there's a handwritten number 1129.

Mr. HUFF. Yes, sir.

Mr. WILSON. We have the name John Connelly in the middle of the page.

Mr. HUFF. Yes, sir.

Mr. WILSON. Now, you prepared this report on May 27, 1981. Is that correct?

Mr. HUFF. Well, I prepared this report—I believe on the last page it's probably going to tell you—on August 20, 1982. The murder happened May 27, 1981 which is just listed in the heading.

Mr. WILSON. So this was prepared after your meeting with Mr. O'Sullivan?

Mr. HUFF. Yes, sir.

Mr. WILSON. It's obviously a little bit surprising to us that in 1982 you would prepare a summary and the title at the top is Winter Hill Gang and Associates and you would include John Connelly. Is there anything more you can tell us than what you just did tell us about what Mr. O'Sullivan said that led you to put John Connelly on this list?

Mr. HUFF. This was investigative information that we obtained from sources in Massachusetts. A lot of this is just the investigative reports, not conclusions. I put in here that we received unsubstantiated information about a home purchase from James Bulger on John Connelly. He's currently an FBI agent working in organized crime in Boston, Massachusetts.

Mr. WILSON. So you in Oklahoma were able to come up with this information based on one trip to Boston or maybe a couple of trips?

Mr. HUFF. We made trips to Boston. We felt we had a good contact with the state police. We felt that this conversation with O'Sullivan put us to the point of—Mr. O'Sullivan seemed to appear to accept that Bulger and Connelly had been seen together. In the context of that conversation was that they had been seen together in more of a social setting than in a work related setting.

Would I put this in a report today with 27 years experience as a policeman, 22 of it working homicide? I don't think I would put this in a report today, but that day after we came back from that trip, you just can't imagine how disenchanted I was with what we learned. Maybe it was frustration that I put it in this report.

Mr. WILSON. Let me just followup with one last question on the page that is marked at the bottom 1140. There is an entry for Rico, H. Paul. This was put in this report for the same reason, for the information you obtained from people during you investigation. Correct?

Mr. HUFF. Yes, sir. This is as a result of that meeting with Mr. O'Sullivan.

Mr. BURTON. I believe Mr. Tierney has one.

Mr. TIERNEY. Just one. Maybe I didn't hear you but in your page 1129, the third page of that report, where you are talking about

John Connelly, you have a sentence in here that says, "Subject also allegedly socializes with James Bulger and Steve Flemmi."

Under Mr. Rico's comments on 1140 you say that Jerry O'Sullivan told you that Rico socialized at one time with the Winter Hill Gang. You don't say that necessarily under Connelly but is that where you got the information that you put in this report that Connelly allegedly socialized with James Bulger and Steve Flemmi? Did you get that from O'Sullivan?

Mr. HUFF. Well, that came in exchanging information between the state trooper and O'Sullivan. The state trooper seemed to have some specifics about these contacts of seeing Connelly and these guys together.

Mr. TIERNEY. Do you know who the state trooper was?

Mr. HUFF. I believe it was Trooper Foley.

Mr. TIERNEY. Trooper Foley mentioned to the group of you that were at that meeting that Connelly had some social contact?

Mr. HUFF. Well, had been seen with them more in a social setting. That's the way we took it. That's the way my partner took it.

Mr. TIERNEY. Did O'Sullivan have any comment to make about that?

Mr. HUFF. He down played, avoided, changed the subject.

Mr. TIERNEY. He didn't respond to it directly?

Mr. HUFF. No, not directly, sir, that I recall.

Mr. TIERNEY. He didn't ask any questions about it or explored it any deeper?

Mr. HUFF. Definitely didn't look into it deeper.

On several occasions and that was the context in which the conversation appeared to me. I don't remember any specifics about any specific location or activity, what they were doing, but I felt it was a social meeting.

Mr. TIERNEY. Well, I want to thank you.

Mr. DELAHUNT. Mr. Chairman, if I may.

Mr. BURTON. Mr. Delahunt.

Mr. DELAHUNT. If you could indulge me for two final questions.

Mr. BURTON. OK, Mr. Delahunt.

Mr. DELAHUNT. In the report by the Connecticut State Police, there is a reference there to Halloran seeking to get into the Federal witness protection program. It further goes on that Mr. O'Sullivan would not get him in because the information given by Halloran was not corroborated. Did at anytime the subject come up in your conversations with Mr. O'Sullivan? If it did, did he explain to you the basis for the request by Mr. Halloran?

Mr. HUFF. He said Halloran had a lot of information on hits. I think Halloran was—it was my understanding that Halloran was fearful of going back out on the street. I think O'Sullivan had kind of expounded upon that people knew Halloran was a snitch.

Mr. DELAHUNT. So Mr. O'Sullivan indicated to you that there was an awareness that Halloran was, in fact, an informant, a snitch?

Mr. HUFF. Yes, sir.

Mr. DELAHUNT. Did he indicate to you that Halloran expressed fear for his life, if you can remember?

Mr. HUFF. Well, in the context I think Halloran was wanting in the witness protection program because of fear for his life. He knew

he was giving up a lot and he knew he couldn't survive. That was what I understood that as, Mr. Delahunt.

Mr. DELAHUNT. Are you aware that several hours before he was murdered there was a special agent, I think by the name of Grummage, that had a conversation with Mr. Halloran?

Mr. HUFF. I believe that was agent Bruntick. I was aware that there was a phone conversation, I believe, between Bruntick and he.

Mr. DELAHUNT. Did you ever have a conversation with Bruntick relative to Halloran?

Mr. HUFF. I don't recall if Bruntick ever came to Tulsa or not. I might have run into him out here in Massachusetts. But I think when I learned in detail of that conversation, or learned about it, I think Mr. Bruntick was already dead. He was deceased.

Mr. DELAHUNT. Are you familiar with, or did you become familiar with Assistant Special Agent in charge by the name of Fitzpatrick?

Mr. HUFF. Yes, sir.

Mr. DELAHUNT. Have you had an opportunity to have conversations with Mr. Fitzpatrick?

Mr. HUFF. Yes, sir.

Mr. DELAHUNT. Did he indicate to you that he advocated in behalf of Mr. Halloran in terms of participating in the witness protection program?

Mr. HUFF. I tell you, when I got to know Bob Fitzpatrick was during the Wolf hearings. I felt that Mr. Fitzpatrick was being truthful to me. Yet, because of those hearings and uncertain if I was going to be part of those hearings or whatever, I really tried to avoid in detail a lot of conversation with Mr. Fitzpatrick about this because I didn't want it to jeopardize, you know, any potential testimony that he or I may have.

Mr. DELAHUNT. Let me pose it a different way. Were you aware of the fact that Mr. Fitzpatrick felt so strongly about the need to place Halloran in the witness protection program that he went over Mr. O'Sullivan's head and sought the assistance of the then U.S. Attorney William Well?

Mr. HUFF. Yes, sir. I became aware of that.

Mr. DELAHUNT. You became aware of that?

Mr. HUFF. Yes, sir.

Mr. DELAHUNT. And that obviously bore no fruit.

Mr. HUFF. I think Fitzpatrick was trying to do the right thing between a rock and a hard place there.

Mr. DELAHUNT. In other words, Assistant Special Agent in charge Fitzpatrick felt that there was a legitimate concern in terms of the danger that was present for Mr. Halloran. Is that right?

Mr. HUFF. I believe so.

Mr. DELAHUNT. I guess he was right. Wasn't he, Mr. Huff?

Mr. HUFF. I believe he was right.

Mr. DELAHUNT. I thank the chairman.

Mr. BURTON. I want to thank you both very much. I think on behalf of the whole committee we want to thank you for your testimony. Mr. Wheeler, once again, thank you for coming here and giving us a human side to the problems that your family faced. Mr. Huff, thank you very much for your diligence over these past 20 some years in pursuing this. Hopefully it will come to fruition. We

are going to continue to try to assist you in getting this case resolved regarding Mr. Rico so we will work with you.

Mr. HUFF. Thank you.

Mr. BURTON. What I would like to do, I don't hear any stomachs growling up here but what I would like to do because we have two more witnesses coming up very quickly and we have extensive questioning from Mr. O'Sullivan and Mr. Markham, I would like to take about a 10-minute break and try to get back here right at 12:30 to bring the next panel up.

With that, we stand in recess until 12:30.

[Recess.]

Mr. BURTON. We will start off before we swear in the witness and say that we want to make absolutely sure that all of our witnesses are aware of their constitutional rights and prerogatives and that if they have any concern about testimony, that we understand if they exercise their rights.

With that, Mr. O'Sullivan, would you stand to be sworn, please?

[Witness sworn.]

Mr. BURTON. Have a seat. Mr. O'Sullivan, do you have an opening statement you would like to make?

Mr. O'SULLIVAN. I do, Mr. Chairman.

Mr. BURTON. OK.

Mr. O'SULLIVAN. I was about to say Your Honor.

Mr. BURTON. The only people I make say Your Honor are my kids and my family.

**STATEMENT OF JEREMIAH O'SULLIVAN, FORMER NEW ENGLAND ORGANIZED CRIME STRIKE FORCE CHIEF ATTORNEY**

Mr. O'SULLIVAN. This is the courtroom where the Winter Race Fix Case took place. It's all come back in a very different way.

Mr. Chairman and members of the committee, I am pleased that this committee has invited me to testify at this hearing regarding the FBI's use of cooperating witnesses and confidential informants in New England. As I believe the committee knows, although this topic has been the subject of public interest for some time. I have not previously had the opportunity to comment publicly on it.

In early 1998, shortly before my scheduled appearance at the hearings then being held by U.S. District Judge Mark Wolf, I suffered a serious heart attack and two strokes which precluded my testimony then. Although I have not fully recuperated and have not returned to the practice of law, I welcome this opportunity to be of assistance to this committee, but I ask your indulgence if I should need to pause and reflect in order to articulate my answers to your questions.

I had the privilege of serving in the U.S. Department of Justice as a Federal prosecutor for approximately 16 years from 1973 through 1989. During that time, I held positions as a Special Attorney with the New England Organized Crime Strike Force, as an Assistant U.S. Attorney, as the Chief Attorney of the New England Organized Crime Strike Force, and briefly as the U.S. Attorney, all in Boston.

Much of the focus of my activities was on the prosecution of organized crime both in Boston and throughout New England. I was personally responsible for and involved in the successful prosecu-

tion of Howard Winter and his criminal organization in what has come to be known as the "Race Fix Case" in 1979.

I was also personally responsible for and involved in the successful prosecution of Gennaro Angiulo and the Boston branch of the Patriarca Family of La Cosa Nostra in 1986. These cases crippled organized crime in the Boston area. Organized crime became a primary target of the Justice Department in the early 1960's under the guidance of Attorney General Robert Kennedy for good reason: it is an insidious force of evil in our society.

Unchecked, it is like a cancer, invisible, but spreading and deadly, affecting the lives of many innocent people. By its nature, it is secretive and operates by instilling fear in its victims and participants alike. One way to prosecute such crime effectively is through the use of inside information from informants and immunized witnesses. They are, to use an apt cliche, a "necessary evil."

During my tenure as a Federal prosecutor, I believed—and I believed it to be the view of the Department of Justice—that it was necessary and in the public interest for the government to use informants who, for their own reasons, wanted to provide information about criminal activity of others to help the government build cases.

However, I also believed that the goal in such situations was to build important cases that otherwise could not be brought. The goal was not to protect or aid the informants, and my view was that any informant who engaged in other criminal activity was fair game for prosecution and should be pursued and prosecuted just like any other criminal, absent a formal determination by the Department of Justice in Washington that a grant of immunity was in the public interest. This was the basis on which I conducted my activities as a Federal prosecutor, and I did in fact personally prosecute informants.

Much of the public focus on government's handling of informants over the last few years has been on the FBI's dealings with James Bulger and Stephen Flemmi. I welcome this opportunity to state unequivocally that I never authorized, suggested or supported any grant of immunity from prosecution or other protection for Bulger and Flemmi. To the contrary, I was involved in repeated endeavors to build criminal cases against them, despite knowledge of their work as FBI informants.

In the 1970's, Bulger and Flemmi were affiliated with Howard Winter's vicious gang, which was the subject of the indictment in the "Race Fix Case." The key witness in that case was a gangster-turned-government-witness who had a long record of criminal conduct.

Because of potential issues with his credibility, the indictment was focused on key members of the Winter gang against whom the government had developed independent corroborating evidence. Bulger and Flemmi were not the central figures, and independent corroborating evidence did not exist against them. Thus, although they were named as unindicted co-conspirators, they were not charged as defendants in the indictment.

Before the indictment was returned, FBI agents approached me, told me that Bulger and Flemmi were informants, and asked me not to indict them on that basis. I told the agents that I had al-

ready determined not to indict them based on lack of corroborative evidence.

In response to the agents' query whether I objected to their telling Bulger and Flemmi that the agents had intervened and saved them from indictment, I told the agents that I did not care what they told Bulger and Flemmi about my decision as they were the agents' informants, not mine. I assume, based on the public record, that the agents proceeded to take credit with Bulger and Flemmi for preventing their indictment.

That, however, is not the case. One need only review the trial transcript of the Race Fix Case to note the absence of evidence—telephone toll records, visual surveillance, or anything else—corroborating for the jury the cooperating witness' assertion that Bulger and Flemmi were part of the race-fixing scheme.

More than 20 years after the fact, in light of Bulger and Flemmi's recent notoriety, it is easy to forget that Howard Winter was the focus of the case. The gang was named after him. Had I believed, based on my prosecutorial experience, that Bulger and Flemmi could have been named as defendants without undermining the overall likelihood of success of the case, I would have recommended their indictment.

Indeed, approximately a year later, I was approached by the Massachusetts State Police with a request for assistance in obtaining a wiretap on a garage on Lancaster Street where Bulger and Flemmi were believed to discuss criminal activity. The State Police declined to work with the FBI, and, after unsuccessfully approaching other Federal law enforcement agencies, I discussed the matter with the Suffolk County District Attorney's office and proceeded to advise and assist that office in obtaining the wiretap order.

After the wiretap was compromised by a leak to the subjects, both the Massachusetts State Police and I were upset. The source of the leak has publicly been identified in other proceedings. Flemmi testified before Judge Wolf in 1998 that the tip came from an FBI agent who had consulted me. That is categorically untrue. Judge Wolf's opinion, which questions the accuracy of Flemmi's assertion about me, is correct in doing so.

In the aftermath of the Lancaster Street garage matter, a senior FBI official contacted me and vociferously upbraided me for assisting the State Police in an investigation regarding an FBI informant. In late December 1980, that official, who was evaluating whether Bulger should be kept as an FBI informant, contacted me to inquire about Bulger's value in a pending investigation.

My response was that the FBI would have to make that evaluation regarding one of its informants. Judge Wolf's opinion quotes from a memorandum written by that FBI official, recording my response as purportedly being that the information from Bulger was "crucial," and that there was no "improper conduct" by the FBI in continuing the relationship "regardless of his current activities."

Judge Wolf notes that I was not sent a copy of this memorandum, and the Judge raises the question whether the memorandum is an example of self-serving "Bureau-speak" "written in meaningful measure for the protection of the FBI."

Judge Wolf's question is right on the mark. My view was that it was within the FBI's province to evaluate its informants and that,

assuming that the FBI followed its proper procedures and guidelines, its use of Bulger would not have been improper. I certainly did not give the FBI official any hint or suggestion that Bulger—and Flemmi—should not be vigorously pursued and prosecuted for any crimes they committed.

Indeed, on two subsequent occasions, other FBI agents developed plans to surreptitiously record potentially incriminating conversations with Bulger and Flemmi. When those agents consulted me, on each occasion I supported the effort. However, on each occasion, the effort failed, apparently because certain other FBI agents alerted Bulger and Flemmi.

Since these matters came to public attention in approximately 1998, I have been the subject of testimony, press comment, and mention in books. Some of this has been wildly inaccurate, reflecting, for example, a level of journalism that has failed even to get my marital status correct.

Some of this has been simply untrue, as was, for example, recent testimony of a now-disgraced FBI agent that I did not indict Bulger and Flemmi in the Race Fix Case in response to FBI agents' request to spare their informants. I welcome this opportunity to set the record straight.

I state categorically and unequivocally that, although I was made aware of the status of Bulger and Flemmi as FBI informants in the late 1970's, I never authorized them to commit any crimes and have no knowledge of any such authorization.

Nor did I ever give them any type of immunity from prosecution. Nor did I ever take any steps to protect them from investigation or prosecution. As a prosecutor, my goal was to prosecute criminal activity vigorously, but always following the highest ethical and moral standards.

I firmly believe that, to continue to be successful in the war on organized crime that is so important to our Nation, the government must rely on the use of informants as one of the weapons in its arsenal. However, the concept is that the informant is a tool to be used by law enforcement, not that law enforcement is a tool to be used by the informant.

Based on publicly reported information of which I am aware, the system appears to have gone awry with respect to the handling by some FBI agents of some informants in the 1970's and 1980's, and steps to ensure that this does not occur again are warranted. Thank you.

I want to followup briefly on some of the questioning of Mr. Huff. Representative Burton's invitation letter mentioned only the Race Fix Case so that a July 1982 meeting with Detective Huff and others is not addressed in my opening statement.

I would like to address briefly the July 1982 meeting. How did this meeting come about first? This meeting came about at the request of the Massachusetts State Police that I meet with Detective from Oklahoma and from Connecticut State Police and describe to them the structure of the Winter Hill Gang and it's operations in the Boston area.

What occurred at this meeting? This meeting, as indicated by Detective Huff, with my description of the Winter Gang and its structure and their relationship to other people, i.e., Agent Rico.

Third question. Why was Brian Halloran not put in the witness protection program, which I think is the substance of a lot of the questions? I thought I told Detective Huff this but the answer is very succinct and very brief. At the time that Mr. Halloran was cooperating with the FBI, he was under charges of murder in the Suffolk County, Massachusetts.

It would have been contrary to Justice Department Policy to sponsor somebody against whom there was a murder case pending to sponsor him in the witness protection program. However, I did approach Suffolk County District Attorney Newman Flannigan and asked him whether, in fact, he would consider removing the murder charges or in some way dismissing the murder charges if Mr. Halloran would cooperate with him.

Mr. Flannigan said he would think about it and he turned me over to Thomas Munday who was in charge of his homicide unit and Sergeant Hudson, retired and now Detective Lt. Hudson of the Boston Police Department, who was the chief homicide investigator for Suffolk County District Attorney's Office.

Assistant District Attorney Munday and Detective Hudson took Mr. Halloran to various murder sites that they thought that Mr. Halloran might have information and that Mr. Halloran indicated that he had information regarding murders committed by the Winter Gang. I can remember one specifically. A murder site in South Boston. I think the victim was Louis Little and the bar outside of which the murder occurred was Triple O's.

Detective Hudson and Assistant District Attorney Munday told me that Mr. Halloran's story about how the murders went down and Assistant District Attorney Munday told me that Mr. Halloran's story about how the murder went down and how other murders went down was totally inconsistent with the physical evidence that they had developed regarding the murders. So they told me they would not recommend to Mr. Flannigan that the murder case against Mr. Halloran be dismissed.

As a matter of fact, they recommended to me that I get away from Mr. Halloran because they thought Mr. Halloran was lying to them. That's when I told Detective Huff that I didn't believe Mr. Halloran because Mr. Munday and Detective Sergeant, later Lt. Hudson, told me that they didn't believe him and that was the only basis on which I made the statement to Mr. Huff.

Thank you for your attention.

[The prepared statement of Mr. O'Sullivan follows:]

**Statement Of**

**JEREMIAH T. O'SULLIVAN**

**Before The U.S. House Of Representatives**
**Committee On Government Reform**

December 5, 2002
Boston, Massachusetts

I am pleased that this Committee has invited me to testify at this hearing regarding the FBI's use of cooperating witnesses and confidential informants in New England.[1] As I believe the Committee knows, although this topic has been the subject of public interest for some time, I have not previously had the opportunity to comment publicly on it. In early 1998, shortly before my scheduled appearance at the hearings then being held by U.S. District Judge Mark Wolf, I suffered a serious heart attack and two strokes which precluded my testimony then. Although I have not fully recuperated and have not returned to the practice of law, I welcome this opportunity to be of assistance to this Committee, but I ask your indulgence if I should need to pause and reflect in order to articulate my answers to your questions.

I had the privilege of serving in the United States Department of Justice as a federal prosecutor for approximately sixteen years from 1973 through 1989. During that time, I held positions as a Special Attorney with the New England Organized Crime Strike Force, as an Assistant U.S. Attorney, as the Chief Attorney of the New England Organized Crime Strike Force, and briefly as the United States Attorney, all in Boston. Much of the focus of my activities was on the prosecution of organized crime both in Boston and throughout New England. I was personally responsible for and involved in the successful prosecution of Howard Winter and his criminal organization in what has come to be known as the "Race Fix Case" in

[1] Letters of Representative Dan Burton dated May 2, 2002 and November 26, 2002.

1979.[2] I was also personally responsible for and involved in the successful prosecution of Gennaro Anguilo and the Boston branch of the Patriarca Family of La Cosa Nostra in 1986.[3] These cases crippled organized crime in the Boston area.

Organized crime became a primary target of the Justice Department in the early 1960s under the guidance of Attorney General Robert Kennedy for good reason: it is an insidious force of evil in our society. Unchecked, it is like a cancer, invisible, but spreading and deadly -- affecting the lives of many innocent people. By its nature, it is secretive and operates by instilling fear in its victims and participants alike. One way to prosecute such crime effectively is through the use of inside information from informants and immunized witnesses -- they are, to use an apt cliché, a "necessary evil."

During my tenure as a federal prosecutor, I believed -- and I believed it to be the view of the Department of Justice -- that it was necessary and in the public interest for the government to use informants who, for their own reasons, wanted to provide information about criminal activity of others to help the government build cases. However, I also believed that the goal in such situations was to build important cases that otherwise could not be brought. The goal was *not* to protect or aid the informants, and my view was that any informant who engaged in other criminal activity was fair game for prosecution and should be pursued and prosecuted just like any other criminal, absent a formal determination by the Department of Justice in Washington that a grant of immunity was in the public interest. This was the basis on which I conducted my activities as a federal prosecutor, and I did in fact personally prosecute informants.

Much of the public focus on government's handling of informants over the last few years has been on the FBI's dealings with James Bulger and Stephen Flemmi. I welcome this

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[2] *United States v. Winter*, 663 F.2d 1120 (1st Cir. 1981).
[3] *United States v. Anguilo*, 847 F.2d 956 (1st Cir. 1988).

opportunity to state unequivocally that I never authorized, suggested or supported any grant of immunity from prosecution or other protection for Bulger and Flemmi. To the contrary, I was involved in repeated endeavors to build criminal cases against them, despite knowledge of their work as FBI informants.

In the 1970s, Bulger and Flemmi were affiliated with Howard Winter's vicious gang, which was the subject of the indictment in the "Race Fix Case." The key witness in that case was a gangster-turned-government-witness who had a long record of criminal conduct. Because of potential issues with his credibility, the indictment was focused on key members of the Winter gang against whom the government had developed independent corroborating evidence. Bulger and Flemmi were not the central figures, and independent corroborating evidence did not exist against them. Thus, although they were named as un-indicted co-conspirators, they were not charged as defendants in the indictment. Before the indictment was returned, FBI agents approached me, told me that Bulger and Flemmi were informants, and asked me not to indict them on that basis. I told the agents that I had already determined not to indict them based on lack of corroborative evidence. In response to the agents' query whether I objected to their telling Bulger and Flemmi that the agents had intervened and saved them from indictment, I told the agents that I did not care what they told Bulger and Flemmi about my decision as they were the agents' informants, not mine. I assume, based on the public record, that the agents proceeded to take credit with Bulger and Flemmi for preventing their indictment. That, however, is not the case. One need only review the trial transcript of the Race Fix Case to note the absence of evidence -- telephone toll records, visual surveillance, or anything else -- corroborating for the jury the cooperating witness' assertion that Bulger and Flemmi were part of the race-fixing scheme. More than twenty years after the fact, in light of Bulger and Flemmi's recent notoriety,

it is easy to forget that Howard Winter was the focus of the case. The gang was named after him. Had I believed, based on my prosecutorial experience, that Bulger and Flemmi could have been named as defendants without undermining the overall likelihood of success of the case, I would have recommended their indictment.

Indeed, approximately a year later, I was approached by the Massachusetts State Police with a request for assistance in obtaining a wiretap on a garage on Lancaster Street where Bulger and Flemmi were believed to discuss criminal activity. The State Police declined to work with the FBI, and, after unsuccessfully approaching other federal law enforcement agencies, I discussed the matter with the Suffolk County District Attorney's office and proceeded to advise and assist that office in obtaining the wiretap order. After the wiretap was compromised by a leak to the subjects, both the Massachusetts State Police and I were upset. The source of the leak has publicly been identified in other proceedings. Flemmi testified before Judge Wolf in 1998 that the tip came from an FBI agent who had consulted me.[4] That is categorically untrue. Judge Wolf's opinion, which questions the accuracy of Flemmi's assertion about me, is correct in doing so.[5]

In the aftermath of the Lancaster Street garage matter, a senior FBI official contacted me and vociferously upbraided me for assisting the State Police in an investigation regarding an FBI informant. In late December 1980, that official, who was evaluating whether Bulger should be kept as an FBI informant, contacted me to inquire about Bulger's value in a pending investigation. My response was that the FBI would have to make that evaluation regarding one of its informants. Judge Wolf's opinion quotes from a memorandum written by that FBI official, recording my response as purportedly being that the information from Bulger was "crucial," and

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[4] *United States v. Salemme*, 91 F. Supp. 2d 141, 202 (D. Mass. 1999).
[5] *Id.*

that there was no "improper conduct" by the FBI in continuing the relationship "regardless of his current activities."[6] Judge Wolf notes that I was not sent a copy of this memorandum, and the Judge raises the question whether the memorandum is an example of self-serving "Bureau-speak" "written in meaningful measure for the protection of the FBI."[7] Judge Wolf's question is right on the mark. My view was that it was within the FBI's province to evaluate its informants and that, assuming that the FBI followed its proper procedures and guidelines, its use of Bulger would not have been improper. I certainly did not give the FBI official any hint or suggestion that Bulger (and Flemmi) should not be vigorously pursued and prosecuted for any crimes they committed.

Indeed, on two subsequent occasions, other FBI agents developed plans to surreptitiously record potentially incriminating conversations with Bulger and Flemmi. When those agents consulted me, on each occasion I supported the effort. However, on each occasion, the effort failed, apparently because certain other FBI agents alerted Bulger and Flemmi.

Since these matters came to public attention in approximately 1998, I have been the subject of testimony, press comment, and mention in books. Some of this has been wildly inaccurate, reflecting, for example, a level of journalism that has failed even to get my marital status correct. Some of this has been simply untrue, as was, for example, recent testimony of a now-disgraced FBI agent that I did not indict Bulger and Flemmi in the Race Fix Case in response to FBI agents' request to spare their informants. I welcome this opportunity to set the record straight. I state categorically and unequivocally that, although I was made aware of the status of Bulger and Flemmi as FBI informants in the late 1970s, I never authorized them to commit any crimes and have no knowledge of any such authorization. Nor did I ever give them

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[6] *Id.* at 204.
[7] *Id.* at 204 n. 33.

any type of immunity from prosecution. Nor did I ever take any steps to protect them from investigation or prosecution. As a prosecutor, my goal was to prosecute criminal activity vigorously, but always following the highest ethical and moral standards.

I firmly believe that, to continue to be successful in the war on organized crime that is so important to our nation, the government must rely on the use of informants as one of the weapons in its arsenal. However, the concept is that the informant is a tool to be used by law enforcement -- not that law enforcement is a tool to be used by the informant. Based on publicly reported information of which I am aware, the system appears to have gone awry with respect to the handling by some FBI agents of some informants in the 1970s and 1980s, and steps to ensure that this does not occur again are warranted.

Thank you.

Mr. BURTON. Did you ever talk to Mr. Halloran directly?

Mr. O'SULLIVAN. Yes.

Mr. BURTON. Did he tell you that he thought his life was in jeopardy?

Mr. O'SULLIVAN. No, he never said that but——

Mr. BURTON. Why did he want to get in the witness protection program?

Mr. O'SULLIVAN. He told the agency he thought his life might be in jeopardy and the agents told me that but Halloran never said that to me.

Mr. BURTON. But you were aware that he thought his life was in danger?

Mr. O'SULLIVAN. I was.

Mr. BURTON. And you felt that even though his life was in danger, according to him, that he should not be in any way protected because of this case against him?

Mr. O'SULLIVAN. I thought he should be protected. I recommended the FBI give him some money and they put him in a safe house as they did for a period of time down on Cape Cod. He returned to the Boston area from that safe house. They had given him a cottage on the cape, as I remember it, and that's where he was supposed to stay but he returned to the Boston area on his own.

Mr. BURTON. On his own?

Mr. O'SULLIVAN. On his own.

Mr. BURTON. How long after the request was made of you that he be put in a witness protection program that he was murdered?

Mr. O'SULLIVAN. I have no idea. I have a chronology here. He was murdered in May 1982.

Mr. BURTON. When were you asked to put him in the witness protection program?

Mr. O'SULLIVAN. I do not recall, Congressman.

Mr. BURTON. You don't recall when the FBI talked to you about him?

Mr. O'SULLIVAN. Sometime shortly before his murder, at least.

Mr. BURTON. Do you have a rough idea of the timeframe?

Mr. O'SULLIVAN. I would say it was probably 2 or 3 months before his murder.

Mr. BURTON. Two or 3 months? But you did tell the FBI that you thought he ought to be put in a safe house some place but not in the witness protection program?

Mr. O'SULLIVAN. Yes.

Mr. BURTON. Did you ever suspect that Bulger and Flemmi were committing murders?

Mr. O'SULLIVAN. Yes.

Mr. BURTON. When did you first learn that Bulger and Flemmi were informants? I think you touched on that a minute ago.

Mr. O'SULLIVAN. I think I said in my statement when Supervisor Morris and Agent Connelly approached me when I was considering whether to indict in the Race Fix Trial. Shortly before the Race Fix indictment was returned was when I first thought they were informants.

Mr. BURTON. But you said you didn't have enough evidence to indict at that time.

Mr. O'SULLIVAN. I didn't have enough corroborating evidence.

Mr. BURTON. But there was evidence that they might have been participants?

Mr. O'SULLIVAN. That's what Mr. Ciulla said, yes.

Mr. BURTON. When you say you didn't have enough corroborative evidence, can you explain how much you needed and what you did have?

Mr. O'SULLIVAN. Sure. Let me back up a second, Congressman. The Race Fix Case was about attacking the Winter criminal organization which was head by Howie Winter. My primary purpose in bringing the case was to convict Mr. Winter and remove him from the scene. I didn't want to do anything which would impair the chances of conviction to Mr. Winter.

The evidence against all the other defendants was there was at least telephone call records that came from hotel rooms where Mr. Ciulla was out of state fixing races, where he would call, i.e., telephone calls to Joe McDonald's house. And there was testimony in one case, the secretary for the Demetri brothers who identified Howie Winter and Martarano as having met with the Demetris. There was at least some total record of evidence and some witness testimony regarding public defendants.

Mr. BURTON. Well, the other defendants we're talking about are Bulger and Flemmi. There were 21 total defendants. You said you did not have enough corroborating evidence to indict Bulger and Flemmi. What evidence did you have on them? Did you have any evidence at all?

Mr. O'SULLIVAN. All I had was Mr. Ciulla's testimony.

Mr. BURTON. And you didn't think that was sufficient?

Mr. O'SULLIVAN. I did not.

Mr. BURTON. But, at the same time, did you know Bulger and Flemmi were involved in murders?

Mr. O'SULLIVAN. Yes.

Mr. BURTON. So you knew they were involved in murders but you didn't feel like in this particular case, the Race-Fixing Case, you had enough corroborating evidence to include them in the indictment?

Mr. O'SULLIVAN. That's exactly correct.

Mr. BURTON. Let me ask my chief counsel to jump in here real quickly.

Mr. TIERNEY. Mr. O'Sullivan, do you know whether any of the 21 defendants were indicated with only the testimony of Anthony Ciulla?

Mr. O'SULLIVAN. I think there was one.

Mr. TIERNEY. And do you recall who that was?

Mr. O'SULLIVAN. I don't. It was a member of the Winter Gang. I just don't remember.

Mr. TIERNEY. Would it have been James Simms?

Mr. O'SULLIVAN. That sounds right. It could be.

Mr. TIERNEY. Were you able to review this week the prosecution memo? We had asked the Department of Justice to make a copy available to you one of the documents the President claimed executive privilege of or the prosecution memo for the Race Fix Case?

Mr. O'SULLIVAN. I did not.

Mr. TIERNEY. Did they make it available to you?

Mr. O'SULLIVAN. No.

Mr. BURTON. Let me ask you this question, Mr. O'Sullivan.

Mr. O'SULLIVAN. Yes, Congressman.

Mr. BURTON. You said he was indicted because of the testimony of this individual.

Mr. O'SULLIVAN. By he you are referring to Mr. Simms?

Mr. BURTON. Yes. Did the same person make the allegations against Mr. Flemmi and Mr. Bulger?

Mr. O'SULLIVAN. Yes, Congressman.

Mr. BURTON. Then why did you indict one and not the other two? I mean, the only evidence you had was the testimony of that individual and you did indict this individual. Why did you not indict the other two based upon his testimony?

Mr. O'SULLIVAN. Because, Congressman, as I said in my statement, the case was about the Winter Gang, the gang headed by Howard Winter, and I wanted to take out as much of the leadership of that gang as I could. I thought if I left anybody in the leadership position standing, i.e., Mr. Simms, that the gang would continue.

Mr. BURTON. Let me just followup. I want to be sure I've got this straight. You knew Bulger and Flemmi were murders. Right?

Mr. O'SULLIVAN. I knew that all the Winter Gang were murders.

Mr. BURTON. You knew Bulger and Flemmi were murders?

Mr. O'SULLIVAN. Yes, sir.

Mr. BURTON. And the testimony that indicted Mr. Simms came from the same individual that testified against Bulger and Flemmi?

Mr. O'SULLIVAN. That's correct.

Mr. BURTON. And yet you chose not to indict them. It's alluding me why would you—you had three people that he mentioned, and probably others. You indicted one that was part of the Winter Hill Gang, but you did not indict Bulger and Flemmi based upon the same testimony and yet you knew they were murders. I can't figure out why you let them off the hook.

Mr. O'SULLIVAN. Congressman, a little history. The Winter Gang was composed of various disparate elements of other gangs. The core of the Winter Gang were the Winter Hill Gang headed by Howard Winter and his cohorts. That was the glue that held the Winter Gang together. My approach to the prosecution was to convict Howard Winter and any other member that I thought would continue the gang going forward. That included Mr. Simms.

I also thought, backing up a step, Congressman, that given the fact there were 21 defendants and given the fact that Mr. Simms had a history of being a fugitive from justice, that he wouldn't be around when the trial started so that was the second reason I indicted Mr. Simms because I didn't think he would be ready for trial and he wasn't.

Mr. DELAHUNT. Will the chairman yield for a moment?

Mr. BURTON. Let me ask one more question and then I'll yield to District Attorney because it's his time and then he can yield to you.

I mean, maybe I am just not getting it but you were afraid that he might flee and he was an integral part of the Winter Hill Gang.

Mr. O'SULLIVAN. Yes, I wanted him to flee. I didn't want 21 defendants standing in the courtroom, Congressman.

Mr. BURTON. I understand.

Mr. O'SULLIVAN. Even though this is a big courtroom.

Mr. BURTON. But you were afraid he might flee? If you indicted Bulger and Flemmi, who you knew were murders, what made you think that they wouldn't flee?

Mr. O'SULLIVAN. They didn't have any history that they would be fugitive because I just didn't see them as being fugitives.

Mr. BURTON. Wait a minute. I've got to get this straight, Mr. O'Sullivan. You knew they were murderers.

Mr. O'SULLIVAN. I knew that everybody I was indicting was a murderer.

Mr. BURTON. You knew they were murderers but you thought they might not—there was no history of them fleeing if they were indicted so you weren't worried about them leaving.

Mr. O'SULLIVAN. That's correct.

Mr. BURTON. Mr. Tierney.

Mr. TIERNEY. You had 20 defendants already. Mr. Simms would make it 21 but you had some objection to going to 23 even if it meant getting two murderers off the street?

Mr. O'SULLIVAN. Yes.

Mr. TIERNEY. Mr. Ciulla, I suspect, was going to say very clearly that Bulger and Flemmi were both involved with the race-fixing scheme. Right?

Mr. O'SULLIVAN. He would say that they were partners and shared in the proceeds but they didn't have any involvement. He didn't describe them to have any operational involvement in the scheme. He never called them. He had no contact with them. Had no meetings with them. He knew they received some of the proceeds of the race-fixing scheme. That's all he would testify to.

Mr. TIERNEY. At the time that you were finding out what Mr. Ciulla would testify about Bulger and Flemmi, did you know that Bulger and Flemmi were informants?

Mr. O'SULLIVAN. No.

Mr. TIERNEY. You didn't know it at that time?

Mr. O'SULLIVAN. No.

Mr. TIERNEY. Did either Mr. Morris or Mr. Connelly from the FBI tell you at that time they were informants?

Mr. O'SULLIVAN. No. The first time I learned they were informants is when I was considering drawing the indictments of the race-fixing scheme and they approached it. That was the first time.

Mr. TIERNEY. Well, this is pretty much in the same proximity, right? You were considering the Ciulla case from the time they approached you?

Mr. O'SULLIVAN. Yes.

Mr. TIERNEY. You were considering drawing the indictment on all 21 of the people that you eventually indicted.

Mr. O'SULLIVAN. Yes, Congressman.

Mr. TIERNEY. So you did know at that time that they were informants?

Mr. O'SULLIVAN. Yes.

Mr. TIERNEY. And is that, in fact, the reason that you then decided not to indict them?

Mr. O'SULLIVAN. No it's not, Congressman.

Mr. TIERNEY. What did both John Morris and Agent John Connelly tell you exactly about Bulger and Flemmi at that time?

Mr. O'SULLIVAN. I really don't have any specific recollection of the conversation, Congressman, but they approached me and they said that they understood that I was considering indictment of them, among others, and they wanted to bring to my attention that they were informants. They were requesting that I not indict them because they were informants. That's all I remember.

Mr. TIERNEY. Did you have any concern knowing that Mr. Ciulla had some evidence against Bulger and Flemmi? Were you at all concerned that either of them might try to cause him physical harm or kill him?

Mr. O'SULLIVAN. Of course. I was concerned about all of the defendants that they might get to them. Yes.

Mr. TIERNEY. Did Mr. Ciulla tell you that he was afraid that they might do that?

Mr. O'SULLIVAN. I don't think he told me that he was afraid they would kill him. He was afraid that another member of the Winter Gang, Joe McDonald, would be his primary fear.

Mr. TIERNEY. Did every one of the 21 people that you indicted, every one of them, you had information on them that each and every one of them was a murderer at one time or another?

Mr. O'SULLIVAN. No. A number of the people that were indicted in the case were indicted in the case in order to make the case more solid against Winter, i.e., the bookmakers in Las Vegas, those type of people.

Mr. TIERNEY. Mr. Delahunt, did you want to proceed?

Mr. DELAHUNT. Yes. I just want for one moment to clarify. I thank my colleague for yielding. You are referring to the Winter Hill Gang.

Mr. O'SULLIVAN. I am referring, Congressman, to the Winter Gang. It's different than the Winter Hill Gang.

Mr. DELAHUNT. I understand that. At the same time would you agree with me, and you and I have, you know, had professional relationships through the years, that both Mr. Flemmi and Mr. Bulger were considered part of the Howie Winter Gang.

Mr. O'SULLIVAN. Yes. They were partners in the gang.

Mr. DELAHUNT. They were, as you would suggest—you made reference to Mr. Simms, Jimmy Simms. In your professional judgment in terms of the hierarchy of the Winter Gang, it was clear that Bulger and Flemmi would succeed to be the successors to Mr. Winter if he should be convicted. Would you say that's a fair statement, Judge?

Mr. O'SULLIVAN. It's not a fair statement.

Mr. DELAHUNT. It is not?

Mr. O'SULLIVAN. No.

Mr. DELAHUNT. We have a disagreement on that. Let me explore a little differently. It was clear that Bulger and Flemmi had a continuing relationship with Howie Winter.

Mr. O'SULLIVAN. Yes.

Mr. DELAHUNT. On a regular basis.

Mr. O'SULLIVAN. Yes.

Mr. DELAHUNT. If we had the opportunity to explore Massachusetts State Police files and FBI reports, we would discover that

they were in constant communication with each other. Is that correct?

Mr. O'SULLIVAN. I believe so.

Mr. DELAHUNT. But you don't want to describe them as the logical successors to Mr. Winter?

Mr. O'SULLIVAN. No, Congressman, because the logical successor to Mr. Winter would be the people that he most trusted which were the remnants of the Winter Hill Gang, Joe McDonald, Jimmy Simms, and Sal Sperlinga who was also named by Mr. Ciulla as somebody who was involved in the Race Fix scheme who I also did not indict because there was no corroborating evidence.

Mr. DELAHUNT. I'll yield back and I'll save my time. I just wanted to clarify and put in context the relationship between these parties. They were well known to each other.

Mr. O'SULLIVAN. Absolutely.

Mr. TIERNEY. Mr. O'Sullivan, prior to this occasion had you ever been told before or given the identity of the informant?

Mr. O'SULLIVAN. Yes.

Mr. TIERNEY. Was that a regular occurrence?

Mr. O'SULLIVAN. No, it's not, Congressman.

Mr. TIERNEY. How frequently would you say you had that type of information in a previous investigation?

Mr. O'SULLIVAN. I would suggest it was less than 10.

Mr. TIERNEY. So it was pretty unusual?

Mr. O'SULLIVAN. Very unusual.

Mr. TIERNEY. So were you surprised when Morris and Connelly approached you and gave you information about Bulger and Flemmi in this instance?

Mr. O'SULLIVAN. Surprised that they were informants? Yes, I was surprised but not surprised that they would approach me about an informant because Mr. Connelly had done it before.

Mr. TIERNEY. When you met with Detective Huff, do you recall a state trooper telling you that there was a real estate transaction between Connelly and James Bulger?

Mr. O'SULLIVAN. I don't know.

Mr. TIERNEY. Do you remember being told at that time that Connelly had numerous social contacts with Bulger and Flemmi?

Mr. O'SULLIVAN. I don't.

Mr. BURTON. I want to make sure I clarify one thing and then I'll go to Mr. Shays. When you met with Mr. Huff did you indicate that there was some social contact between Connelly and Mr. Bulger and Flemmi?

Mr. O'SULLIVAN. I did not, Congressman. I don't remember doing that and I don't think I would have.

Mr. BURTON. You didn't indicate that there was a good relationship there between those two individuals?

Mr. O'SULLIVAN. I did not, Congressman.

Mr. BURTON. How about Rico? Did you indicate that there was a cozy relationship between Rico and Bulger and Flemmi?

Mr. O'SULLIVAN. I don't think I did that either.

Mr. BURTON. I think Mr. Huff's recollection is a little different than yours in that meeting. Are you sure about that?

Mr. O'SULLIVAN. I'm not sure about it but I don't think I did.

Mr. BURTON. Did you know there was a cozy relationship between them?

Mr. O'SULLIVAN. Between whom, Congressman?

Mr. BURTON. Connelly and Bulger and Flemmi?

Mr. O'SULLIVAN. I did not.

Mr. BURTON. You did not? Did you know their was a cozy relationship between Rico and Bulger and Flemmi?

Mr. O'SULLIVAN. I did not.

Mr. BURTON. You are sure about that?

Mr. O'SULLIVAN. I am sure about that.

Mr. BURTON. So you wouldn't have said that in a meeting with Mr. Huff?

Mr. O'SULLIVAN. I wouldn't have said it in a meeting with Mr. Huff.

Mr. BURTON. Mr. Shays.

Mr. SHAYS. Mr. Chair, I'm happy just to suspend my time and let my Massachusetts colleagues ask questions and then come back.

Mr. BURTON. OK.

Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chair. I just want to go back, if I could, Mr. O'Sullivan. You testified just a short while ago and I just want to get this straight. I'm trying to write some of this down. First you testified that all the members of the Winter Hill Gang were murderers. Is that correct or is that—am I mishearing you?

Mr. O'SULLIVAN. I think you are mishearing me. Most of the members of the Winter Hill Gang were murderers. I would exclude, for instance, Sal Sperlinga who was a bookmaker. I believe most of the Winter Hill Gang members were murderers, yes.

Mr. LYNCH. OK. Let's back this up. I'm new at this. How many members are you saying are in the Winter Hill Gang?

Mr. O'SULLIVAN. Well, it depends on how you define a gang. I think the core membership was seven individuals. Then there was various other people who were associated with the members.

Mr. LYNCH. For the committee, could you name who those individuals are?

Mr. O'SULLIVAN. Yes.

Mr. LYNCH. Or were.

Mr. O'SULLIVAN. Howard Winter, James Simms, Joe McDonald, John and Jimmy Martarano, Whitey Bulger, and Stevie Flemmi. Is that seven?

Mr. LYNCH. Seven. That's right. Bulger and Flemmi are members of the Winter Hill Gang. Let me get this right. You testified previously that they were involved somehow in the profit sharing end of this race-fixing scheme. Is that correct?

Mr. O'SULLIVAN. That's correct, Congressman.

Mr. LYNCH. And if I follow this correctly, the race-fixing scheme relied upon threats and intimidation and bribes. Quite often threats and intimidation to force these jockeys to participate in this race-fixing scheme. Am I correct?

Mr. O'SULLIVAN. That's correct.

Mr. LYNCH. OK. So you've got two guys who are known murderers to you. They are getting profit from this race-fixing scheme.

The race-fixing scheme is using threats and intimidation. Again, these two fellows are known murderers. Somehow they are not indictable in this matter. Is that what you're telling this committee?

Mr. O'SULLIVAN. That's what I'm telling the committee, Congressman.

Mr. TIERNEY. Could you yield for a second?

Mr. LYNCH. Sure.

Mr. TIERNEY. You said a moment ago, Mr. O'Sullivan, you wanted to take off the street all the potential ascendents to the leadership of this gang. That's why you indicted Mr. Simms.

Mr. O'SULLIVAN. That's correct.

Mr. TIERNEY. Now we have seven members of that gang. You indicted Winter. Right?

Mr. O'SULLIVAN. Right.

Mr. TIERNEY. You indicated Simms, you indicted McDonald, and the two Martaranos. Then the only ones you didn't indict were the two remaining people who could ascend into the leadership, Flemmi and Bulger.

Mr. O'SULLIVAN. That's true, but my analysis was that the core of the gang was made up of Winter and the survivors of the Winter Hill Gang. That was Winter, Simms, McDonald. That was my analysis. The Martaranos were indicted because I had very good physical evidence, i.e., a witness who would testify that she saw them meeting with the Demetri brothers and with Howie Winter. I had telephone calls to premises they locate.

Mr. TIERNEY. Am I wrong in saying your first thought was that you wanted to take them off the street anybody who could ascend to the leadership?

Mr. O'SULLIVAN. That's correct.

Mr. TIERNEY. And then you gave us the names of seven people that you thought were the top dogs. Right?

Mr. O'SULLIVAN. That's correct.

Mr. TIERNEY. So you took five off the street and you let two. Those two you had no more—you had the same amount of evidence against them as you had against Simms, one person's testimony.

Mr. O'SULLIVAN. That's correct.

Mr. TIERNEY. Yield back.

Mr. LYNCH. Just one more question. Were there any other persons indicted of this 21 defendants that were indicted solely for participating in the profit sharing, if you will, of this illegal enterprise?

Mr. O'SULLIVAN. I'm not sure I understand your question, Congressman.

Mr. LYNCH. OK. You explained before, Mr. O'Sullivan, that Bulger and Flemmi did, in fact, benefit from the profit sharing aspects of this illegal enterprise, this race-fixing scheme. Somehow that distinguished them from the other 21 who were more—at least I'm surmising that they were involved in the operational aspects of this race-fixing scheme.

Mr. O'SULLIVAN. True.

Mr. LYNCH. In that other group, the 21 indicted, were there any members of that group whose sole involvement was merely—not merely but solely taking profits from that enterprise?

Mr. O'SULLIVAN. No, sir. One person wasn't indicted because he was similar. We had no evidence against him and he was sharing only in the profits.

Mr. LYNCH. But he was indicted?

Mr. O'SULLIVAN. He was not indicted.

Mr. LYNCH. He was not indicted.

I yield. Thank you.

Mr. TIERNEY. Then is it, Mr. O'Sullivan, that you found out that Connelly and Rico did have a social relationship with Whitey Bulger and James Flemmi?

Mr. O'SULLIVAN. Only from rumors I've heard around the street over a period of time primarily emanating from DEA but I can't give you a date or specific time but I've heard rumors over time.

Mr. TIERNEY. At any other point in time where you were prosecuting cases did you ever exercise your prosecutorial discretion and not bring charges against Bulger and Flemmi?

Mr. O'SULLIVAN. No, Congressman. As a matter of fact, I tried to develop cases against them.

Mr. BURTON. At that meeting with Mr. Huff that you recall, Mr. Toomey stayed with police fellows there in Connecticut, I believe. Correct?

Mr. O'SULLIVAN. I don't remember who was there. I know there was a number of people there.

Mr. BURTON. I want to make absolutely sure about your testimony because it's very important. I don't want you to find later that you misspoke and it might be a problem for you. You did not say that Rico caroused with the Winter Hill Gang and he was friendly with them?

Mr. O'SULLIVAN. I did say he was friendly with them. I did not say that he caroused with them.

Mr. BURTON. Well, he was involved with them. He was intimately involved with them. Mr. Huff indicated that you were very emphatic that he was very close and was seen many times with the Winter Hill Gang?

Mr. O'SULLIVAN. Yes, that's what I said.

Mr. BURTON. And that would be Bulger and Flemmi as well?

Mr. O'SULLIVAN. Yes, I assume that was the case.

Mr. BURTON. So what you're saying now is a little bit different than what you said earlier in that you didn't recall saying that?

Mr. O'SULLIVAN. Well, I just didn't understand. I never said carousing or that kind of stuff. I had no knowledge that he was socially involved with them. I had knowledge that he was in business with them in the sense that he was then the head of security of the race track that Mr. Callahan owned.

Mr. BURTON. We can bring Mr. Huff back up. I want to make sure that I've got this clear. Mr. Huff said, and we just asked him about this a minute ago, that you were very emphatic in saying that Mr. Rico was seen with them a lot at social gatherings and those things and you were very emphatic about his closeness to the Winter Hill Gang and Bulger and Flemmi.

Mr. O'SULLIVAN. I don't have any memory of saying that, Congressman, but I would not dispute that I did say it.

Mr. BURTON. Mr. Meehan.

Mr. MEEHAN. So Mr. O'Sullivan, you testified in response to Mr. Tierney's question that you heard on the streets that Flemmi and Bulger had this relationship with Connelly and Rico. Is that correct?

Mr. O'SULLIVAN. That's correct.

Mr. MEEHAN. What period of time is that? When did you first become aware, through hearing it on the street?

Mr. O'SULLIVAN. I don't know, Congressman.

Mr. MEEHAN. Don't you think as a Federal prosecutor you had an obligation to followup and find out what that relationship was all about?

Mr. O'SULLIVAN. I did followup, Congressman. I did try to investigate them both. The investigations were blown up by someone else. I tried with the state police to aid them in the wiretap at the Lancaster Street Garage. I tried to do a wiretap on Stevie Flemmi. I tried to get a cooperating Boston police officer wear a body reporter against Mr. Bulger. In all situations those efforts came to naught.

Mr. MEEHAN. OK. Let's go to Lancaster Street Garage investigation. How did you become aware of the state police investigation?

Mr. O'SULLIVAN. Colonel O'Donovan from the state police approached me and asked me if I would do an investigation of Mr. Bulger and Flemmi with the state police and I said I would.

Mr. MEEHAN. Do you remember who headed up that operation for the state police?

Mr. O'SULLIVAN. Yes, Colonel O'Donovan and Lt. Robert Long.

Mr. MEEHAN. Did you discuss the Lancaster Street bugging operation with Trooper Bob Long of the Massachusetts State Police?

Mr. O'SULLIVAN. Yes.

Mr. MEEHAN. And do you recall Trooper Long telling you that he thought that Bulger and Flemmi were FBI informants?

Mr. O'SULLIVAN. Yes.

Mr. MEEHAN. What did you say in response?

Mr. O'SULLIVAN. I don't remember. I said let's go ahead and do the case anyway.

Mr. MEEHAN. Did it make sense to you?

Mr. O'SULLIVAN. During the case, yes, it made sense to me.

Mr. MEEHAN. Did it make sense to you that Bulger and Flemmi were FBI informants?

Mr. O'SULLIVAN. I have to believe it since the rumor was around on the street. A lot of knowledgeable law enforcement officers were saying it and I believed it.

Mr. MEEHAN. Did you know by then? In other words, Bob Long says that, "Gee, I think that Bulger and Flemmi are FBI informants."

Mr. O'SULLIVAN. Did it make sense to me?

Mr. MEEHAN. Did you know that they were informants?

Mr. O'SULLIVAN. Yes. At that point in time the FBI approached me and told me in the Race Fix Case that they were informants.

Mr. MEEHAN. OK. So you knew that they were informants.

Mr. O'SULLIVAN. Yes.

Mr. MEEHAN. In that operation isn't it true the state troopers had collected substantial evidence on Whitey Bulger's ongoing criminal activities with the mafia?

Mr. O'SULLIVAN. Yes. That's why I——

Mr. MEEHAN. This potentially could have been the biggest organized crime case ever presumably. Would you agree?

Mr. O'SULLIVAN. I would not.

Mr. MEEHAN. You wouldn't? A big case, though?

Mr. O'SULLIVAN. Certainly a big case.

Mr. MEEHAN. Can you understand why Trooper Bob Long who certainly had worked with the FBI in other cases like Operation Lobster was reluctant to work with the Boston FBI?

Mr. O'SULLIVAN. Absolutely I understood it.

Mr. MEEHAN. Can you understand his concerns about the FBI after Bulger had eluded prosecution in the horse race-fixing case?

Mr. O'SULLIVAN. That never came up because——

Mr. MEEHAN. Did he ever bring it up?

Mr. O'SULLIVAN. He didn't bring it up, no.

Mr. MEEHAN. Did you ever tell Bob Long that it would be political suicide for you to recommend that any case be assisted by a Federal agency other than the FBI?

Mr. O'SULLIVAN. I think when he approached me with the Lancaster Street Garage case I may have said that, yes. I don't have memory of it but that is probably what I did say.

Mr. MEEHAN. Do you think it would have been political suicide for you to have recommended that another Federal agency assist the Massachusetts troopers?

Mr. O'SULLIVAN. I was using political in a small p sense meaning administratively it would have caused big problems. I took the state police and I went to the DEA and I went to the Secret Service and asked them to participate in an investigation in Bulger and Flemmi with the state police and they both refused.

Mr. MEEHAN. So if you had a sense that it would be political suicide for you to have recommended that other Federal agencies be involved, does that tell us anything about the FBI culture during that period? What does it tell us about the FBI culture during that period?

Mr. O'SULLIVAN. It tells us that the FBI if you go against them, they will try to get you. They will wage war on you. They will cause major administrative problems for me as a prosecutor. That's what it tells us.

Mr. MEEHAN. Well, wouldn't you feel as a prosecutor then, and a well-respected prosecutor, one that the young prosecutors coming into the U.S. Attorney's Office looked up to, and given that awesome responsibility to make sure that Federal law enforcement is being carried out in an honest manner with integrity.

Wouldn't you think that you had an obligation then in the interest of the U.S. Attorney's Office, in the interest of the administration of justice, to followup with that problems of the culture, to followup with the notion of it would be political suicide not to include the FBI in this investigation?

Mr. O'SULLIVAN. And by following up, Congressman, could you define it a little more clearly? What does followup mean?

Mr. MEEHAN. Following up means finding out specifically in an aggressive way, the same way that you aggressively handled other cases successfully I might add, prosecutions of organized crime, to make sure that there wasn't any corruption or misdealings with or-

ganized crime figures and witnesses within the Justice Department and potentially within the FBI.

Mr. O'SULLIVAN. I did that, Congressman.

Mr. MEEHAN. Unsuccessfully.

Mr. O'SULLIVAN. Unsuccessfully.

Mr. MEEHAN. You apparently told Bob Long that maybe the microphone surveillance could have been compromised by a civilian installer. Is that true?

Mr. O'SULLIVAN. It is.

Mr. MEEHAN. And you even knew the name of the installer?

Mr. O'SULLIVAN. That's right. This is a person who had done some wiretap sweeps for the Patriarca family so I was concerned about him.

Mr. MEEHAN. And did that cause Bob Long to want to investigate the installer and go in that direction rather than another direction?

Mr. O'SULLIVAN. I have no idea.

Mr. MEEHAN. After the Lancaster Street failed, do you think it did so because it was compromised by the FBI?

Mr. O'SULLIVAN. Yes.

Mr. MEEHAN. You told the FBI and the Office of Professional Responsibility investigators that you came to know of a series of leaks about the investigation that was attributable to John Morris. Is that true?

Mr. O'SULLIVAN. I'm not quite sure what I meant by that when I said it, Congressman. I just don't have a memory of when I said that what I meant.

Mr. MEEHAN. Were you concerned then at that time about the quality of the investigation?

Mr. O'SULLIVAN. I'm not quite sure what you mean.

Mr. MEEHAN. How would you characterize leaks?

Mr. O'SULLIVAN. How would I characterize leaks?

Mr. MEEHAN. The leaks in this case, which was obviously a critical case that potentially could have been a major case against Bulger and Flemmi. How would you characterize the leaks? Were they favorable to anyone else in the investigation?

Mr. O'SULLIVAN. They were favorable to Bulger and Flemmi clearly.

Mr. BURTON. Let me followup. I might have missed what you said just a moment ago but did you indicate that the FBI said—you can put it in your own words—that if you caused them problems, that they wouldn't cooperate with you in an investigation or something?

Mr. O'SULLIVAN. Yes.

Mr. BURTON. Can you tell me in your words how you said that?

Mr. O'SULLIVAN. During the Lancaster Street Garage aftermath, the SAC of the FBI, Lawrence Sarhadt, called me and asked me to come over to his office and berated me up and down, swearing at me, yelling as loud as he could about how I should never have associated myself with the state police and gone against FBI informants.

Mr. BURTON. So you felt that they were not going to cooperate with you unless you worked with them?

Mr. O'SULLIVAN. That's what he told me.

Mr. BURTON. OK. So he told you that. Now, go back to what Mr. Huff said. Mr. Huff said, "Rico was connected to the Winter Hill Gang. Rico caroused with them." This is according to what you told him. "Rico caroused with them according to O'Sullivan. He drank with them. He played pool with them. He was, as a matter of fact, very specific about this." This is what Mr. Huff said a few minutes ago before you came up and testified.

Mr. O'SULLIVAN. I was sitting in the courtroom and I heard him say it.

Mr. BURTON. The reason I'm bringing it up again is you indicted five of the seven, as Mr. Tierney asked, but you did not indict the race scandal, the two individuals we have been talking about.

Mr. O'SULLIVAN. That's correct, Congressman.

Mr. BURTON. Bulger and Flemmi. And it seems to me that there must have been some reason for that. Now, if Rico was carousing with the Winter Hill Gang and he was close to Bulger and Flemmi, and you were "in someway threatened by the FBI," was that the reason you didn't indict them in the race scandal?

Mr. O'SULLIVAN. It was not, Congressman. The reason, as I articulated earlier, was a lack of corroborative evidence.

Mr. BURTON. I know but the thing that bothers me a little bit is that you indicted somebody based upon the testimony of an individual. You also said the same things about Bulger and Flemmi but you didn't indict them. Now, in my mind there has got to be a reason why. The same evidence was presented.

I know you said he was higher up in the gang, but the fact is the FBI said they wanted you to cut out this working with the state police so you had been admonished, maybe before that even, to not go around the FBI. Here was Rico carousing with the Winter Hill Gang and two of the top lieutenants in the Winter Hill Gang, Bulger and Flemmi, were not indicted in the race scandal, even though the testimony of an individual indicted somebody else for the same reasons.

It seems to me if Rico was carousing with them, you had been admonished by the FBI to keep your hands off of some things because they didn't want you going around with the state police. Here are two kingpins of this group, two murderers, that you didn't indict. There has got to be some reason for it and I still in my mind can't figure it out.

Mr. O'SULLIVAN. Well, I'm sorry, Congressman. My reasons are as stated, that I wanted the case against Howard Winter to be the strongest case that I could bring and I thought that having people in the case against whom the evidence was very weak—the evidence against Winter was weak as it started but I decided based on that I did not want to have people in the case that the jury—we would have a domino affect where the jury would consider certain people not guilty and then it would carryover to the key people. That's why I did it.

Mr. BURTON. Mr. Meehan, because I took some of your time, go ahead.

Mr. MEEHAN. Do you know, Mr. O'Sullivan, how the state trooper's bug was compromised in the Lancaster Street Garage investigation?

Mr. O'SULLIVAN. I don't.

Mr. MEEHAN. You don't to this day?

Mr. O'SULLIVAN. I don't to this day.

Mr. MEEHAN. How did this all happen? I mean, just listening to you talk about what you heard in the street, what you knew of the relationships, being pushed around by the FBI because you were talking to the state police, state police investigations being compromised by the FBI.

Why in the world didn't somebody stop in what was considered at that time to be one of the best U.S. Attorney's Office in the country stop and say, "What the hell is going on here? What is the FBI up to?" How did this happen?

Mr. O'SULLIVAN. Well, some of us tried to stop it anyway. I asked the FBI to remove John Connelly as a Strike Force rep from the FBI. I knew that would cause a major problem but I asked them to do it and I did it based at the behest of various agencies including the state police. Some of us tried to do something. We tried to get him out of the organized crime program.

Mr. MEEHAN. But sometimes when you are trying to clean up an agency you have to go above that agency because sometimes agencies don't want to clean up themselves and it is just remarkable to me after so many years that more couldn't have been done. I don't know. You bring in young attorneys and the first thing you do—I was a prosecutor in Middlesex County. The first thing you do is you teach them about the ethics of the enormous power they have as prosecutors. You teach them to be leery of the police departments when they come in on cases. And you teach them to always be able to balance what the police are saying or what the investigators are saying, to make sure you always have integrity in that system, and to watch that we couldn't have expected better from the Justice Department. Thank you, Mr. Chairman.

Mr. BURTON. Mr. Delahunt.

Mr. DELAHUNT. Just to pursue the thought expressed by my colleague, Mr. Meehan. Let me ask you a policy question first. You suggest that you took what you felt to be a dramatic step by going against the FBI and your dealings with, I presume, Special Agent in charge Sarhadt?

Mr. O'SULLIVAN. That's correct.

Mr. DELAHUNT. If you could restructure the relationship between the U.S. Attorney's Office and the Federal Bureau of Investigation, would you make any changes? Let me editorialize for a moment. It seems to me that you felt that the FBI in many respects was an intimidating force without any checks, without any accountability, and certainly without any transparency.

It was as, if you will, an island unto itself operating out there with only internal supervision. Of course, as we've learned subsequently, what goes on in field offices and what reports to send up to Washington can be distorted, can be sugarcoated, important information can be omitted. If you could respond to my question, how would you structure as we contemplate legislation to ensure that not just the FBI, but all investigative agencies have some accountability outside of the institutions themselves.

Mr. O'SULLIVAN. Congressman, I really don't have an answer to that question because that's why you're having these hearings. I would suggest that it really isn't a structural issue down at the

field level. It really is a question of somebody above the field looking over their shoulder.

I would suggest that the Inspector General of the Justice Department, the Inspector General of the FBI, they ought to take some test cases around the country and go into those offices and talk with the prosecutors rather than what the FBI does now. They have an inspection with, you know, somebody comes over and counts the pens and pencils and then they come over to the U.S. Attorney's Office and they ask how are relationships.

The U.S. Attorney's Office being politicians say, "Everything is fine as far as we can tell." If, in fact, the internal investigative unit of the FBI were to look specifically at dynamics of how the cases are operated, what the relationship between the FBI and the prosecutors are. That would be, I think, one way to do it.

Mr. DELAHUNT. And that wasn't done during your tenure?

Mr. O'SULLIVAN. I've never seen it done, Congressman.

Mr. DELAHUNT. Getting back for a moment to the Race Fix Case. You suggested that it was your decision not to prosecute prior to the approach by Morris and Connelly relative to Flemmi and Bulger and the fact that they were informants.

Mr. O'SULLIVAN. That's correct.

Mr. DELAHUNT. And at different times, I think, during the course of some of your responses to questions posed by my colleagues, and I also believe in your opening statement you referenced the findings of Judge Wolf.

Mr. O'SULLIVAN. Yes.

Mr. DELAHUNT. Let me read to you a finding that Judge Wolf made. This is on page 142 you have these findings. Maybe you could identify counsel for us.

Mr. O'SULLIVAN. This is my partner, Hugh Scott. We've got a copy if you want to give me a minute.

Mr. DELAHUNT. Sure. Also, if we could trouble the committee, could we have some more water for Mr. O'Sullivan?

Mr. BURTON. Would you yield?

Mr. DELAHUNT. Yes.

Mr. BURTON. I want to read you something, Mr. O'Sullivan, while you're looking for that. Anthony "Fat Man" Ciulla implicated Bulger and Flemmi in that national horse race-fixing scheme. There were 21 people involved and, of course, the President claimed executive privilege and we did get those documents.

Apparently Ciulla himself was outraged that Bulger and Flemmi were not indicted. He was afraid they would kill him. Of course, I'm sure you are familiar with the Black Mass and I want you to comment on this. It states that Bulger and Flemmi were made to promise that they would not murder Ciulla and that was what got him to go along and testify against all the others who had been indicted.

Because Bulger and Flemmi were told about the impending indictments by the FBI, they were able to warn others including John Martarano who was the contract killer for Bulger and Flemmi and he was able to get out of town before being picked up. Of course, 2 years later he was the trigger man in the Wheeler murder.

Can you comment on that? Ciulla who, you know, you base some of these indictments on his testimony. Did he indicate any outrage to you or anybody that you know of that Bulger and Flemmi had not been indicted?

Mr. O'SULLIVAN. No, Congressman. I wouldn't have listened to what a witness said anyway. I have not read Black Mask and I am not familiar with it. I kept myself away from it on the basis that I knew I would be testifying sometime and I knew that Black Mask was incorrect in a number of major factual ways.

Mr. BURTON. Do you think what I just read is incorrect?

Mr. O'SULLIVAN. Yes.

Mr. BURTON. You do?

Mr. O'SULLIVAN. I do.

Mr. BURTON. So you don't think that Ciulla was upset that Bulger and Flemmi of the seven leaders was not indicted?

Mr. O'SULLIVAN. He may have been upset, Congressman. I don't know that for a fact but I'll assume.

Mr. BURTON. Do you think if they found out he testified against them, that they would have been a little ticked off?

Mr. O'SULLIVAN. Yes.

Mr. BURTON. Do you think maybe since they were known murderers they might murder him?

Mr. O'SULLIVAN. They among others in the Winter Gang, yes, including Howard Winter.

Mr. BURTON. Yet you said that there was not enough corroborating evidence to indict those two?

Mr. O'SULLIVAN. That's what I said, Congressman.

Mr. BURTON. Did you have any indication or did anybody tell you there was a deal not to murder Ciulla, that he had testified against the others but not Bulger and Flemmi?

Mr. O'SULLIVAN. No, Congressman.

Mr. BURTON. You don't know anything about that?

Mr. O'SULLIVAN. Absolutely not.

Mr. BURTON. You don't know anything about Martarano being told that he was going to be indicted and he took off and, of course, killed somebody 2 years later?

Mr. O'SULLIVAN. I did not know that either, Congressman.

Mr. DELAHUNT. On page 142 I'm going to read out loud and I'll make a reference to page 141. Let me read it out loud while you are thumbing through the transcript.

"In May 1979 the FBI in Boston requested and received from the Director of the FBI approval to reopen Bulger as an informant. The Director was told, however, that no prosecutable case developed against Bulger in the opinion of the Strike Force attorney handling the matter." That would be you, Mr. O'Sullivan. Correct?

Mr. O'SULLIVAN. I assume.

Mr. DELAHUNT. Judge Wolf goes on further. "This was not true. While Bulger and Flemmi were not prosecuted in the Race Fix Cases because Connelly, Morris, and O'Sullivan had decided that their value as informants outweighed the importance of prosecuting them." You would disagree with that?

Mr. O'SULLIVAN. I disagree with that, Congressman, because I think it was based on the testimony of Mr. Morris who testified

that he and Connelly had approached me and convinced me not to indict them. I didn't testify at those hearings for various reasons.

Mr. DELAHUNT. On page 141 another finding by Judge Wolf. This is a simple sentence. "O'Sullivan consulted Daily and subsequently agreed not to charge Bulger and Flemmi in the Race Fix Case." Presumably, Daley is an FBI agent with whom you were working.

Mr. O'SULLIVAN. Yes, he was the case agent.

Mr. DELAHUNT. He was the case agent. Do you have any memory whatsoever of consulting with Special Agent Daley regarding Bulger and Flemmi in seeking his approval or his support in terms of not indicting Bulger and Flemmi?

Mr. O'SULLIVAN. I don't.

Mr. DELAHUNT. You don't. Would you disagree with the finding or you just simply don't have——

Mr. O'SULLIVAN. Would you read the finding again?

Mr. DELAHUNT. I'm sorry?

Mr. O'SULLIVAN. Would you read the finding again?

Mr. DELAHUNT. It's just a simple statement. It says, "O'Sullivan . . ." Again, this is Judge Wolf. ". . . consulted Daily and subsequently agreed not to charge Bulger and Flemmi in the Race Fix Case." I don't know whether Agent Daley might have testified before Judge Wofe. I don't have any knowledge to that effect.

Mr. O'SULLIVAN. Nor do I.

Mr. DELAHUNT. However, just one inference that could be drawn given the finding by Judge Wofe was that Daley did, in fact, testify. One could draw another inference that Daley before Judge Wolf would have acknowledged that there was some consultation between you and Daley relative to not indicting Bulger and Flemmi based upon the fact that they were FBI informants.

Mr. O'SULLIVAN. That's not the case. There was some consultation with Agent Daley about all the defendants and about the evidence we had against them and how we could get further evidence that might buttress the case against them. Yes, I consulted with Agent Daley about the structure of the indictment and who the defendants could be. We were intimately involved in putting the case together but not about Bulger and Flemmi as informants or their role as informants.

Mr. DELAHUNT. Again, on page 141 of the findings, this is a reference to Connelly and Morris. They emphasized that Bulger in a purported conversation with you either subsequent to your decision as to whether to prosecute or not or before. We don't know that.

But in their conversation with you, they emphasized that "Bulger and Flemmi were crucial to the ambitious plan they and O'Sullivan were developing to bug 98 Prince Street, the headquarters of Gennaro Angiulo, then the leader of the LCN in Boston. Thus, Morris and Connelly asked O'Sullivan not to include Bulger and Flemmi in the forthcoming race fix indictment." Again, this is the finding that was made by Judge Mark Wolf.

Mr. O'SULLIVAN. I assume it's based on Morris' testimony. At least to that extent, we did discuss how important Bulger and Flemmi might be to the wiretap at 98 Prince Street. Yes, that is true.

Mr. DELAHUNT. You know, you just used, I think, a very important verb, "might."

Mr. O'SULLIVAN. I'm sorry?

Mr. DELAHUNT. Might. Might be crucial. It seems to have become accepted among those that are interested in these matters that somehow Flemmi and Bulger were crucial or were critical in developing the probable cause necessary for 98 Prince Street bug.

Mr. O'SULLIVAN. They weren't.

Mr. DELAHUNT. They weren't?

Mr. O'SULLIVAN. They weren't.

Mr. DELAHUNT. Thank you. I think that is really important for the public to hear that because I hope that once and for all the myth of information that was secured by Mr. Connelly and Mr. Morris from Flemmi and Bulger was just about nothing. Is that a fair statement?

Mr. O'SULLIVAN. You have to understand the iterations of the wiretap application process at 98 Prince Street.

Mr. DELAHUNT. I am familiar with the process.

Mr. O'SULLIVAN. It was originally going to be a Rico wiretap. Unfortunately, the First Circuit came down and said that Rico did not apply to criminal organization so we had to redo the wiretap application just to focus on subsequent crimes like loansharking and gambling, not Rico. I believe that Bulger and Flemmi might have been some help in the initial application but they weren't of any substantive help ultimately when we did the application.

Mr. DELAHUNT. I would dare say my own perusal, if you will, and I would ask you to try to recollect in developing the affidavit, whatever positive assistance came from these two individuals relative to the development of the probable cause necessary in the affidavit came from Flemmi and none of it came from Bulger.

Mr. O'SULLIVAN. I don't know that, Congressman, because I don't remember the information today so I can't answer that question.

Mr. DELAHUNT. Do you have any memory whatsoever in terms of the contribution, or can you distinguish between the contribution by Flemmi and Bulger in terms of the 98 Prince Street? Would you weigh one over the other or is it vague to you at this time?

Mr. O'SULLIVAN. It's vague. I couldn't distinguish, Congressman.

Mr. DELAHUNT. Again, I think that for the first time we have heard that this myth that these informants were developed because they were crucial is just that, it's a myth. Any former agent that would take credit for developing them and cracking La Cosa Nostra in New England is a gross exaggeration.

I say that directed to the members of the states that are here present because it has taken on a life of its own. You had numerous other investigative techniques as well as informants that were assisting you and providing you information that was necessary in terms of the 98 Prince Street investigation.

Mr. O'SULLIVAN. That's true, Congressman. As a matter of fact, I met with some of those informants personally to develop the information so I know who has contributed to the 98 Prince Street wiretap.

Mr. BURTON. We will come back if you need to. Thank you.

Mr. O'Sullivan, I am grateful that you are here today. I appreciate you not using your very serious illnesses as a basis for not being and I consider you a very willing witness. I understand that during your time in service to your government that you were con-

sidered one of the best and the brightest. I have to tell you as I listened to you, I feel that your responses have been candid and fairly quick and responsive and not a lot of hesitation and wanting us to understand how you view it.

It still doesn't add up to me and so I'm struggling to see if there is something that is in your heart or in your mind that you think we may know that we don't know. I was somewhat stunned by your very veracious response to Representative Meehan when he asked you about the FBI. I mean, that lit a fire under you and you became very animated in your description about if you confront the FBI, you pay a big penalty. I would think if the FBI confronted you they would pay a big penalty.

Yet, it seemed to be the other way around. As we talk about various FBI agents, I'm thinking the FBI folks that I know, they don't have that kind of personality. I either don't know a lot of FBI folks or I just didn't know them up in this area. It is your testimony if you confront the FBI you pay a penalty. That blows me away.

When I hear Winter Gang, I heard seven and I said five down and two to go. I was kind of waiting for you to say, "We wanted to get those five but, you know, these guys were next in line. They were on my list." I didn't hear you say that. Tell me this. Did anyone from the FBI tell you that you should not prosecute Whitey Bulger and Stephen Flemmi?

Mr. O'SULLIVAN. No, not specifically.

Mr. BURTON. Did anyone from any local or state police department tell you not to prosecute Whitey Bulger or Stephen Flemmi?

Mr. O'SULLIVAN. No, Congressman.

Mr. BURTON. Did anyone from the Justice Department suggest that you not prosecute——

Mr. O'SULLIVAN. No, Congressman.

Mr. BURTON. Then having successfully prosecuted the first five, when were you planning to prosecute them?

Mr. O'SULLIVAN. In my opening statement, Congressman, I said that I had developed two cases against them. The Lancaster Street Garage, in my agreement with the Suffolk County District Attorney's Office list, if that wiretap was fruitful, we would sit down and allocate which part would go Federal and which part would go to the state.

Second, in the Boston police corruption investigation I had planned a wiretap on a bookmaker who is in direct contact with Stevie Flemmi and I had planned to have a Boston police officer who was cooperating wear a body recording against Whitey Bulger. There were two cases that were in the wings waiting to take off.

Mr. BURTON. Mr. Tierney just brought to my attention that when you were asked a question by Mr. Shays whether or not anybody in the FBI asked you not to prosecute Bulger and Flemmi, you said not specifically. Is that what your answer was?

Mr. O'SULLIVAN. I don't remember my answer. If that's what it is, I was referring back to the fact that Morris and Connelly had come over and seen me and ask me not to do it.

Mr. BURTON. They came over and asked you what?

Mr. O'SULLIVAN. Not to prosecute.

Mr. BURTON. Not to prosecute Bulger and Flemmi.

Mr. O'SULLIVAN. Yes, in the Race Fix Case.

Mr. BURTON. So they specifically asked you not to?

Mr. O'SULLIVAN. Yes. That's correct.

Mr. BURTON. Did you ask them why?

Mr. O'SULLIVAN. They told me because they were FBI informants.

Mr. BURTON. They told you they were FBI informants and you thought that was sufficient even though you knew they were murderers and you knew that they had been accused just like—what's the other fellow's name that was indicted?

Mr. O'SULLIVAN. No, I didn't think that was sufficient, Congressman. I told you I made up my mind before they came over and asked me that question. When they did come over and ask me that question, I told them I already decided not to indict them.

Mr. BURTON. You know, it kind of troubles me that you knew they were murderers and here is two FBIs saying that we are, in effect, protecting murderers who were involved in numerous murders because they were informants. Didn't you find that a little troubling?

Mr. O'SULLIVAN. I didn't reflect on it but——

Mr. BURTON. You didn't reflect on it?

Mr. O'SULLIVAN. No.

Mr. BURTON. Well, you know, it goes back to the same thing we've been asking over and over again and I can't get a grasp on your reasoning; that is, that you indict one guy based upon testimony and two other guys you don't indict and they are murderers. Two FBI agents came over and told you not to indict them because they were informants. You said, "I have already decided not to indict them because there is not enough corroborative evidence. Yet, there is another fellow who is pretty high up in the organization that you did indict because he might be up here above him. I just can't understand that. Why would you get the whole kit and caboodle?

Mr. O'SULLIVAN. Because it's better settling for half a loaf than the whole loaf. The half a loaf, in my opinion, was Howie Winter. He was the linchpin that held this criminal organization together.

Mr. BURTON. How many times when you were a prosecutor did you agree not to prosecute known murderers because they were informants?

Mr. O'SULLIVAN. I don't think it has ever happened.

Mr. BURTON. You never did?

Mr. O'SULLIVAN. No.

Mr. BURTON. Except in this case because you had already made up your mind?

Mr. O'SULLIVAN. That's correct.

Mr. BURTON. If you hadn't already made up your mind you would have indicted them?

Mr. O'SULLIVAN. Yes.

Mr. BURTON. OK.

Mr. SHAYS. I didn't listen, I guess, to the question. I said did anyone from the FBI ask you not to indict Bulger and Flemmi. I thought you said no. You said not specifically and now you are saying yes? I do want to be clear.

Mr. O'SULLIVAN. In my opening statement I said that when I made up my mind not to indict them, that Morris and Connelly came over after the fact and asked me not to indict them.

Mr. SHAYS. So when I asked you the question did anyone from the FBI ask you not to indict them, you said no to me. Really what you should have said is, yes, but——

Mr. O'SULLIVAN. That's correct, Congressman.

Mr. SHAYS. OK. Did anyone from the Justice Department tell you not to indict them?

Mr. O'SULLIVAN. No, Congressman. Absolutely not.

Mr. SHAYS. Did anyone from the state police at anytime ask you——

Mr. O'SULLIVAN. Absolutely not.

Mr. SHAYS. So the only people, according to your testimony, that asked you not to indict are the FBI?

Mr. O'SULLIVAN. Yes.

Mr. SHAYS. Based on the facts. Now, did you respond with some degree of—somewhat incredulously like, "What do you mean these are FBI informants? They are known murderers?"

Mr. O'SULLIVAN. No, I did not, Congressman.

Mr. SHAYS. Why not?

Mr. O'SULLIVAN. I assume that when you have informants at that level they are involved in crimes.

Mr. SHAYS. Let me ask you, though, should I make an assumption that they were involved in past crimes or do you think that they had stopped committing crimes? Let me understand something. If you are an informant and giving testimony against someone else, are you still allowed to be killing people?

Mr. O'SULLIVAN. I assume that is a rhetorical question, Congressman.

Mr. SHAYS. Where would you have drawn the line with the crimes they were allowed to commit?

Mr. O'SULLIVAN. Whatever the Justice Department guidelines are on that.

Mr. SHAYS. What were they?

Mr. O'SULLIVAN. I have no idea because they are the FBI's, in the first instance, to put into effect. They are the ones that control the informants, not the prosecutor.

Mr. SHAYS. This isn't a pretty picture right now. I mean, someone of your stature is basically saying that you've got a gigantic problem with the FBI and that if you confront them, you do it at some risk to your ability to carry on your work, which is like they can blackmail you practically by their simply refusing to cooperate. The implication is that under your command of this job, the FBI was able to influence who would prosecute and who you wouldn't based on their willingness to cooperate with you. Is that the kind of view I should leave this hearing with?

Mr. O'SULLIVAN. No, it's not, Congressman. I would bring to your attention that I worked with the state police and I worked with the FBI to build a case on Bulger and Flemmi in two separate instances.

We have gone over that fact. When the state police came to me after the Race Fix trial and they asked me to develop a case on Flemmi and Bulger and they didn't want to work with the FBI,

then I went to the District Attorney of Suffolk County, which was the only agency that I could think of that might be willing to bring the wiretap. I went to him and I aided them in developing the wiretap, the state wiretap, but they did get the Lancaster Street Garage.

Mr. BURTON. Would you yield for a moment? Let me ask you this. You said that you did try to indict Bulger and Flemmi subsequent to this.

Mr. O'SULLIVAN. I didn't. I said I tried to investigate them.

Mr. BURTON. You tried to investigate them. Why didn't you indict them? You couldn't find anything?

Mr. O'SULLIVAN. That's correct.

Mr. BURTON. You knew they were murderers, you knew they were involved in the race-fixing thing, and you couldn't indict them and couldn't find anything?

Mr. O'SULLIVAN. That's correct, Congressman.

Mr. BURTON. After the case was resolved in the race-fixing thing, you knew they were involved and you had testimony from Ciulla or whatever.

Mr. O'SULLIVAN. Ciulla.

Mr. BURTON. You still didn't have a hook to hang your hat on?

Mr. O'SULLIVAN. Yes, I could have indicted them after the verdict came back in another case, but the case went on for 4 plus months and I didn't think that a subsequent effort would be any less in that I didn't have enough evidence to convict them.

Mr. BURTON. Well, the gentleman that Ciulla accused, was he convicted?

Mr. O'SULLIVAN. I'm sorry?

Mr. BURTON. The gentleman that Ciulla——

Mr. O'SULLIVAN. Winter was convicted.

Mr. BURTON. Was Simms convicted?

Mr. O'SULLIVAN. Yes, he was.

Mr. BURTON. He was convicted on Ciulla's testimony. Was he not?

Mr. O'SULLIVAN. Yes, he was.

Mr. BURTON. And you say you can't go back and indict these other two who had the same accusation made by Ciulla?

Mr. O'SULLIVAN. That's correct.

Mr. BURTON. Why? Why didn't you go back and get them?

Mr. O'SULLIVAN. Because my judgment was I wouldn't have been able to convict them.

Mr. BURTON. Why, you already convicted one? Why did you think you had less of a case the second time?

Mr. O'SULLIVAN. Because I believed that these cases, you know, you put them on and sometimes they don't work.

Mr. BURTON. But you did convict him.

Mr. O'SULLIVAN. That's correct.

Mr. BURTON. So it was the same evidence. Why did you not go back and get him? You said you wanted to nail him.

Mr. O'SULLIVAN. That's correct.

Mr. BURTON. Why didn't you go back and get him on the same charge?

Mr. O'SULLIVAN. Because I didn't have any corroborative evidence.

Mr. BURTON. You didn't have corroborative evidence on the other guy either, Simms.

Mr. O'SULLIVAN. Yes, but he was an important person in the Winter Gang.

Mr. BURTON. I know. I understand.

Mr. O'SULLIVAN. I could take a risk of charging him.

Mr. BURTON. OK. You took a risk and you convicted him on the basis of the same evidence that you had on Bulger and Flemmi, but you didn't go back and get him. Why?

Mr. O'SULLIVAN. Why? Because I didn't think that they were convictable based on the facts of the case.

Mr. BURTON. Mr. O'Sullivan, I am lost because you convicted one guy based upon the facts, the same facts, and then you go back to Bulger and Flemmi and you've got the same evidence on them and you don't even charge them and you're saying you didn't have enough evidence. It doesn't wash. Why?

Mr. O'SULLIVAN. I keep repeating myself, Congressman. I can't say it any clearer than I've said it. I'll rest on my statement.

Mr. SHAYS. Would the chairman yield for a moment?

Mr. BURTON. Let me finish, Mr. Shays, before I yield.

I do want to say, and not ask it again, but the question that I would have said having been successful against Simms, that the testimony held up, I would have thought that you would have said, "Boy, I got these two guys because we've got a successful conviction here so it did hold up." It makes me then wonder if deciding not to act was because the FBI said Bulger and Flemmi were informants.

Mr. O'SULLIVAN. No, that wasn't the reason.

Mr. BURTON. OK. Let me just ask you to characterize three FBI agents. I want you to describe to me FBI Agent Connelly.

Mr. O'SULLIVAN. Can I interrupt you for a second, Congressman?

Mr. BURTON. Sure.

Mr. O'SULLIVAN. One thought came to mind. When I prosecuted the Race Fix Case, I was then an Assistant U.S. Attorney and Chief of the Public Corruption Unit. I took the case with me from the Strike Force down to the U.S. Attorney's Office. But my duties in the U.S. Attorney's Office soon became so overwhelming in terms of the cases I was developing in the public corruption unit that I didn't have time to go back and reconsider Bulger and Flemmi. It wasn't my job.

Mr. BURTON. I will say this. I do agree that sometimes we have lots of choices we have to make. We sometimes overwhelm the criminal justice system and prosecutors. I understand that part of your argument, but it still is a mouthful. As it relates to FBI Agents Connelly, Rico, and Condon, I want you to describe to me what they were like to work with.

Mr. O'SULLIVAN. I never worked with Rico. I never saw him. I very rarely worked with Condon. I very rarely worked with Connelly since Connelly wasn't a case agent. He was developing informants.

Mr. BURTON. So you wanted to get rid of him?

Mr. O'SULLIVAN. I did.

Mr. BURTON. Even though you didn't work with him?

Mr. O'SULLIVAN. He was a Strike Force rep. All the agencies get to develop somebody who is the liaison between that agency and the Strike Force. I asked the FBI to remove him as a Strike Force rep.

Mr. BURTON. And explain to me why.

Mr. O'SULLIVAN. I didn't trust him.

Mr. BURTON. Well, you didn't trust him because?

Mr. O'SULLIVAN. I didn't trust him because of his relationship with his informants.

Mr. BURTON. And his informants were?

Mr. O'SULLIVAN. Bulger and Flemmi.

Mr. BURTON. Thank you very much.

Mr. Tierney.

Mr. TIERNEY. Thank you.

Mr. O'Sullivan, I just want to talk to you a little bit more about something that has me puzzled here. What were Mr. Simms' priors?

Mr. O'SULLIVAN. Mr. Simms has a substantial criminal record. I can't remember it off the top of my head now, Congressman.

Mr. TIERNEY. But murder wasn't one of the prior convictions. Was it?

Mr. O'SULLIVAN. No.

Mr. TIERNEY. So you had a fellow who was not a murderer, or not known to be a murderer to you, and you had a situation where you thought that this case was relatively weak but you only had Mr. Ciulla's testimony and nothing corroborative. Yet, you were willing to put that person in with 20 odd others and potentially, according to your testimony, make that whole case weaker and stand the risk of that jury finding him not responsible, not guilty, and then going right down the line and having an impact on all the other cases.

Yet, when it came to then having the conviction in knowing you had found him guilty along with the others, you then made a decision not to go after Bulger and Flemmi even though they were murderers and you have the same evidence and you have a risk but you didn't have the same risk of losing other 20 other cases, just the risk of losing that case possibly.

Mr. O'SULLIVAN. The answer is I didn't go after them in the Race Fix Case. I went after them in other cases.

Mr. TIERNEY. You investigated in other cases.

Mr. O'SULLIVAN. And hopefully I would have been successful in those cases.

Mr. TIERNEY. But here is one where you had enough to indict them and prosecute them on because you had the same thing you had on Simms. If, as you say, you just thought, "I'm just moving on to other things. I have an overload of work," or whatever, why didn't you refer it to somebody else and let me do it?

Mr. O'SULLIVAN. Well, there was somebody in charge who could have taken over the case.

Mr. TIERNEY. Who was that?

Mr. O'SULLIVAN. My boss at the time, Gerald McDowell.

Mr. TIERNEY. Did you recommend that Mr. McDowell do that?

Mr. O'SULLIVAN. I did not.

Mr. TIERNEY. One account of this whole situation has Lawrence Sarhadt asking you to close out Whitey Bulger as an informer in 1980. Did that every happen?

Mr. O'SULLIVAN. It didn't.

Mr. TIERNEY. It did not?

Mr. O'SULLIVAN. It did not.

Mr. TIERNEY. Not long after the Oklahoma investigators learned about the possible tie between Flemmi and Bulger, Flemmi was closed out as an informant. Did you know that at the time?

Mr. O'SULLIVAN. I did not.

Mr. TIERNEY. No further questions.

Mr. BURTON. Mr. Lynch.

Mr. LYNCH. Thank you, Mr. O'Sullivan. I just want to followup on the mirror image of Mr. Tierney's questions. That is, at a certain point in time in the Race Fix Case you had these 21—actually, there were 23, I guess, candidates for indictment. Actually, there is a list of some 64 other co-conspirators who remain unindicted. We'll talk about them in a minute.

But you got this fellow named Simms who you say had a substantial criminal record. At that point in time you say you were at least aware of Mr. Bulger's record and Mr. Flemmi's record. I just want to ask you at the time you were considering an indictment, did you know the fact that James Bulger had several arrests in Massachusetts for armed robbery? Were you aware of that?

Mr. O'SULLIVAN. I was generally aware he had a substantial criminal record.

Mr. LYNCH. And he had grand larceny charges against him as well, a prior record. You were aware of that time?

Mr. O'SULLIVAN. I knew he had a substantial criminal record, the specifics of which I don't remember that I knew.

Mr. LYNCH. Well, do you remember that he had done time in Leavenworth and also in Alcatraz Prison?

Mr. O'SULLIVAN. I've heard that.

Mr. LYNCH. OK. How about Mr. Flemmi, the fact that he had been tracked previously. He had arrests connected with armed robbery, gambling offenses. This is a race-fixing scheme. Were you aware of that?

Mr. O'SULLIVAN. Yes.

Mr. LYNCH. OK. How about his loansharking and propensity to carry firearms? Were you aware of those?

Mr. O'SULLIVAN. In general terms, yes.

Mr. LYNCH. OK. How about murder and also dynamite bombing a District Attorney's personal vehicle in Boston? Were you aware of that?

Mr. O'SULLIVAN. Yes.

Mr. LYNCH. OK. You know these people are part of this criminal enterprise, which is they are taking money from a race-fixing scheme. Still sitting here today you insist that based on all the evidence that has come out here, that these gentlemen were unindictable?

Mr. O'SULLIVAN. As I think about it, there was one other fact that distinguished Flemmi and Bulger from Simms.

Mr. LYNCH. Let's hear it.

Mr. O'SULLIVAN. Simms was an active participant in the race-fix scheme. Flemmi and Bulger were not. All they did was to share the proceeds. If I had a trial and I put Ciulla on the stand, all Ciulla would testify to is he fixed races and he sat down and they whacked up the money in Winter Hill. That's all he would testify to.

He had no specific facts that would tell me anything or would tell the jury anything about what role Bulger and Flemmi had other than sharing in the proceeds. Whereas Simms had a specific role. He was Winter's alter ego who would give Ciulla directions, etc.

Mr. LYNCH. I ask you just the general sense here the willingness for a prosecutor to go for an indictment. In your own experience in your career, what is the success rate on—I understand you don't want to indict the innocent, those that have no connection. You want to spare them their reputations. You want to spare them the risk of wrongful prosecution. With the weight of evidence here, what is the success rate? In order for an indictment to be rendered, does it have to be 100 percent certain before you can bring an indictment?

Mr. O'SULLIVAN. There was something in effect at the time called "The Principles of Prosecution" in the Justice Department U.S. Attorney's manual which said that you should not indict someone unless you had a substantial probability that you could convict them. That was the standard that I used.

Mr. LYNCH. Let me ask you just finally, in addition to the 21 indictments that were handed down, were all these people convicted?

Mr. O'SULLIVAN. No.

Mr. LYNCH. How many?

Mr. O'SULLIVAN. Most of them were convicted but at least one was found not guilty.

Mr. LYNCH. You're saying 20 out of 21 were convicted? Is that right?

Mr. O'SULLIVAN. Well, there were several levels. Some of them pled guilty, some——

Mr. LYNCH. That's OK. We'll count down. If they pled guilty, chances are they were probably guilty.

Mr. O'SULLIVAN. I think one was found not guilty. That's my memory.

Mr. LYNCH. And there was another group of 64 unindicted co-conspirators. Do you remember that?

Mr. O'SULLIVAN. I don't. I know there was a lot of people that I didn't indict but I don't remember how many.

Mr. LYNCH. Tell me of the 64 initially unindicted co-conspirators were any of those eventually indicted?

Mr. O'SULLIVAN. I don't know, Congressman.

Mr. LYNCH. Thank you.

Mr. BURTON. Mr. Meehan.

Mr. MEEHAN. I have two questions here real quickly and then I'll yield to Mr. Wilson. He has a question. If Bulger and Flemmi were splitting up the money that came in from this race-fixing, was that a criminal offense?

Mr. O'SULLIVAN. Yes.

Mr. MEEHAN. So then why didn't you consider indicting them?

Mr. O'SULLIVAN. As I said, there was no corroborative evidence.

Mr. BURTON. Would you yield to Mr. Wilson just for a moment?

Mr. WILSON. Mr. O'Sullivan, why is it that you have such a clear recollection that Bulger and Flemmi only received proceeds from the face-fixing scheme?

Mr. O'SULLIVAN. It came into my head, Mr. Wilson.

Mr. WILSON. On January 29, 1979, you apparently wrote a memorandum along with Gerald McDowell to Gerald McGuire who is the Deputy Chief of Organized Crime for the Racketeering Section. This memo conflicts with what you just testified to.

It says, and I'll read the pertinent part and then we'll break it down and talk about the various pieces. It says, "Truman Barnosky met with Howard Winter and six of his associates in late 1973 to discuss a race-fixing scheme, Winter and his associates, including Bulger and Flemmi." The memo states that after the initial meeting with Winter Truman Barnosky met with Winter and partners in the scheme, John Martarano, Joseph McDonald, James Simms, Whitey Bulger, Stephen Flemmi.

Bulger and Flemmi, "Would help find outside bookmakers to accept the bets of the group." Then later is says, "Ciulla and the Winter group then began to fix races at tracks around the country." This is not a quote but it says the scheme lasted for 2 years and more than 200 races were fixed.

This memorandum, one of the ones the President claimed executive privilege over, states that the group actually met to discuss the race-fixing scheme which indicates that Bulger and Flemmi were part of the conspiracy to actually create the scheme. That's the first thing it says.

Then it says, "Winter and his partners would provide the money necessary to carry out this scheme." They actually funded the scheme. Then it says that Bulger and Flemmi specifically, "Would help find outside bookmakers to accept the bets of the group." They were a very, very integral part of actually involving themselves in this bookmaking and race-fixing process. You made it sound like all they were doing was getting some ill-gotten proceeds. First of all, is this memo correct?

Mr. O'SULLIVAN. It must have been at the time I wrote it. It was in 1979. I just don't have a clear memory of the facts today so you got me, Mr. Wilson.

Mr. WILSON. We apologize for this. I asked the Department of Justice on Monday to provide you with a copy of this memorandum.

Mr. O'SULLIVAN. They didn't.

Mr. WILSON. It's not for us to apologize to you for that, but we did ask them.

Mr. O'SULLIVAN. Well, I regret, Mr. Wilson, when I spoke to you on the telephone Tuesday you did not mention to me. We would have been glad to look at the memorandum and I'm sorry we didn't.

Mr. WILSON. I just assumed they would do something that was so simple.

Mr. BURTON. Mr. Meehan.

Mr. MEEHAN. Thank you, Mr. Chairman. I'll be brief. Mr. O'Sullivan. Whether you accept it or not, it's clear that the public's trust was shattered by both the Boston FBI office and Federal

prosecutors. In retrospect do you believe that you could have done anything at all to prevent some of this from happening?

Mr. O'SULLIVAN. I don't, Congressman.

Mr. MEEHAN. You don't know?

Mr. O'SULLIVAN. I don't know.

Mr. MEEHAN. You blame the FBI for what happened but I want to know if you believe that you could have done more to make sure that the Boston FBI office was not abusing its power regardless of organizational skills.

Mr. O'SULLIVAN. I don't think I could have, Congressman, because that would have precipitated World War III if I tried to get inside the FBI to deal with informants. That was the holy of holies, inner santurium. They wouldn't have allowed me to do anything about that, Congressman.

Mr. MEEHAN. Let's put it in a specific context. Did you know that Whitey Bulger and Stephen Flemmi were interviewed together on several occasions?

Mr. O'SULLIVAN. I did not.

Mr. MEEHAN. How is it that you are the head of the Organized Crime Task Force at the heights of one of the Federal Government's most significant crackdown on organized crime and interviews with the likes of Whitey Bulger and Stephen Flemmi are taking place. Hardly a meaningless event.

It's hard to believe they were leading organized crime figures among the Irish mob at the time. Yet, you didn't know anything of them being interviewed together. Nobody ever went over the notion of interviewing them together.

Mr. O'SULLIVAN. That's correct, Congressman.

Mr. MEEHAN. Would anyone in the U.S. Attorney's—do you find that to be outrageous, the fact that they would actually bring these two gangsters into a room and interview them together giving them the opportunity to corroborate their stories?

Mr. O'SULLIVAN. I would like to know more of the facts as to what they were interviewing about.

Mr. MEEHAN. Generally as a matter of policy you bring in two of the biggest gangsters——

Mr. O'SULLIVAN. Generally as a matter of policy it's wrong.

Mr. MEEHAN. But does it make sense that the head of the Organized Crime Task Force wouldn't be aware of this? Does that make sense? How do we prevent that from ever happening again? It is incredible to me to think that you have these two gangsters, murderers who clearly have a corrupting influence on other investigations and the Federal Government, the chief law enforcement agency in the country, brings them in to have interviews and they interview them together. Yet the head of the Organized Crime Task Force doesn't know about it. It's hard to believe.

Mr. O'SULLIVAN. That's what happened, Congressman.

Mr. MEEHAN. No further questions, Your Honor.

Mr. BURTON. Mr. Delahunt.

Mr. DELAHUNT. Thank you, Chairman.

Earlier today Detective Huff in his testimony referenced, or alluded to the fact that you had what to him was surprising information about John Martarano. He referenced that you indicated to him that Martarano is in the Ft. Lauderdale area. Do you have any

memory of you expressing that during the meeting with Detective Huff?

Mr. O'SULLIVAN. I don't, Congressman.

Mr. DELAHUNT. You don't. Do you have any independent memory of having information regarding the whereabouts of John Martarano in Florida in the Ft. Lauderdale area?

Mr. O'SULLIVAN. I don't.

Mr. DELAHUNT. You don't. You also earlier referenced something about Mr. Simms and the likelihood of his fleeing.

Mr. O'SULLIVAN. Yes.

Mr. DELAHUNT. Could you explain that again for me?

Mr. O'SULLIVAN. Yes. I had been—let me back up a step. The whole Race Fix Case was about dismantling the Winter Gang. Not the Winter Hill Gang, the Winter Gang. I started by working on the Winter Hill Gang back when I first became a Federal prosecutor. Actually, when I was a state prosecutor as well.

One of the things we did was we did a gambling case. I did the gambling case with the state police involving football cards. When we traced the football cards back to the layoff office where they went, lo and behold there was Mr. Simms who was then a fugitive from justice for something. He was arrested and indicted in a football card case and then he became a fugitive again. He has a history of fugitivity.

Mr. DELAHUNT. That factored into your decision to proceed against Simms and not against Flemmi and Bulger?

Mr. O'SULLIVAN. It factored into my decision. There was only a critical mass of people that I could indict in one indictment. Twenty-one was a lot.

Mr. DELAHUNT. But if you take your description as the core group being three and then, let's say, the larger group being seven and then you include Flemmi and Bulger, that's a fairly nuance distinction, I would suggest.

Mr. O'SULLIVAN. It's a distinction I make, Congressman. I may have been wrong but that is the distinction I made.

Mr. DELAHUNT. OK. The reality is that we know Mr. Flemmi was a fugitive for an extended period of time.

Mr. O'SULLIVAN. Yes, he was.

Mr. DELAHUNT. I mean, he was involved in the Carborn, an attorney by the name of Fitzgerald.

Mr. O'SULLIVAN. Fitzgerald. Right.

Mr. DELAHUNT. And he disappeared for how many years. Do you remember?

Mr. O'SULLIVAN. I don't.

Mr. DELAHUNT. You also indicated that you had two investigations where the subjects of the investigation were Flemmi and Bulger.

Mr. O'SULLIVAN. Yes.

Mr. DELAHUNT. Could you describe briefly?

Mr. O'SULLIVAN. Yes. One was the Lancaster Street garage investigation. The second was the Boston police corruption investigation in which we were attempting to do a wiretap on a bookie in Rocksberry who had some interaction with Mr. Flemmi. At the same time we developed a Boston police officer who was willing to wear a body wire against Mr. Bulger.

Mr. DELAHUNT. Those two proved to be unsuccessful?

Mr. O'SULLIVAN. That's correct.

Mr. DELAHUNT. Do you remember another investigation where I happened to be a potential corroborating witness involving a Frances Greene?

Mr. O'SULLIVAN. I remember the name Frances Greene. I don't remember the case at all. Yes, I do remember the case.

Mr. DELAHUNT. In an attempt to refresh your memory, there was an allegation that Bulger and Flemmi threatened this individual's life in a restaurant in my former jurisdiction in Norfolk County. I would suggest substantial corroborating evidence. I referred that case to the FBI and to the Strike Force. At that point in time you were the head of the Strike Force and a colleague of ours by the name of Marty Gutrol was your assistant. The deputy, if you will. You have no memory of that?

Mr. O'SULLIVAN. I don't, Congressman. I have a memory of Frances Greene and using him as a witness in a political corruption case but that's all.

Mr. DELAHUNT. Involving Frank Tracy?

Mr. O'SULLIVAN. Yes.

Mr. DELAHUNT. Do you remember having a conversation with me several years—that occurred in 1976. You and I had a conversation in the old Statler Hilton Hotel over on Park Plaza. I asked you about that particular case and you indicated to me that nothing happened on the case. You have no memory of that?

Mr. O'SULLIVAN. I don't, Congressman.

Mr. BURTON. Would the gentleman yield?

Mr. DELAHUNT. I yield.

Mr. BURTON. Maybe I can refresh your memory a little bit on the Greene case. You mentioned him immediately when you started talking about it so you evidently remember Mr. Greene pretty well.

Mr. O'SULLIVAN. I do.

Mr. BURTON. OK. Frances Greene alleged that in 1976 Whitey Bulger and Stevie Flemmi threatened to kill him if he didn't repay $175,000 loan he had borrowed. Greene went to Edward Harrington who was the prior attorney at the time but was about to become the new U.S. Attorney in Massachusetts who told him the matter could best be pursued through a state investigation because the extortion occurred in Norfolk County.

Harrington phoned District Attorney William Delahunt who forwarded the case to the FBI because Federal extortion laws carried stiffer penalties than they could obtain under Massachusetts law. Greene and Delahunt were interviewed by agents working with Connelly and the case was put in FBI files and closed a year later.

Now, what Mr. Delahunt was asking you was do you remember that case? I mean, it seems pretty substantial. You knew these guys were murderers. Didn't you?

Mr. O'SULLIVAN. Yes.

Mr. BURTON. You knew they were murderers and a case was referred to you where there was a $175,000 loan that was not repaid and these two guys who you knew were murderers threatened to kill this fellow and you didn't followup on the case.

Mr. O'SULLIVAN. Congressman, I have no memory of the case, no memory of it being referred to me.

Mr. BURTON. And you don't remember talking to Mr. Delahunt?

Mr. O'SULLIVAN. I have no memory of talking to Mr. Delahunt. Yes, that's correct.

Mr. BURTON. You just don't remember?

Mr. O'SULLIVAN. I do remember Mr. Greene.

Mr. BURTON. But you don't remember this case?

Mr. O'SULLIVAN. I don't.

Mr. BURTON. And you were the head of the Strike Force?

Mr. O'SULLIVAN. That's correct.

Mr. DELAHUNT. Maybe if I mentioned some names it might job your memory. There was the recipient of the loan. The provider of the loan was an individual by the name of Rita Tobias. Does that name ring a bell?

Mr. O'SULLIVAN. No, it doesn't, Congressman.

Mr. DELAHUNT. The FBI agents that interviewed me were Kennedy and Daley, I believe.

Mr. O'SULLIVAN. Daley was a case agent in the Race Fix trial.

Mr. DELAHUNT. I don't know if it was the same agent but this, again, doesn't help you?

Mr. O'SULLIVAN. It doesn't.

Mr. DELAHUNT. They came and they interviewed me. I indicated that I was present in the restaurant at the time of the extortion. My colleague says to me I had better explain it a little more. I'll let that sit right there. But I obviously could identify several of the individuals.

Mr. O'SULLIVAN. It doesn't ring a bell, Congressman.

Mr. DELAHUNT. I yield back to the chairman.

Mr. BURTON. Do you have a question?

Mr. SHAYS. Yes, I do.

Mr. BURTON. Yield to Mr. Shays.

Mr. SHAYS. I don't intend to keep you here much longer, Mr. O'Sullivan. I just want to say my interest in this whole issue started with Mr. Salvati and Marie Salvati and their incredible story. You were in the Massachusetts Attorney General's Office at the time of the Deegan trial. That part is correct?

Mr. O'SULLIVAN. I don't know.

Mr. SHAYS. OK. Do you know anything about the Deegan murder or anything about innocent people being sent to jail?

Mr. O'SULLIVAN. I don't.

Mr. SHAYS. When you started reading these stories later on, did you start to say, my God, these guys were fingered by two corrupt informants, people that you knew to have no credibility. Did you start to have a little question of interest in this case at all?

Mr. O'SULLIVAN. I did not, Congressman.

Mr. SHAYS. Why?

Mr. O'SULLIVAN. It just wasn't on my turf. I didn't think that I could right the wrongs of the whole world, Congressman.

Mr. SHAYS. That's not really what I'm asking whether you could right them. I'm interested whether you began to have any questions or doubts about the fact that innocent people might have been in jail because of Mr. Bulger and Mr. Flemmi.

Mr. O'SULLIVAN. I didn't, Congressman. I just didn't think about it to be honest.

Mr. SHAYS. When did you start to think that they might be innocent?

Mr. O'SULLIVAN. I don't know.

Mr. SHAYS. It had to be at some point. When they were finally let go or a little before or when?

Mr. O'SULLIVAN. I think probably when they were finally let go.

Mr. SHAYS. OK. Let me ask one last question. Is there anything that this committee has been working on that you are aware of that you have information about that you think would be pertinent but we just simply failed to ask you?

Mr. O'SULLIVAN. I don't think so.

Mr. SHAYS. There's nothing you need to say to this committee that would be helpful to this committee?

Mr. O'SULLIVAN. I don't think I do, Congressman.

Mr. SHAYS. Thank you.

Mr. BURTON. Mr. Tierney.

Mr. TIERNEY. Mr. O'Sullivan, at one point you told the FBI's Office of Professional Responsibility that there were always allegations being made against FBI Agent Connelly, but I don't have any record of you telling exactly what those allegations were. What were the allegations that you alluded to?

Mr. O'SULLIVAN. I don't remember what I told the Office of Professional Responsibility, Congressman.

Mr. TIERNEY. You don't have any recollection of that at all?

Mr. O'SULLIVAN. Don't have any recollection at all. Don't even remember being interviewed by the Office of Professional Responsibility. When was the date of that?

Mr. TIERNEY. 1997. You don't remember back to 1997?

Mr. O'SULLIVAN. No.

Mr. TIERNEY. Not at all?

Mr. O'SULLIVAN. Not at all.

Mr. TIERNEY. You are familiar with the incident referred to as 75 State Street?

Mr. O'SULLIVAN. I am.

Mr. TIERNEY. Did you ever discuss the 75 State Street investigation with William Bulger prior to your announcement in 1989 that the investigation was closed?

Mr. O'SULLIVAN. No.

Mr. TIERNEY. Which FBI agent was in charge of that investigation, Agent Morris?

Mr. O'SULLIVAN. He was the squad supervisor, yes.

Mr. TIERNEY. When you announced that the 75 State Street investigation was closed, you said it was "not even close." Would you have said that publicly if you knew at that time John Morris was taking money and gratuities from James Bulger?

Mr. O'SULLIVAN. I don't think that would have affected my decision on 75 State Street. The answer is yes, I would have said that, even if I knew that fact.

Mr. TIERNEY. When you decided to close the case, did you rely on the word of the FBI?

Mr. O'SULLIVAN. Yes, but I relied primarily on the two investigating Assistant U.S. Attorneys who had done most of the work and had interviewed most of the witnesses in that case. I relied on Ralph Gantz and Alex Leak.

Mr. TIERNEY. So you did not rely on the FBI people at all or just to a limited degree?

Mr. O'SULLIVAN. To a very limited degree.

Mr. TIERNEY. Do you think that investigation could have been compromised by the information that you got from the FBI sources?

Mr. O'SULLIVAN. Anything is possible but I don't think so, Congressman. I think that the investigation was conducted appropriately by the Assistant U.S. Attorneys and I think that they got to the bottom of the case and there was no case against Mr. Bulger.

Mr. TIERNEY. Did you ever interview Mr. Bulger, William Bulger?

Mr. O'SULLIVAN. When I took over as U.S. Attorney I arranged to have Mr. William Bulger interviewed by Alex Leak and Ralph Gantz.

Mr. TIERNEY. But you didn't personally do this?

Mr. O'SULLIVAN. I did not personally.

Mr. TIERNEY. Before that interview were you aware of whether John Connelly had talked to Mr. Bulger, Mr. William Bulger, about the Federal investigation or any evidence that had been developed?

Mr. O'SULLIVAN. I was not because I had basically set a hermetic seal around that investigation so nobody would know what we were doing. The information didn't go either way. I didn't know he was asking about it or anything about it. I read about it in the paper later on that he did ask about it.

Mr. TIERNEY. Did you direct any of your people to ask questions concerning the relationship between Mr. Connelly and Mr. Bulger, both Mr. Bulgers?

Mr. O'SULLIVAN. No. Let's back up a step because 75 State Street was an investigation which a decision had been made that they not be indicted, that an indictment should not be brought, and it was reviewed by the then U.S. Attorney who ratified the decision. The then U.S. Attorney was fired by the Justice Department and I was made the temporary U.S. Attorney.

I was asked by Attorney General Thornburgh to review 75 State Street so that was a tertiary review that I was reviewing. And that's where I directed these various interviews of William Bulger, etc., which had not been done at that point. That is a long way of answering your question, I think, Congressman.

Mr. TIERNEY. You did not know at that point in time that John Morris had been taking money and gratuities from James Bulger?

Mr. O'SULLIVAN. I did not.

Mr. DELAHUNT. Does the gentleman yield?

Mr. TIERNEY. Yes, I yield.

Mr. DELAHUNT. Just one question. It's my memory that you made a public announcement relative to the 75 State Street investigation.

Mr. O'SULLIVAN. That's correct.

Mr. DELAHUNT. Where was that announcement made?

Mr. O'SULLIVAN. Where was it made? I think it was made in a press room in this building the U.S. Attorney's Office had.

Mr. DELAHUNT. How long were you a government lawyer for the Federal Government?

Mr. O'SULLIVAN. Sixteen years, I think.

Mr. DELAHUNT. How many times did you have a press conference to announce the closure of an investigation without an indictment?

Mr. O'SULLIVAN. This was a very rare instance.

Mr. DELAHUNT. Answer the question. How many times?

Mr. O'SULLIVAN. I think it may have happened before but I just don't remember the instance. At least one other time, I think.

Mr. DELAHUNT. One other time?

Mr. O'SULLIVAN. One other time.

Mr. DELAHUNT. Could you go back and try to refresh your memory and let the staff and the committee know about that other time?

Mr. O'SULLIVAN. Sure.

Mr. DELAHUNT. I yield to my friend.

Mr. BURTON. But you didn't think there was enough evidence? Is that correct?

Mr. O'SULLIVAN. I'm sorry, Congressman. Which case are we talking about now?

Mr. BURTON. We're talking about the 75 State Street allegations. Any other questions?

Mr. MEEHAN. Mr. Chairman.

Mr. BURTON. Mr. Meehan.

Mr. MEEHAN. Were there other investigations of this matter? Did any law enforcement agency conduct a similar investigation?

Mr. O'SULLIVAN. Of 75 State Street are you talking about?

Mr. MEEHAN. Yes.

Mr. O'SULLIVAN. Yes. The Massachusetts State Attorney General reviewed the matter as well.

Mr. MEEHAN. Which Attorney General was that?

Mr. O'SULLIVAN. Scott Harshbarger.

Mr. MEEHAN. And had the prior Attorney General reviewed the case? State Attorney General.

Mr. O'SULLIVAN. I don't know. I only know that I think it was Mr. Harshbarger's office.

Mr. MEEHAN. And did Mr. Harshbarger make a determination on the case?

Mr. O'SULLIVAN. He did.

Mr. MEEHAN. What was that determination?

Mr. O'SULLIVAN. That there was no indictable case.

Mr. MEEHAN. No further questions.

Mr. BURTON. Let me just go through this real quickly here. Thomas Finnerty was a partner or a law associate of Bulger. Brown paid Finnerty $500,000 in July 1985 as a partial payment for Finnerty's partnership interest in the 75 State Street development. A month later Finnerty issued himself and Bulger checks for $225,000 each.

Two additional checks were issued to Bulger and Finnerty for $15,000 in October 1985. Bulger claims that the money was a loan in anticipation of a legal fee. There was a superseding indictment that was issued by a Federal grand jury in Boston that Brown had made illegal payments to the city of Boston further alleging that other public officials had received moneys from Brown.

Bulger returned $215,000 to Brown's trust 3 days after the indictment became public and made an additional repayment of $39,000 2 weeks later. All the funds that Bulger paid, he repaid

all these loans but they were returned to him within the next 12 months, I presume, as legal fees. You said the case showed power brokering but did not rise to the level of extortion.

Mr. O'SULLIVAN. That's correct, Congressman.

Mr. BURTON. You don't think that sounds a little bit unusual?

Mr. O'SULLIVAN. Sure. That's why I said it was power brokering, Congressman.

Mr. BURTON. What is the difference between power brokering and extortion?

Mr. O'SULLIVAN. My view was that Mr. Finnerty was attempting to play on his connection with Mr. Bulger to shake down the real estate developer who wanted some influence from Mr. Finnerty. But the real question is what does Mr. Bulger do with respect to it? We had no evidence that Mr. Bulger did anything in his official capacity. That is, he introduced no legislation, did nothing about it.

Mr. BURTON. So he returned all the money to show that there was nothing?

Mr. O'SULLIVAN. I have no idea why he returned it.

Mr. BURTON. All the money was repaid to him over the next year?

Mr. O'SULLIVAN. I have no idea about that. In order to be a Federal crime it has to be under color of official right and a state official has to do something and we could find nothing. We diligently went through the state house archives to find legislation whether Mr. Bulger had introduced legislation to facilitate the city taking the parking garage that 75 State Street is built on.

Out of all of that we couldn't find a single thing that he did. All I was doing, Congressman, was a tertiary review of a decision that had been made by two line prosecutors and ratified by a then U.S. Attorney to close the case. I was reviewing the closure. I wasn't the line attorney doing the investigation. I was reviewing the investigation.

Mr. BURTON. OK.

Any other questions?

Mr. DELAHUNT. I have some to wrap up and clean up.

Mr. BURTON. Go ahead, Mr. Delahunt.

Mr. DELAHUNT. It's just some clean-up in terms of an interview that was conducted by the FBI back in July 1997 of yourself. Presumably it was done pursuant to an OPR investigation. I think, Mr. Scott, you were present with Mr. O'Sullivan.

Some of these statements, I think, are not ample enough to reflect the facts. On page 1 it says, "O'Sullivan had no involvement in the Lancaster Garage Title 3 investigation until after the fact." That's inaccurate. Correct?

Mr. O'SULLIVAN. That's inaccurate, Congressman.

Mr. DELAHUNT. Not only were you intimately involved in that investigation per your testimony here today, but presumably you were funding it through LEAA or——

Mr. O'SULLIVAN. Was not funding it, Congressman. It was done by the state police and the District Attorney's Office. All I did was help the District Attorney. The Assistant District Attorney who was assigned to the case had no experience with electronic surveillance.

If there is anything that I know, it's an electronic surveillance. I helped them write the T3 application, the state T3 application, and familiarize them with the T3 routine, how we would have to file reports with the monitoring judge at that time.

Mr. DELAHUNT. If you read this, it would appear to be a Federal Title 3. Obviously it's not a Title 3 investigation. It's a state investigation but it wouldn't be Title 3.

Mr. O'SULLIVAN. That's correct.

Mr. DELAHUNT. OK.

Mr. O'SULLIVAN. Title 3 authorizes a state to have their own.

Mr. DELAHUNT. I understand. There are references here to an investigation you were conducting relative to the Boston Police Department. There is a statement in here. I don't know whether it belongs here and what the rationale is for it but let me read it to you. "Connelly [referring to the former agent John Connelly] was very close to Ed Walsh of the Boston Police Department. Walsh became a Deputy Superintendent of the Boston Police Department and was a self-proclaimed expert on organized crime." What is the purpose, if you can remember?

Mr. O'SULLIVAN. I don't remember. I don't remember making that statement. I don't remember the interview, Congressman but it's there. I must have said it.

Mr. DELAHUNT. Also there is a reference in here to a statement that you made relative to an Angelo Sonny Macurrio. Let me read it to you. "O'Sullivan was never told that Maccurrio was an FBI informant while he was the governing prosecutor. O'Sullivan was shown a copy of a letter dated October 31, 1988, that he appeared to have drafted. The letter was addressed to the U.S. Parole Commission.

It was written in behalf of Angela Macurrio. O'Sullivan did not recall this letter and it did not refresh his recollection. O'Sullivan does not recall having any conversations with Diane Kottmyer, who was a member of the Strike Force, about Macurrio being an informant. At that time there was nothing special about Macurrio and, therefore, no reason for any of this to stick out in O'Sullivan's mind." Is that an accurate reflection of what you can remember?

Mr. O'SULLIVAN. Or can't remember.

Mr. DELAHUNT. Or can't remember.

Mr. O'SULLIVAN. Yes.

Mr. DELAHUNT. It goes on here to say, "There were probably 15 to 25 instances where the identities of FBI informants were revealed to O'Sullivan. O'Sullivan traveled on several occasions to testify on behalf of informants. He also had meetings at the Department of Justice where the identities of informants were revealed to him." Is that a reflection of what you can remember now in terms of your interaction with informants?

Mr. O'SULLIVAN. I don't remember saying that but, yes, that's my interaction with informants.

Mr. BURTON. Mr. Wilson has one question and then we'll let you go, Mr. O'Sullivan.

Mr. WILSON. Mr. O'Sullivan, is it fair to say that the decision not to indict Bulger and Flemmi in the Race Fix Case was an exercise in prosecutorial discretion?

Mr. O'SULLIVAN. Yes.

Mr. WILSON. Fair enough. My last comment was, Mr. Scott, your attorney, has vigorously represented you but he has been a pleasure to deal with. We don't always get that. I really do appreciate his willingness to work with us and his cooperation with us. I want to thank him for that because, as I say, it's not what we always get.

Thank you, Mr. Scott.

Mr. SCOTT. We appreciate the opportunity to cooperate with this committee because there have been a lot of misstatements and distortion of the record in regard to Mr. Mr. O'Sullivan's very distinguished career as a Federal prosecutor. We welcome the opportunity to set the record straight. 20/20 hindsight is a wonderful thing in terms of guessing the exercises, as Mr. Wilson as said, of prosecutorial discretion.

I think that the record is absolutely clear that Mr. O'Sullivan using his best good faith judgment as an experienced prosecutor made what he believed to be an appropriate decision at the time and under the circumstances not to indict Mr. Bulger and Mr. Flemmi in the Race Fix Case. He did that using his best good faith judgment of what was a way to proceed and the most effective way to obtain a conviction of Mr. Winter and not do it as a response to the FBI and he exercised his best judgment.

Mr. BURTON. We appreciate your comments. You weren't sworn. We normally don't have attorneys for witnesses who are testifying. Let me just say that we will followup on the answers that were given by Mr. O'Sullivan and we may get back to you with some additional questions at some point in the future.

With that, we'll let you go and we'll go to the next panel. We would like to take maybe a five or 10-minute break and then we'll come right back at 3 because it's getting late in the day and we want to get through the rest of this.

Mr. O'SULLIVAN. Thank you, Mr. Chairman. I appreciate appearing before the committee.

[Recess.]

Mr. BURTON. Sorry for the lateness of getting back in here but we had some things come up that we had to address. Like all hearings, you have unexpected things occur.

Paul Markham, thank you for being here. Would you please rise. Do you have counsel with you?

Mr. MARKHAM. No.

[Witness sworn.]

Mr. BURTON. Do you have any opening statements you would like to make, Mr. Markham?

## STATEMENT OF PAUL MARKHAM, FORMER U.S. ATTORNEY FOR THE DISTRICT OF MASSACHUSETTS

Mr. MARKHAM. No, sir.

Mr. BURTON. You do not have any opening statement?

Mr. MARKHAM. No, I'm here to answer your questions.

Mr. BURTON. OK. Great. You were the lead prosecutor in a case involving the use of Joe "The Animal" Barboza against New England Mafia Boss Raymond Patriarca. Barboza testified in three cases over a 6-month period. One was the Patriarca prosecution and another was a prosecution of Gennaro Angiulo. The third was

a prosecution of six individuals for the murder of Edward "Teddy" Deegan. The Patriarca prosecution was Federal and the other two were state. I mark them as important because Federal law enforcement developed the Barboza, so on and so forth. I won't go into all of that. Let me get to the questions.

You have the exhibits in front of you, sir?

Mr. MARKHAM. What exhibits?

Mr. BURTON. Do we have any exhibits in front of him?

Mr. MARKHAM. I never received any exhibits.

Mr. BURTON. You did not?

Mr. MARKHAM. No.

Mr. BURTON. OK. You'll get them right now and we'll take the time to let you take a look at them. There are questions we will be asking based upon these exhibits.

Mr. MARKHAM. What are they?

Mr. BURTON. You have exhibit No. 1 before you, sir?

[Exhibit 1 follows:]

FD-263 (Rev 5-1-59)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| BOSTON | BOSTON | 7/20/65 | 3/13 - 7/8/65 |

| TITLE OF CASE | REPORT MADE BY | TYPED BY |
|---|---|---|
| RAYMOND L. S. PATRIARCA, aka | CHARLES A. REPPUCCI | pob |
| | CHARACTER OF CASE | |
| | AR | |

REFERENCE: Report of SA CHARLES A. REPPUCCI dated 3/12/65 at Boston.

New York letter to Boston, 3/19/65. (Interoffice)

Los Angeles letter to Boston, 3/30/65. "

Newark letter to Boston, 4/14, 27/65. "

- P -

ENCLOSURES:

TO BUREAU

Original and one copy of a letterhead memorandum, dated and captioned as above at Boston, characterizing informants mentioned in instant report.

| APPROVED | SPECIAL AGENT IN CHARGE | DO NOT WRITE IN SPACES BELOW |
|---|---|---|
| COPIES MADE: 3-Bureau (92-2961) ~~(Enc. 2)~~ 1-USA, Providence, R. I. 1-New York (92-788)(Info) 2-Boston (92-118) | | 92-2961-1044 REC. 45 EX-113 |
| | | RECEIVED JUL 23 1965 |

DISSEMINATION RECORD OF ATTACHED REPORT

| AGENCY | | | | |
|---|---|---|---|---|
| REQUEST RECD. | 1 | | | |
| DATE FWD. | | | | |
| HOW FWD. | | | | |
| BY | | | | |

NOTATIONS

LBI

CC. AAG, Criminal Division, Organized Crime and Racketeering Section, Room 2624

70 AUG 19 1965

STAT. SECT.

EXHIBIT 01

U.S. GOVERNMENT PRINTING OFFICE 16—76324-1

BS 92-118
CAR:po'b

ADMINISTRATIVE (Continued)

B, 63

[redacted]

BS 837-C* advised on 3/9/65 that JAMES FLEMMI and JOSEPH BARBOZA requested permission from PATRIARCA to kill EDWARD "TEDDY" DEEGAN, as they are having a problem with him. PATRIARCA ultimately furnished this "OK."

On 3/10/65, FRANK SMITH and JOSEPH MODICA sought PATRIARCA's permission to open up a gambling establishment in East Boston, Mass. PATRIARCA refused to furnish this permission until he cleared with MICHAEL ROCCO of East Boston, Mass. (It should be noted that the informant advised that SMITH never did obtain this permission.)

On 3/17/65, informant advised that PATRIARCA was concerned about a "leak" in the organization. After much discussion he reached the conclusion that the "leak" was in NYC and not in Providence, R. I.

V
COVER PAGE

Mr. MARKHAM. I have it, yeah.

Mr. BURTON. OK. It states that the microphone surveillance advised on March the 9, 1965, that James Flemmi and Joseph Barboza requested permission from Patriarca to kill Edward "Teddy" Deegan as they are having a problem with him. Patriarca ultimately furnished his OK. Were you aware of this in 1968, that Patriarca had OKed the hit?

Mr. MARKHAM. Well, I was aware. Are you familiar with the Taglianetti Case, sir?

Mr. BURTON. My chief counsel is and I'll be glad to yield to him.

Mr. MARKHAM. There was for a period of time a bug, if you will, in the Patriarca office in Providence, Rhode Island. That had been in place since 1962 through 1965. The Taglianetti Case was in Providence, Rhode Island, which was a Federal income tax prosecution.

The government voluntarily at that time, or the FBI, said that we had these illegal tapes in Patriarca's office during that period of time. As a result of our prosecution of Patriarca, we wanted to be sure that it was clean. That is, the so-called Marfeo case.

As a result of that, we were sent not the tapes themselves but what is called logs which were excerpted by somebody in the Department of Justice who had listened to these tapes presumably certain excerpts. We wanted to know the excerpts with respect to Barboza and the Marfeo case.

With respect to this first thing, it very well may have been in those logs. I don't recall at this point but I don't dispute the fact that it was. Let me say this. I had no interest in the Teddy Deegan case. That was a state case. Not only that, but this log was also produced in the Patriarca case.

One of the defendants, rather one of the counsel in that case, was the most prominent and best criminal lawyers in the state, Mr. Balliro, had this information. Mr. Balliro also represented one of the defendants in the Deegan case. Aside from that, is there a question with respect to—yes, I was aware of it perhaps, but it had no relevance to me at the time in connection with the Patriarca prosecution.

Mr. BURTON. I understand. What bigger targets for prosecution did the U.S. Attorney's Office in Boston have in 1968 than Raymond Patriarca?

Mr. MARKHAM. I would say none.

Mr. BURTON. We asked Dennis Condon why Patriarca wasn't prosecuted for the Deegan murder and he suggested that we should ask you about that. Microphone surveillance had Jimmy Flemmi and Joe Barboza asking Patriarca for permission to kill Deegan.

Mr. MARKHAM. I didn't understand the first part. Why he wasn't prosecuted for what?

Mr. BURTON. We asked Dennis Condon why Patriarca wasn't prosecuted for the Deegan murder because he OKed the hit. That's why I asked you that first question. And he suggested that we ought to ask you. Microphone surveillance had Jimmy Flemmi and Joe Barboza asking Patriarca for permission to kill Deegan.

At least two FBI documents say that Patriarca gave his permission. That is in exhibit 1 and 16 that you have before you. Deegan

was killed 3 days later and the Justice Department had a lot of reliable evidence that Flemmi and Barboza killed Deegan. Did you ever discuss with anyone whether Patriarca should have been prosecuted for Deegan's murder?

[Exhibit 16 follows:]

*Memoranaum*

TO : SAC [redacted] F

DATE: 3/15/65

FROM : SA H. PAUL RICO

☒ CI ☐ SI ☐ PCI ☐ PSI

SUBJECT: [redacted] B

Dates of Contact
3/10/65

Titles and File #s on which contacted
EDWARD F. DEEGAN
[redacted] B1

Purpose and results of contact

☐ NEGATIVE
☒ POSITIVE

Informant advised that he had just heard from "JIMMY" FLEMMI that FLEMMI told the informant that RAYMOND PATRIARCA has put out the word that EDWARD "TEDDY" DEEGAN is to be "hit" and that a dry run has already been made and that a close associate of DEEGAN's has agreed to set him up.

FLEMMI told the informant that the informant, for the next few evenings, should have a provable alibi in case he is suspected of killing DEEGAN. FLEMMI indicated to the informant that PATRIARCA put the word out on DEEGAN because DEEGAN evidently pulled a gun and threatened some people in the Ebb Tide restaurant, Revere, Mass.

| ☒ Informant certified that he has furnished all information obtained by him since last contact. | Rating | Coverage 92'S |
|---|---|---|
| Personal Data [redacted] 1- (DEEGAN) F | | [redacted] 314 6M 5M |

HPR:pob
(5)

Relive

EXHIBIT 16

Mr. MARKHAM. No, I did not. As was stated earlier today, there is no Federal statute on murder. If he was murdered, that would either have been in Rhode Island or Massachusetts.

Mr. BURTON. What about interstate conspiracy?

Mr. MARKHAM. Patriarca was indicted in our case on the so-called Travel Act, Title 18, 1952. Marfeo was never killed, by the way. After our indictment Barboza was turned over to the District Attorney's Office from whom we got him in the first place. Now, if they wanted to prosecute anybody for murder, they could have. I had no control over that.

Mr. BURTON. But you didn't think you should take any action knowing that Patriarca gave the OK to kill Deegan?

Mr. MARKHAM. I didn't think who should take any action?

Mr. BURTON. You didn't feel like you should take any action against Patriarca for the Deegan murder?

Mr. MARKHAM. No, I didn't. What action could I have taken?

Mr. BURTON. You have a tape that——

Mr. MARKHAM. No, I don't have a tape.

Mr. BURTON. You have the excerpts of the tape.

Mr. MARKHAM. Yeah.

Mr. BURTON. Did the excerpts of the tape indicate or show that Patriarca OKed the murder?

Mr. MARKHAM. The excerpts are here presumably. I don't recall seeing any excerpts. Now, whether or not——

Mr. BURTON. You said you read exhibit 1.

Mr. MARKHAM. I read the first——

Mr. BURTON. I know, but you had this in your possession when the prosecution was taking place. You got these logs, you said.

Mr. MARKHAM. I'm sure that they were not—I didn't. My staff in the office went over this. I reviewed it, of course. I'm sure I saw this.

Mr. BURTON. I'm sure the staff would point out something as relevant.

Mr. MARKHAM. Not relevant to my case.

Mr. BURTON. Well, I know, but something as important then as Patriarca saying to those individuals, Barboza, "Yeah, go ahead and you can kill Deegan." You say there is no action that you could have taken?

Mr. MARKHAM. Yeah, the action to turn Barboza over to the District Attorney's Office. They could pursue that if they wanted to. I don't know whether they knew this or not but don't forget, sir, these were illegal tapes that were under seal in this court. I don't know whether I could have possibly released this information.

Mr. BURTON. Did you ever talk to Jimmy Flemmi about his involvement in the Deegan murder?

Mr. MARKHAM. Wouldn't know Jimmy Flemmi if I tripped over him. Never heard of him.

Mr. BURTON. Exhibit No. 3 is a memorandum written by FBI agent Dennis Condon. It says Flemmi told an informant that all he wants to do now is kill people and that is better than hitting

banks. Informant said Flemmi said that he feels he can now be the top hit man in this area and intends to be. Exhibit 4 has FBI Director Hoover asking the Boston Office how its efforts to develop Jimmy Flemmi as an informant were coming along.

[Exhibit 3 follows:]

SUBJECT: VINCENT JAMES FLEMMI, Aka.

[redacted] f,b

Memo of SA Dennis M. Condon 5/25/64 captioned: [redacted]

b

[redacted] was contacted on 5/22/64, advised that within the last few days he was in contact with [redacted] and JAMES FLEMMI. FLEMMI told him that all he wants to do now is to kill people, and that it is better than hitting banks. FLEMMI said that [redacted] have taken money for about six contract hits which they have not fulfilled. They spent the money for these hits drinking.

Informant said, FLEMMI said that he feels he can now be the top hit man in this area and intends to be.

[redacted]

FLEMMI told the informant that there was a big piece of money that came out of the hit on [redacted] and the informant gathered from FLEMMI's talk that he, FLEMMI, had made the hit.

[redacted] f,b

Boston letter to Director & SAC, Newark 5/25/64 captioned: [redacted]

[redacted] Informant stated that it appears that JAMES FLEMMI, a Roxbury, Mass. hoodlum, will probably become the "contract man" in the Boston area.

[redacted]

Boston letter to Director 6/4/64 captioned: [redacted]

b

This letter sets out information to the Bureau on [redacted] Under the heading CRIMINAL ASSOCIATES the following information appears concerning JAMES FLEMMI.

The informant is presently associated with [redacted] and JAMES FLEMMI. FLE

EXHIBIT 03

Mr. MARKHAM. I don't know that I have ever seen that, sir.
Mr. BURTON. Uh?
Mr. MARKHAM. I don't know that I have ever seen that.
Mr. BURTON. You don't have exhibit 4 before you?
[Exhibit 4 follows:]

SAC, Boston 6/4/65

Director, FBI
CONF. INFT.

1 - Mr. Kelly

~~RS 819 PC~~
TOP ECHELON CRIMINAL
INFORMANT PROGRAM

Advise Bureau by 7/1/65 status of your efforts to effect the development of the above-captioned target.

JEK:ral
(4)

EX 105

REC-16

[redacted]

137-12516-2

10 JUN 7 1965

MAILED 7
JUN - 4 1965
COMM-FBI

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

66 JUN 14 1965

MAIL ROOM TELETYPE UNIT

EXHIBIT
04

Mr. MARKHAM. Exhibit list, exhibit 4. Memorandum from FBI Director. No, I don't have that. I don't think I've ever seen that.

Mr. BURTON. I think it's in your packet there.

Mr. MARKHAM. It says right here. I see it, but I never saw that before.

Mr. BURTON. Have you looked at the exhibit in there, sir, exhibit No. 4?

Mr. MARKHAM. Yes.

Mr. BURTON. It says the FBI Director asked the Boston office how its efforts to develop Jimmy Flemmi as an informant were coming along. A couple of days later Hoover got an answer. In exhibit No. 5 it says that Jimmy Flemmi has murdered seven people including Deegan.

From all indications he is going to continue to commit murder. The document concludes by saying that the benefit of developing Flemmi as informant outweighs the risk. Were you aware at the time that Flemmi wanted to be the best hit man in the area?

[Exhibit 5 follows:]

DIRECTOR, FBI [redacted] 6/9/65

SAC, BOSTON [redacted] F

BS 919-PC

[redacted]

Rebulet to Boston dated 6/4/65.

The following are the efforts to effect the development of the above-captioned target:

F [redacted]

M [redacted]

M [redacted]

On 5/10/65, BS 919-PC was contacted on [redacted]

F

Informant advised that on the evening of 5/3/65 he left his home at approximately 10:30 p.m. He was going to meet with JOSEPH BARBOZA. As he approached his car two individuals stepped out of the bushes and fired at him with a shotgun. Informant said that he turned around as he fell and both of them were running with handkerchiefs to their faces.

2-Bureau
1-Boston
HPR:pob
(3)

000024 [redacted] F [redacted]

0003

EXHIBIT 3

F [redacted]

Informant said that he fired back at them and one of them hollered and they both ran towards the back of the building and drove away in a late model light brown Chevrolet

M

B.F. [redacted]

It is known through other informants and sources of this office that this individual has been in contact with RAYMOND L. S. PATRIARCA and other members of La Cosa Nostra in this area, and potentially would be an excellent informant.

Concerning the informant's emotional stability, the Agent handling the informant believes, from information obtained from other informants and sources, that B3-919-PC has murdered [redacted], [redacted], [redacted], EDWARD "TEDDY" DEEGAN, and [redacted], as well as a fellow inmate at the Massachusetts Correctional Institution, Walpole, Mass., and, from all indications, he is going to continue to commit murder.

R

Some of the information provided by the informant has been corroborated by other sources and informants of this office. Although the informant will be difficult to contact once he is released from the hospital because he feels that [redacted] will try to kill him, the informant's potential outweighs the risk involved.

R

Mr. MARKHAM. No, I wasn't.

Mr. BURTON. And at the same time that the FBI——

Mr. MARKHAM. Sir, I have never seen these documents that you show us that are attached here until just this minute. I wouldn't see them in the normal course of business.

Mr. BURTON. Let me ask you some questions then assuming you haven't seen those documents.

Mr. MARKHAM. Go ahead.

Mr. BURTON. Were you aware that Flemmi wanted to be the best killer, hitman, in this area?

Mr. MARKHAM. I had never heard of Jimmy Flemmi. I didn't know him. I had never heard that, no.

Mr. BURTON. And you weren't aware that he killed seven people?

Mr. MARKHAM. No, I wasn't.

Mr. BURTON. Did Jimmy Flemmi ever go before a grand jury to talk about the Deegan murder?

Mr. MARKHAM. No, he didn't. I don't know. The State's grand jury? I don't know. He never was here.

Mr. BURTON. Judge Harrington said Flemmi was put before a grand jury to give him cover. Were you aware of that?

Mr. MARKHAM. No. What grand jury? State grand jury?

Mr. BURTON. We don't know whether it was a Federal or state grand jury. You are not aware of it?

Mr. MARKHAM. No, I'm not. I don't think it was a state grand jury because I had no contact with Jimmy Flemmi.

Mr. BURTON. So you didn't know that Jimmy Flemmi was a Federal informant?

Mr. MARKHAM. I don't know if he ever was. There's two Flemmis. One is Steve and one is Jimmy.

Mr. BURTON. Well, Vince and Jimmy Flemmi.

Mr. MARKHAM. Yeah.

Mr. BURTON. You didn't know that he was a Federal informant?

Mr. MARKHAM. I didn't know that until I read the decision in Commonwealth against Limone wherein part of that opinion states that, "FBI focus on Flemmi as a potential source began on March 1965. The first reported contact with Flemmi as an informant was by FBI Agent Rico on April 5. In his letter AUSA Durham states that FBI files show that Flemmi was contacted five times as an informant by Special Agent Rico and that Flemmi's file was closed on September 15, 1965."

Mr. BURTON. You reviewed the handwritten logs, you said.

Mr. MARKHAM. I said my staff reviewed them and I reviewed their pros memo.

Mr. BURTON. Do you recall reviewing the part that said something about Patriarca talking about approving the hit of Deegan?

Mr. MARKHAM. I just said yes. Yes, I did.

Mr. BURTON. You remember that? OK.

Mr. MARKHAM. Well, I don't remember it specifically. If it was in there I didn't pay that much attention to it because it had nothing to do with the case I was interested in.

Mr. BURTON. It seems to us if you had the microphone surveillance about Patriarca and the Deegan——

Mr. MARKHAM. No, I didn't have the microphone surveillance, sir. That's where you're wrong. The FBI did and they admitted that it was illegal.

Mr. BURTON. But you had the logs.

Mr. MARKHAM. That's right.

Mr. BURTON. And your staff reviewed the logs.

Mr. MARKHAM. That's right.

Mr. BURTON. And you reviewed your staff report.

Mr. MARKHAM. That's right.

Mr. BURTON. If you had the logs about the surveillance about Patriarca and the Deegan murder that showed Patriarca was involved, and you had a witness that had decided to testify because he was facing a very long prison sentence, you would spend a lot of time discussing the Deegan murder. Is that a mistaken assumption?

Mr. MARKHAM. That's a mistaken assumption on your part. My focus in the Patriarca case was with the informant that we had, Mr. Barron, who was going to testify about the Willy Marfeo situation, not about Deegan. Deegan was done by the state. I had nothing to do with the state prosecution of Deegan.

I would be very much surprised if Mr. Balliro, who was aware of these logs, did not talk to Flemmi. I would be very much surprised if that is not the case. I would be very much surprised if there is not also other information somewhere in the files that disclose there were several other people involved in this.

Mr. BURTON. That's why we're asking you these questions, sir. Just a moment.

Mr. TIERNEY. The only question I would have, just to cut to the crux of it, sir, having had those notes did you at sometime become aware that there was a prosecution with respect to the Deegan murder?

Mr. MARKHAM. I was aware only that there was such a prosecution. It had no significance to me with respect to my function as a U.S. Attorney.

Mr. TIERNEY. Knowing there was a prosecution going on it just never came into your consciousness that, "Gee, I have information and maybe these guys on trial aren't responsible."

Mr. MARKHAM. Well, I would assume that the Suffolk County District Attorney investigated that case fully.

Mr. TIERNEY. I guess what I'm thinking is did you not even get to the level of concerning yourself that, "I heard something different than it what it looks like they are prosecuting?"

Mr. MARKHAM. I didn't hear something different.

Mr. TIERNEY. Or you read something perhaps.

Mr. MARKHAM. Well, I'm not so sure that's so.

Mr. TIERNEY. I'm asking you whether or not your staff gave you that information and whether or not it rang a bell for you when you found out they were prosecuting other individuals.

Mr. MARKHAM. Well, of course, as you know, Baron was in on the Deegan case and testified that he shot him. Flemmi was not indicted. Why I don't know. I never thought of it.

Mr. TIERNEY. That's my question. You never thought of it?

Mr. MARKHAM. No. Any number of reasons why he might not have been indicted.

Mr. TIERNEY. Well, that's where I was going. I was wondering if you thought of it and thought you just didn't have to take any action or whether it never occurred to you.

Mr. MARKHAM. It never occurred to me.

Mr. LYNCH. Mr. Markham, in the earlier testimony with Judge Harrington, you talked about the fact that this listening device that had been planted in Patriarca's office had rendered evidence to the New England Strike Force. Not just to one single person but was disseminated among law enforcement that were interested in prosecuting organized crime as a rule, not just what was perceived to be happening in a Federal court but what was happening in society and all of New England.

On this tape based on the evidence that we got from the FBI—and they have summaries there. They are not the actual logs—it was reported that Vincent, or James Flemmi, and Joe "The Animal" Barboza had asked Mr. Patriarca for permission to kill Teddy Deegan.

Mr. MARKHAM. Yeah.

Mr. LYNCH. And after getting the approval they carried that out. Mr. Deegan's body was found in the trunk of a car in Massachusetts in Chelsea. Any sense that might be some type of interstate conspiracy to commit murder that would fall under a Federal jurisdiction?

Mr. MARKHAM. They were prosecuted. The Deegan murder was Roy French. About five people were prosecuted for that case.

Mr. LYNCH. The wrong people.

Mr. MARKHAM. I don't know whether they were or not. I wasn't there. You know, the SJC affirmed that decision. There were several motions for a new trial. As a result of Judge Wolf's hearing there is some question now on the credibility of some of the witnesses. The testimony was principally based on Baron who in exhibit 1 admits that he was down with Patriarca requesting permission. Why Flemmi wasn't indicted I don't know. Maybe they didn't have anything on Flemmi. I don't know.

Mr. BURTON. Let me followup on that. Since the murder involved going across the state line, you did have jurisdiction if you wanted to indict Patriarca for murder. Didn't you?

Mr. MARKHAM. We had already indicted Patriarca on the Marfeo thing when these things——

Mr. BURTON. I understand. I understand, but you could have indicted him.

Mr. MARKHAM. Perhaps. I wasn't familiar nor was there any investigation with respect to corroboration on that thing. That was done by——

Mr. BURTON. I know, but you saw——

Mr. MARKHAM. No, no, no. Let me finish my answer. That was done by the Suffolk County Office, not by the U.S. Attorney's Office.

Mr. BURTON. I understand. But you looked at the logs.

Mr. MARKHAM. Yeah, and saw this.

Mr. BURTON. And you saw that the Deegan hit was approved by Patriarca. The crime went across state line so you did have jurisdiction.

Mr. MARKHAM. Yeah.

Mr. BURTON. Since you had jurisdiction why didn't you indict Patriarca on that charge?

Mr. MARKHAM. Because Patriarca had already been indicted on the Marfeo thing. OK?

Mr. BURTON. I understand.

Mr. MARKHAM. We wanted to do that one first. I had left the office in 1969. I left the office in June 1969.

Mr. LYNCH. Mr. Markham, just because Mr. Patriarca was being already prosecuted for another murder, I don't just understand that——

Mr. MARKHAM. Because there were several legal issues involved in this on the Title 18 1952, the so-called Travel Act. They were determined by the Court of Appeals as to whether or not the particular facts in the Patriarca case would support a conviction under 1952.

There was plenty of time—I don't know if there was plenty of time. I don't know about the statute of limitations or anything, but we had gone through with the information we had at the time of the indictment, prior to the indictment, and we prosecuted him. I didn't get this information until after the indictment. I'm sorry. I misspoke. We didn't get this information until after the——

Mr. BURTON. The logs clearly showed——

Mr. MARKHAM. I understand that.

Mr. BURTON. Let me finish. The logs clearly showed that Deegan and Barboza were involved in the Deegan murder.

Mr. MARKHAM. No, it doesn't. I disagree with you on that. It clearly shows that two hoodlums were down in Patriarca's office and requested permission.

Mr. BURTON. Flemmi and Barboza were involved in the murder so there was——

Mr. MARKHAM. No, it doesn't. Two hoodlums were down there shouting their mouth off probably, bragging and wanting to know if they could. That's doesn't prove it. Do you think that is admissible in a court?

Mr. BURTON. Just let me finish my question.

Mr. MARKHAM. I thought you had.

Mr. BURTON. Just let me finish. I haven't because you keep interrupting. You had four or five people go to jail.

Mr. MARKHAM. No, I didn't have four or five people——

Mr. BURTON. No, not you. Listen.

Mr. MARKHAM. You said you did and I didn't.

Mr. BURTON. Four or five people went to jail.

Mr. MARKHAM. Yeah.

Mr. BURTON. They were not guilty of——

Mr. MARKHAM. I don't know whether they were or not.

Mr. BURTON. They were not guilty of the Deegan murder history has proven. There was information in these logs that showed that Patriarca OKed Flemmi and Barboza to make the hit. You had that information before you. Why——

Mr. MARKHAM. It didn't——

Mr. BURTON. Listen. You had it and you saw it. You knew these other people were convicted and went to jail and they stayed for 30 years. Why wasn't that ever pursued by you or your office? Why wasn't that brought forward?

Mr. MARKHAM. Because it was irrelevant to my office. It didn't say in this log here that Roy French was also going to do it either. Do you know the facts in the Deegan case, sir?

Mr. BURTON. Well, we certainly have looked at it for the last several years.

Mr. MARKHAM. Well, OK. How many people were indicted?

Mr. BURTON. Six.

Mr. MARKHAM. Was Roy French one of them?

Mr. BURTON. Hey, listen. You're not questioning me.

Mr. MARKHAM. No, no. But you are imputing my integrity that I resent.

Mr. BURTON. OK. I'm going to let our legal counsel question you.

Mr. WILSON. If we could just back up for a minute.

Mr. MARKHAM. What?

Mr. WILSON. If we could just back up for a minute, please.

Mr. MARKHAM. Sure.

Mr. WILSON. What we want to start off with, I think one of the first questions was was Raymond Patriarca a very important target for the Boston U.S. Attorney's Office in 1967 and 1968?

Mr. MARKHAM. That's right.

Mr. WILSON. Was he the biggest target for prosecution of the Boston U.S. Attorney's Office in 1967 and 1968?

Mr. MARKHAM. I don't know.

Mr. WILSON. If there was somebody who was a bigger target, who would that have been?

Mr. MARKHAM. Dr. Spock perhaps, that whole thing.

Mr. WILSON. Fair enough.

Mr. MARKHAM. The Plymouth Mail Robbery.

Mr. WILSON. Well, had you received any direction from Washington, DC, vis-a-vis Raymond Patriarca? For example, was Raymond Patriarca part of the top hoodlum program?

Mr. MARKHAM. See, we didn't have at that time—back in 1968, 1967 when this originated, there was no such thing as an Organized Crime Strike Force. There just wasn't.

Mr. WILSON. Fair enough, but will you stipulate that Raymond Patriarca was one of the most significant targets for prosecution in New England in 1967 and 1968?

Mr. MARKHAM. I wouldn't call him a target. He was a well-known organized crime figure. Target, I don't know.

Mr. WILSON. As a prosecutor in your efforts to attempt to prosecute individuals who you believed were breaking law, was he a person known to you at the time?

Mr. MARKHAM. He was a person known to everybody who read the paper, yeah.

Mr. WILSON. Fair enough. When you had information such as the information in the prosecution memo that was discussing Raymond Patriarca and his possible involvement in a conspiracy to murder Willy Marfeo, were you interested in the information that was relevant to Raymond Patriarca?

Mr. MARKHAM. With respect to the Deegan thing, the answer is no because my focus was on the Marfeo case.

Mr. WILSON. Let me just sort of try and move to a level of common sense.

Mr. MARKHAM. Please. I'm trying to use common sense.

Mr. WILSON. Information pertaining to Raymond Patriarca that was picked up from microphone surveillance, was that of interest to you and your office?

Mr. MARKHAM. This particular log on March 9, 1965?

Mr. WILSON. I'm not asking about a particular piece of information. I'm just thinking as you prepared the Marfeo indictment were you interested in the landscape of information available to you? For example, if there was a piece of information that indicated to you Patriarca might have been involved in a Marfeo conspiracy to murder Marfeo, that might have been of interest to you. Correct?

Mr. MARKHAM. It was because I had a witness who was going to testify to that. I had no witness who was going to testify with respect to the Deegan case.

Mr. WILSON. Fine. If there was a piece of information in the same set of logs available to you that said that Patriarca was not involved in the Marfeo conspiracy, would that have been of interest to you?

Mr. MARKHAM. I wouldn't have prosecuted him.

Mr. WILSON. OK. So what you're telling us is that you reviewed all of the information available to you to determine what you were able to do as a prosecutor.

Mr. MARKHAM. With a witness. I had no witness on the——

Mr. WILSON. I'm not asking you about the Deegan case.

Mr. MARKHAM. You asked me a broad question and you want the answer.

Mr. WILSON. I'm asking you very broad questions. I'm asking you the question were you—was it important to you to review all of the relevant information pertaining to Raymond Patriarca as you prepared the Marfeo indictment?

Mr. MARKHAM. As it affected Willy Marfeo, yes.

Mr. BURTON. Let me finish my statement and then you can respond.

Mr. MARKHAM. I would be happy to.

Mr. BURTON. You had documentation that showed that Patriarca OKed the hit on Deegan. Let me finish. You had that information before you. The two people involved was Flemmi and Barboza. That information was relevant to the people who went to jail for the Deegan murder. Why wasn't that information made public so that these people who were innocent might have gotten out of jail quicker?

Mr. MARKHAM. Because that information was under seal in this court, No. 1. It was illegally obtained information. That's No. 1. I don't think it would have been appropriate of me to release it.

Mr. BURTON. Let me followup on that.

Mr. MARKHAM. Let me finish the answer. Also, this information that is exhibit 1 was known to Mr. Balliro and Mr. Chisum both of whom represented defendants in the Deegan case.

Mr. BURTON. How do you know they knew that?

Mr. MARKHAM. Because they had access to it. It was given to them.

Mr. BURTON. How do you know that?

Mr. MARKHAM. I know that Mr. Balliro is one of the most competent trial lawyers I know and I know that if everything is turned

over to him that could be of a exculpatory nature or that is relevant, he would have read it.

Mr. BURTON. That is deductive reasoning.

Mr. MARKHAM. It is. It is.

Mr. BURTON. How do you know that? You don't know it for a fact.

Mr. MARKHAM. I did not go up to him and say, "Joe, did you read the Deegan case?" No.

Mr. BURTON. So you don't know?

Mr. MARKHAM. Only what I told you, that it was available to them. If they wanted to read it they could and I'm sure they did.

Mr. BURTON. I want to make sure I understand this.

Mr. MARKHAM. Sure.

Mr. BURTON. There were two attorneys who were representing the defendants in the Deegan case.

Mr. MARKHAM. Two of the defendants.

Mr. BURTON. Two of the defendants in the Deegan case. They, according to you, had exculpatory evidence that would have shown that they weren't involved in the murder.

Mr. MARKHAM. No, according to you. They had the log that is exhibit 1 here.

Mr. BURTON. They had the log and it was not used in court?

Mr. MARKHAM. I don't know whether it was or not. I didn't follow the Deegan case.

Mr. BURTON. You said it was under seal. How did you know that?

Mr. MARKHAM. Because it was under seal except for defense counsel in the Patriarca case that had access to it. Presumably Mr. Balliro and Mr. Chisum availed themselves of the opportunity to look at this evidence that was produced which was this.

Mr. TIERNEY. Could you yield for a second?

Mr. BURTON. Yeah, I'll be happy to yield.

Mr. TIERNEY. Just for my benefit, are you assuming that in the normal course of things the information would have been available to them?

Mr. MARKHAM. Sure.

Mr. TIERNEY. Do you know for a fact that it was given or might it not have been given?

Mr. MARKHAM. We were instructed to deposit it with the court.

Mr. TIERNEY. For the purposes of disclosing it to Mr. Balliro and Mr. Chisum?

Mr. MARKHAM. Yeah, sure.

Mr. TIERNEY. For that specific purpose?

Mr. MARKHAM. Well, you know, that was 30 some years ago. There were motions for a production of documents and for exculpatory evidence. This was produced in response to those motions.

Mr. TIERNEY. In the Deegan case?

Mr. MARKHAM. No, in the Patriarca case.

Mr. TIERNEY. OK. So in your Patriarca case you disclosed these documents or deposited them in court for those attorneys to see.

Mr. MARKHAM. That's correct.

Mr. TIERNEY. And then you are assuming that if they saw them in that case, they would then use them in the other case?

Mr. MARKHAM. I would think so, yeah.

Mr. BURTON. Mr. Wilson.

Mr. WILSON. I want to go back to where I was pursuing this. In the Taglianetti Case Mr. Taglianetti got selected information that was pertinent to Taglianetti's interaction with Patriarca. Correct?

Mr. MARKHAM. I don't know the facts in the case except that Taglianetti was the case that the FBI——

Mr. WILSON. Hold on.

Mr. MARKHAM. Let me finish. Voluntarily disclosed that they had a bug in the Patriarca office for about 4 years.

Mr. WILSON. But in the Taglianetti case Mr. Taglianetti got a small subset of the information from the overall universe of material reported in 168 Atwell Avenue. Correct?

Mr. MARKHAM. Yeah.

Mr. WILSON. OK. If Mr. Taglianetti got a subset of the information available to him for use in his case, how are you able to tell us today that an individual got everything?

Mr. MARKHAM. I'm not saying that today. I'm saying that exhibit 1 was part of the logs. I told you I don't recall what the whole logs were but I do know that this was in it.

Mr. TIERNEY. Can I go through this again because I'm not sure that you weren't talking when we said this. My understanding is that in your case of Marfeo you had these excerpts of the tapes. Your office had them.

Mr. MARKHAM. That's right. There were excerpts——

Mr. TIERNEY. In the Marfeo case two of the attorneys were Chisum and Balliro.

Mr. MARKHAM. Right.

Mr. TIERNEY. Who we later found out were also two of the attorney in the Deegan case.

Mr. MARKHAM. Right.

Mr. TIERNEY. In our Marfeo case the judge deposited to court for purposes of the defense counsel's review all the exculpatory material you had. You deposited it amongst that exculpatory material these excerpts.

Mr. MARKHAM. Correct.

Mr. TIERNEY. And then assumed that they had the opportunity to see them here and assumed that they did because you know them to be good counsel.

Mr. MARKHAM. Sure.

Mr. TIERNEY. If they had in the Marfeo case, then you would assume that they, being the same counsel in the Deegan case, had also seen them for that purpose.

Mr. MARKHAM. Correct. And the further assumption is that because the case was investigated by the Suffolk County District Attorney's Office who had access to Baron, Baron was going to tell them the whole thing whether in fact Flemmi was there or not there or whatever it was. The fact that he did or did not is something that is a different jurisdiction.

Mr. BURTON. I would just like to make a comment. You don't have to answer because it's not relevant to your questioning.

Mr. MARKHAM. What are you going to make it for then?

Mr. BURTON. I just want to make this comment. It seems incredulous to me that there were sealed documents that would show the innocence of people that were languishing in prison and they were

sealed because it was illegally obtained. Even though it was illegally obtained to let people rot for 30 years in jail when you know they are innocent is just hard to comprehend.

I mean, obviously these phone taps were illegal. Obviously the logs were illegal. Obviously it was sealed by the court because it was illegal. Yet, those documents showed clearly that the people who were responsible for the Deegan murder weren't the people in jail. Why you would let people rot——

Mr. MARKHAM. Wait a minute. Please.

Mr. BURTON. Why anybody would let people stay in jail when there is exculpatory evidence, even though illegally obtained, is beyond me.

Mr. MARKHAM. Are you accusing me, sir, of knowing——

Mr. BURTON. Not you. Not you.

Mr. MARKHAM. What are you asking me for?

Mr. BURTON. I didn't ask you that. I was making that comment. This stuff was sealed and it showed that the wrong people were in the slammer.

Mr. MARKHAM. Why don't you ask Mr. Balliro that?

Mr. TIERNEY. Just in fairness I want to give you an opportunity to say something on this. You never saw the transcripts in total or never heard the tapes?

Mr. MARKHAM. No. They weren't available to anybody.

Mr. TIERNEY. So it wasn't a case of you personally not making these available. I know the chairman didn't mean to imply that but I want to give you the opportunity to speak to that point. All that you saw were the excerpted——

Mr. MARKHAM. Yeah.

Mr. TIERNEY. You were working with District Attorney Garret Byrne at the time in matters back and forth?

Mr. MARKHAM. Correct.

Mr. TIERNEY. There is a memo written by who was then your assistant, I think, Ed Harrington, who subsequently became a judge. He thought there was excellent cooperation between U.S. Attorney Paul Markham, District Attorney Garret Byrne and the FBI. Then he said that District Attorney Byrne "at our request," assuming yours and his or yours and the FBI and his, "held off calling Baron before a local grand jury until we have concluded our investigation."

Mr. MARKHAM. That's right.

Mr. TIERNEY. Is that accurate?

Mr. MARKHAM. Yeah.

Mr. TIERNEY. Now, as part of that excellent cooperation, did the FBI provide the District Attorney's office with all of your file or some of your file?

Mr. MARKHAM. I don't know. I don't know what the FBI did.

Mr. TIERNEY. OK. You wouldn't have directed them one way or the other?

Mr. MARKHAM. No.

Mr. TIERNEY. He's talking about cooperation between you and the FBI and the District Attorney.

Mr. MARKHAM. I think the cooperation was this. I had a telephone call one day from Garrett Byrne who told me this bellow Barboza was going to do the rest of his life in jail. He had some

information with respect to Patriarca and would I be interested. I said of course. From that day we assumed responsibility for Barboza.

We were the forerunners of this Federal protection act. What I did, I got in touch with the U.S. Marshals. I called a friend of mine in Gloucester who has a brother who is a priest who has a house down there that wasn't being used. I said, "Can we use your house for a couple of days to put this guy in with the protection of the Federal Marshall?" "Yes."

We then took him out to Twin Lakes, Thatcher's Island—I'm sure you are familiar with that—for a period of time. That was totally impractical. We then got another place that we rented in Gloucester on Dolliver's Neck where we kept him through the trial. That was the cooperation that we had with Garret Byrne.

Mr. TIERNEY. What did you do for them, anything?

Mr. MARKHAM. He went back to testify in the Deegan case.

Mr. TIERNEY. But that is the extent of it?

Mr. MARKHAM. I don't know what else he did for them.

Mr. TIERNEY. I'm just trying to figure out what Mr. Harrington meant. I don't know if you know or not but I'm trying to find out.

Mr. MARKHAM. With the cooperation there was I'm sure he was made available even though he was in our custody at the time.

Mr. TIERNEY. That's as much as you know about that?

Mr. MARKHAM. That's right.

Mr. BURTON. Mr. Lynch.

Mr. LYNCH. I would just like to followup on this. You know, at least your initial remarks sounded very similar to what Judge Harrington had said, which was when we asked him why he had not come forward, even though he had general knowledge of the transcripts and the logs certainly implicating Mr. Barboza and Mr. Flemmi in the murder of Teddy Deegan.

Mr. MARKHAM. Barboza testified that he did it in court.

Mr. LYNCH. Sir, may I remind you that you are sitting about five rows in front of a group of people that sat in jail for 30 years for killing Teddy Deegan. May I please remind you of that fact? May I please?

Mr. MARKHAM. Of course you may.

Mr. LYNCH. Please. Don't dismiss it.

Mr. MARKHAM. I'm not dismissing it. I feel very sorry for——

Mr. LYNCH. You keep implying that they got the right people, sir. We found that to be wrong.

Mr. MARKHAM. You did. I don't know—well, OK, fine. Go ahead.

Mr. LYNCH. That response right there is indicative of the problems that we've had.

Mr. MARKHAM. I can't help you with respect to that. All I can tell you is that this case was not investigated by my office. This case was investigated by the Suffolk County District Attorney. We turned over Mr. Barboza who is quoted in exhibit 1. Why they didn't go further with that I don't know.

Mr. LYNCH. Sir, all I'm saying, and let me finish, is that you are not the first witness to come before this committee to say that the reason that five innocent—a group of innocent men went to prison for 30 and 34 years. Some of them died in prison. The reason that

happened is because the State and the Federal Government were not talking to each other. That's not the first time I've heard this.

Mr. MARKHAM. I didn't say that.

Mr. LYNCH. However, I just want to point out something here, exhibit 10. This is from Ramsey Clark, the Attorney General at the time, to J. Edgar Hoover. It talks about, "I have been advised by the Organized Crime and Racketeering Section and Mr. Paul Markham, the U.S. Attorney in Boston, that without the outstanding work performed by Special Agents Dennis Condon and Paul Rico, these convictions would not have been obtained."

They are talking about Patriarca. "In addition to Special Agent Condon, who was an excellent witness, the Government called representatives of the Rhode Island State Police Department, the Providence City Police, the Boston Police Department, the Revere Police Department, the Treasury Department." The final sentence here, "This prosecution is certainly one of the most significant examples of Federal and state cooperation."

That is not an inability of jurisdictions to talk to one another. I don't think it supports the argument that the reason that the Federal Government never got involved or the FBI never got involved or the U.S. Attorney's Office never came forward with evidence that would have been exculpatory and would have probably garnered the release of some innocent men from prison.

[Exhibit 10 follows:]

Office of the Attorney General
Washington, D. C.

March 20, 1969

Honorable J. Edgar Hoover
Director
Federal Bureau of Investigation
Washington, D. C.

Dear Mr. Hoover:

The recent conviction of New England Cosa Nostra leader, Raymond Patriarca, and two of his cohorts is one of the major accomplishments in the Organized Crime Drive Program.

I have been advised by the Organized Crime and Racketeering Section and Mr. Paul Markham, the United States Attorney in Boston, that without the outstanding work performed by Special Agents Dennis Condon and H. Paul Rico these convictions could not have been obtained. We commend their ability, initiative, patience and resourcefulness, under the most difficult circumstances, in the handling of the Government's key witness prior to indictment and trial. These agents worked long hours and rendered immeasurable assistance to the attorneys who prosecuted this case during the grand jury presentation, the pre-trial preparation and throughout the trial itself.

In addition to Special Agent Condon, who was an excellent witness, the Government called representatives of the Rhode Island State Police, the Providence City Police, the Boston and Revere, Massachusetts Police Departments as well as an undercover agent of the Treasury Department. This prosecution is certainly one of the most significant examples of Federal-State cooperation.

It is indeed a pleasure to bring this matter to your attention. Please convey my sincere appreciation to Special Agents Condon and Rico.

Sincerely,

Ramsey Clark

Attorney General

SUBJECT TO PROTECTIVE ORDER

Mr. MARKHAM. That's your assessment, sir, and you may have it.

Mr. LYNCH. I have heard nothing from you that leads me to believe otherwise, sir.

Mr. MARKHAM. Pardon me?

Mr. LYNCH. I have heard nothing from you that leads me to believe otherwise.

Mr. MARKHAM. I'm just reading everything that you rest your assumption on. I'll read it so the press can have it here, too. A report by Charles Rapuchy regarding arraignment and the Patriarca microphone surveillance reads, "The microphone surveillance advised on March 9, 1965 that James Flemmi and Joseph Barboza requested permission from Patriarca to kill Edward "Teddy" Deegan as they are having a problem with him. Patriarca ultimately furnished his OK."

Now, that is information that is worthless unless you have a witness. I did not have a witness on that. I had a witness, Joe Barboza, who was going to testify in the Marfeo case. I don't know whether he would have ever testified in the Deegan case because that was being prosecuted in Suffolk County. I can't be more clear than that.

Mr. BURTON. And as interesting as this would be to any prosecuting attorney, you are saying that you didn't discuss this in your office with your subordinates or the other attorneys there that had looked at those logs?

Mr. MARKHAM. I didn't say that.

Mr. BURTON. You did talk to them about it?

Mr. MARKHAM. We discussed on the prosecution memo this particular thing. The reason——

Mr. BURTON. So you did discuss that? You did discuss that?

Mr. MARKHAM. What do you mean discuss it? It was part of the prosecution memo and I was aware that there was taped recordings. The purpose of that was to show——

Mr. BURTON. I know. I understand all that. So you were aware and your staff was aware that information was in there even though you didn't have any witness to back that up. Right?

Mr. MARKHAM. Yeah.

Mr. BURTON. You knew it was in there?

Mr. MARKHAM. And so did counsel for the defendant's in the Deegan case.

Mr. BURTON. And you're saying that was not used in court to defend——

Mr. MARKHAM. Why don't you ask Mr. Balliro that? I don't know what he did with it.

Mr. BURTON. Mr. Wilson.

Mr. WILSON. Mr. Markham, this is a matter of great interest to us. We have gone to the Department of Justice and we have asked them for the material that was turned over to Mr. Balliro and Mr. Chisum. Maybe there are legitimate reasons for this but they were unable to furnish us with the material that was furnished to Balliro and Chisum. We do know in the Taglianetti case he didn't get everything. He got a subset of information.

We do know that in subsequent occasions pursuant to the Freedom of Information Act requests, the Patriarca logs have been released to the public and not everything went out so we don't know

what was released. We do know one thing. You have been telling us that Mr. Balliro and Mr. Chisum got access to this information. We know that the Deegan case was a death penalty case and we know that the other attorneys for the other individuals who were subject to a death penalty did not get access to these logs.

Mr. MARKHAM. Presumably co-counsel would have advised me of that.

Mr. WILSON. Is presumably good enough in a death penalty case not to give each individual lawyer access to exculpatory information?

Mr. MARKHAM. I didn't give them. The court gave them access to it.

Mr. WILSON. I'm asking you that question. Is it good enough to give the potential exculpatory information to two lawyers out of six lawyers in a death penalty case?

Mr. MARKHAM. Would you tell me what is exculpatory about this with respect to Roy French?

Mr. WILSON. I'm asking you the question.

Mr. MARKHAM. I can't understand you. You are saying this is exculpatory. I disagree with you. I don't think it is exculpatory.

Mr. WILSON. That's an interpretational issue. Mr. Barboza's credibility was the central issue at the Angiulo trial. It was the central issue in the Marfeo trial. It was the central issue in the Deegan murder trial. Mr. Barboza's credibility was all there was in these prosecutions.

Mr. MARKHAM. Not so. Not so. Not in the Marfeo case.

Mr. BURTON. Unfortunately we have to recess for about 5 minutes. We' had something come up that is very important so we'll stand in recess until the fall of the gavel.

We are reconvened.

Mr. MARKHAM. Mr. Chairman, I may have misspoken and I want to clear the record. The order of the U.S. District Court to turn over the log was prior to the indictment in the Federal court in the Deegan case. In case that was unclear, I wanted to clarify.

Mr. BURTON. The logs were turned over prior to the indictment.

Mr. MARKHAM. Yes.

Mr. TIERNEY. So the "exculpatory evidence," and you can argue about that, that was in the logs was turned over before the indictment?

Mr. MARKHAM. Not very long before the indictment but somewhat before the indictment but still to Mr. Balliro and Mr. Chisum.

Mr. TIERNEY. So that tells us at the time that you filed these documents in the court for the Marfeo thing, Mr. Chisum and Mr. Balliro didn't even know there was a Deegan case.

Mr. MARKHAM. I don't know whether they did or not.

Mr. TIERNEY. Well, there was no indictment in the Deegan case.

Mr. MARKHAM. There was no indictment.

Mr. TIERNEY. So it well may be that they didn't know there was a case, didn't know they were going to be retained as counsel, didn't know they were going to be representing the defendants, and may well not have made any connection on that.

Mr. MARKHAM. Except this. Barboza was turned over to Garrett Byrne's office after the indictment in the Patriarca case. How far along there investigation went at that time I don't know.

Mr. TIERNEY. That was going to be a subsequent question to ask you. So I think then being the sequence, at that time you certainly could not have assumed that because you put those documents into court that Chisum and Balliro necessarily were going to use them in a subsequent case. You didn't even know there was a subsequent case at that time.

Mr. MARKHAM. No. At that time, no. I certainly assumed that any case down the road that would be helpful.

Mr. TIERNEY. When you found out there was a Deegan case, you read it in the paper, or how did you find out there was a Deegan case?

Mr. MARKHAM. I don't know.

Mr. TIERNEY. Do you remember having a conscious thought at that time, "God, there was exculpatory information but I don't have to worry because Chisum and Balliro already have that."

Mr. MARKHAM. No.

Mr. TIERNEY. This was constructed after the fact?

Mr. MARKHAM. Yes. That reference to the log, you know, perhaps I forgot about it because it was not in my case.

Mr. TIERNEY. Originally whether you had intended to or not, you had my thought process going that you consciously thought, "It's all set. I know there might be a problem but because those two attorneys have the case, it's not a problem."

Mr. MARKHAM. I'm not sure that's so. I think in retrospect, the basketball thing, no harm, no foul.

Mr. TIERNEY. That's more the way you are looking at it now. When you look back at this, you're saying you think——

Mr. MARKHAM. At the time I don't think I gave it all that consideration because the Deegan case was not an essay at that time. They weren't indicted until after—well, Deegan was murdered in October 1965 and the indictments were in October 1967, 2 years later. Patriarca was indicted in our court here in June 1967 and we turned him over to the state authorities right after the indictment.

Mr. TIERNEY. He was indicted before the conviction?

Mr. MARKHAM. Oh, yeah. That case was continued any number of times. It wasn't tried until March 1968.

Mr. TIERNEY. So Garret Byrne had this witness first and he offered him over to you.

Mr. MARKHAM. Correct.

Mr. TIERNEY. So he didn't proceed at all. You kept him for a period of time until you got your indictment in. Is there any other reason why you didn't give him back to Garrett Byrne and proceed with his grand jury hearing in the interim?

Mr. MARKHAM. No, because that was the deal. We were going to keep him under wraps so to speak and protect him. There was serious thought of attempts on his life, especially in the Patriarca case.

Mr. TIERNEY. Was there some thought that he couldn't be protected and be a witness at a grand jury hearing in Suffolk County?

Mr. MARKHAM. He was.

Mr. TIERNEY. I know, but not at the last one. I guess I'm asking why——

Mr. MARKHAM. Because prior to our indictment——

Mr. TIERNEY. I'll start again. Garrett Byrne gave you a phone call and said, "I've got this guy, Barboza. He's got stuff on Patriarca. Would you like it?"

Mr. MARKHAM. That's right.

Mr. TIERNEY. He then proffered him over to you and you started protecting him, your group.

Mr. MARKHAM. Correct.

Mr. TIERNEY. Then he started testifying at your grand jury.

Mr. MARKHAM. Correct.

Mr. TIERNEY. Was there any reason that he also couldn't have been testifying in that period of time at the Suffolk Country grand jury, or what was the delay? Why didn't he?

Mr. MARKHAM. Because the deal was that we were going to use him for our purposes to get the Patriarca indictment and then you can have him. That's what it was.

Mr. TIERNEY. Is there some reason it couldn't be done simultaneously? It went over a significant period of time.

Mr. MARKHAM. No, not really.

Mr. TIERNEY. The grand jury?

Mr. MARKHAM. He was developed in March of—it was 6 months. Patriarca was indicted in June 1967, 4 or 5 months after we got him. Then he was turned over. I didn't question him about the Eddie Deegan murder. I was concerned about the Marfeo case.

Mr. TIERNEY. He was not even indicted during that period of time that you had him for the Deegan?

Mr. MARKHAM. No. He was indicted in the Deegan case in October 1967. That was prior to our trial.

Mr. TIERNEY. Prior to your trial.

Mr. MARKHAM. The Patriarca trial was March 4, 1968.

Mr. TIERNEY. Who protected Deegan when he testified at the grand jury down in Suffolk County?

Mr. MARKHAM. Who protected Deegan?

Mr. TIERNEY. I'm sorry, not Deegan. Barboza.

Mr. MARKHAM. The U.S. Marshals.

Mr. TIERNEY. So they continued to protect him even at that point in time?

Mr. MARKHAM. That's right.

Mr. TIERNEY. At any point in that time you were cooperating with Mr. Byrne's office and he had the two grand juries or whatever, was there any discussion——

Mr. MARKHAM. We didn't have two grand juries.

Mr. TIERNEY. You had a grand jury and they had a grand jury. That would be two grand juries. Right? The Suffolk County one and yours.

Mr. MARKHAM. I only had the one grand jury in the Patriarca case.

Mr. TIERNEY. I don't dispute that at all. I hope you don't. So now each of the jurisdictions had a grand jury hearing.

Mr. MARKHAM. Right.

Mr. TIERNEY. And you were proceeding on it. At any point in time during that period was there any discussion that you were aware of concerning the fact that Mr. Flemmi or Mr. Bulger were protected witnesses for the FBI?

Mr. MARKHAM. I have never heard of it while I was a U.S. Attorney.

Mr. TIERNEY. And you had no idea of the relationship between Mr. Flemmi and Mr. Barboza?

Mr. MARKHAM. Never heard of it. There's two Flemmis now. You know that?

Mr. TIERNEY. Right. Either Flemmi.

Mr. MARKHAM. Jimmy Flemmi is the one of notoriety now. I had never heard of him, nor had I ever heard of Bulger.

Mr. TIERNEY. But you heard of Vincent—not Vincent, Stephen?

Mr. MARKHAM. Well, just as a result of this and he was mentioned in that.

Mr. TIERNEY. Was it ever mentioned to you by the District Attorney's Office or by the FBI or anybody that they didn't want Barboza to actually be tried in Suffolk County?

Mr. MARKHAM. What?

Mr. TIERNEY. They didn't want him to have to proceed to trial and be sentenced in Suffolk County.

Mr. MARKHAM. Barboza not be tried in Suffolk County?

Mr. TIERNEY. Right.

Mr. MARKHAM. Of course, that was the deal. Garrett Byrne was not going to prosecute him and turn him over to us. We agreed to take him on the condition that he gives us the Marfeo case. What prompted Garrett Byrne to do that I don't know.

Mr. TIERNEY. You said he subsequently had a grand jury hearing and indicted him himself. Right? Or am I missing something?

Mr. MARKHAM. The Deegan case, but that's not the same matter that he was held on in the first instance. I don't know what that was about.

Mr. TIERNEY. So it wasn't anything you picked up on Deegan given to you and then take back on Deegan. It was totally a separate matter.

Mr. MARKHAM. Correct.

Mr. TIERNEY. For which you have no information.

Mr. MARKHAM. Correct.

Mr. TIERNEY. Was there ever any discussion by the FBI with you, any of the agents about not giving him back to Garrett Byrne at that point in time and just keeping him in the program?

Mr. MARKHAM. No. There was no program at that time.

Mr. TIERNEY. Well, keep him protected, I should say. Did you have any conversations with FBI Agent Rico about your prosecution about the Marfeo case?

Mr. MARKHAM. Sure.

Mr. TIERNEY. And Connelly?

Mr. MARKHAM. Condon.

Mr. TIERNEY. Condon, not Connelly.

Mr. BURTON. I think we are about to wrap this up. I want to make sure I understand the Marfeo case, which you were working on, the logs were filed or sent to the court before that case came to trial.

Mr. MARKHAM. No. Oh, before it came to trial. Yes.

Mr. BURTON. Before it came to trial. And before the indictment of the innocent people that went to prison.

Mr. MARKHAM. Well, before the indictment in Suffolk County, yes.

Mr. BURTON. In Suffolk County. But the indictment came before your trial took place.

Mr. MARKHAM. Correct.

Mr. BURTON. So your awareness of the issues was pretty—your antenna was up on your case before you were about to go to trial at the same time that this indictment came down regarding the Deegan murder.

Mr. MARKHAM. I don't understand your question.

Mr. BURTON. Well, let me rephrase it. You were about to go to trial on the Patriarca case. Before you went to trial on that case, an indictment came down on the Deegan murder.

Mr. MARKHAM. Right.

Mr. BURTON. It is curious to me that having had those logs before you that indicated that Barboza and Flemmi were the hit men in the Deegan case, that you wouldn't have felt some responsibility to inform the prosecution about that evidence in the Deegan murder.

Mr. MARKHAM. It may be curious to you, sir, but it's not curious to me for the reasons I stated because four of the defendants in the Deegan case knew that.

Mr. BURTON. I think that begs the question. You knew that innocent people were going to go to jail.

Mr. MARKHAM. I didn't know they were innocent.

Mr. BURTON. You knew the sentence was there. You saw this information about the Patriarca OK on the hit.

Mr. MARKHAM. Yeah.

Mr. BURTON. I don't want to prolong this because I thought we were winding it up.

Mr. MARKHAM. Let me respond to that question. In the Deegan case there was ample evidence, a lot of evidence that this was authorized by Camillio and Patriarca.

Mr. BURTON. That's right but not the two principles that really were involved in it, Flemmi and Barboza.

Mr. MARKHAM. Sure. Barboza testified.

Mr. BURTON. What about Flemmi?

Mr. MARKHAM. He wasn't indicted.

Mr. BURTON. He wasn't indicted so you knew that those two got the OK but you didn't know about these other individuals so——

Mr. MARKHAM. I don't know whether Flemmi went through with it. I can't look into that. That happened in 1965.

Mr. BURTON. It seems to me that since you were working on a case involving Patriarca at that time, you would have at least picked up the telephone and said to the prosecuting attorney in that other case, "Hey, here is some evidence that you ought to take a hard look at because it may show that some of those guys might not have been involved in that murder. I just don't know but you ought to look at it."

Mr. MARKHAM. What guys?

Mr. BURTON. The guys that went to jail that were innocent.

Mr. MARKHAM. I didn't know what the evidence was against them. I didn't even know who was going to be indicted. I didn't know what the evidence was that they had.

Mr. TIERNEY. I just want to clarify this. You keep going back to the fact that Chisum and Balliro were lawyers in both cases. That really wasn't relevant at that time.

Mr. MARKHAM. I'm sorry, sir?

Mr. TIERNEY. It was not relevant at that time because you didn't know they were going to be engaged in the other trial.

Mr. MARKHAM. That's right.

Mr. TIERNEY. OK. We keep getting back to that point. I don't want it to be left with anybody or on the record that you consciously thought everybody knew about what was in that record because you have the same two attorneys in both cases. Both cases didn't exist at the time you deposited those items into court for discovery in the Marfeo case.

Mr. MARKHAM. Well, the Deegan case, that indictment was in October 1967 well before the trial of the Patriarca case which was not tried until March 1968.

Mr. TIERNEY. So you are telling me now that it was a conscious decision, that you understood both lawyers at that time to be involved in both cases?

Mr. MARKHAM. I assumed as much. As I said, this was not really paramount in my mind.

Mr. TIERNEY. I just want to make sure we understand what is assumption and what is factual. It's not factual but assumption on your part.

Mr. MARKHAM. As I said before, it may be somewhat now in retrospect but it——

Mr. TIERNEY. It sounds an awful lot like retrospect.

Mr. MARKHAM. It was not a big concern of mine at the time.

Mr. TIERNEY. Sounds an awful lot like retrospect. Maybe looking back you saw, "Gee, both attorneys are there. I hope they got the information."

Mr. MARKHAM. Yeah.

Mr. TIERNEY. All right. At some point after you finished your indictment and your trial, you were aware through publicity of one way or another that the Deegan matter was proceeding to trial.

Mr. MARKHAM. Correct.

Mr. TIERNEY. And I assume that in the course of reading those public pronouncements on that, that you understood who the defendants were?

Mr. MARKHAM. I didn't have a great deal of interest in that case. I followed it somewhat.

Mr. TIERNEY. You followed it somewhat. You are a prosecutor and the guy is related. You know, it's the same situation.

Mr. MARKHAM. That's right.

Mr. TIERNEY. So you saw the names of the defendants and the name that you didn't see in there was Flemmi. Right?

Mr. MARKHAM. Well, I assume so. I read the paper and he was not there. That's right.

Mr. TIERNEY. And I guess, sir, that's what we're all assuming, too, and we are all wondering knowing that and knowing your commitment to justice, presuming it at least, you didn't say to somebody why isn't Flemmi named on this when you've got this document so the other guy tells you if there is a reason or not.

Mr. MARKHAM. I didn't think of it at that time, but I'll tell you why. There is any number of reasons a prosecutor would leave somebody out of the indictment. (A) he didn't do it; (B) he was going to be a witness; (C) they didn't have a good case against him. Now, all we know is that at some time Flemmi and Barboza, who was a bargain by the way, were down there and requested permission to do it and was given it. Whether they did it or not, I don't know. Because if you followed that case at all, Roy French was—as a matter of fact, that's the name of the case, Commonwealth versus French.

Mr. TIERNEY. I have no more questions. Thank you.

Mr. BURTON. Well, Mr. Markham, it's been interesting.

Mr. MARKHAM. I apologize to you if I got a little, you know, from time to time but, you know, I probably can understand the concern of the committee. I do resent any inference that I purposely did something that resulted in innocent people going to jail. I did not purposely or negligently.

Mr. BURTON. All I can tell you is there was evidence that could have led to a different outcome and 30 years of several people's lives were lost. I think that is a real tragedy.

Mr. MARKHAM. I couldn't agree with you more but that has nothing to do with me. Thank you.

Mr. BURTON. That's your opinion.

Mr. MARKHAM. Well, it is my opinion and I challenge you to tell me what I should have done that I did not do.

Mr. BURTON. I'll leave it to the people who are paying attention to what is going on. Thank you very much.

We stand adjourned.

[Whereupon, the hearing was adjourned.]

[A set of exhibits and additional information submitted for the hearing record follows:]

FD-263 (Rev 5-1-59)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| BOSTON | BOSTON | 7/20/65 | 3/13 - 7/8/65 |

| TITLE OF CASE | REPORT MADE BY | TYPED BY |
|---|---|---|
| RAYMOND L. S. PATRIARCA, aka | CHARLES A. REPPUCCI | pob |
| | CHARACTER OF CASE | |
| | AR | |

REFERENCE: Report of SA CHARLES A. REPPUCCI dated 3/12/65 at Boston.

New York letter to Boston, 3/19/65. (Interoffice)

Los Angeles letter to Boston, 3/30/65. "

Newark letter to Boston, 4/14, 27/65. "

- P -

ENCLOSURES:

TO BUREAU

Original and one copy of a letterhead memorandum, dated and captioned as above at Boston, characterizing informants mentioned in instant report.

| APPROVED | SPECIAL AGENT IN CHARGE | DO NOT WRITE IN SPACES BELOW |
|---|---|---|
| COPIES MADE: 3-Bureau (92-2961) ~~(Enc. 3)~~ 1-USA, Providence, R. I. 1-New York (92-788)(Info) 2-Boston (92-118) | | 92-2961-1044 REC. 45 EX-113 |
| | | RECEIVED JUL 23 1965 |

DISSEMINATION RECORD OF ATTACHED REPORT

| AGENCY | | | | |
|---|---|---|---|---|
| REQUEST RECD. | 1 CC. AAG, Criminal Division, Organized Crime and Racketeering Section, Room 2624 | | | |
| DATE FWD. | | | | |
| HOW FWD. | | | | |
| BY | | | | |

NOTATIONS

LBI

STAT. SECT.

EXHIBIT 01

70 AUG 19 1965

U.S. GOVERNMENT PRINTING OFFICE 16—76324-1

BS 92-118
CAR:po'b

ADMINISTRATIVE (Continued)

B, 63

[redacted]

BS 837-C* advised on 3/9/65 that JAMES FLEMMI and JOSEPH BARBOZA requested permission from PATRIARCA to kill EDWARD "TEDDY" DEEGAN, as they are having a problem with him. PATRIARCA ultimately furnished this "OK."

On 3/10/65, FRANK SMITH and JOSEPH MODICA sought PATRIARCA's permission to open up a gambling establishment in East Boston, Mass. PATRIARCA refused to furnish this permission until he cleared with MICHAEL ROCCO of East Boston, Mass. (It should be noted that the informant advised that SMITH never did obtain this permission.)

On 3/17/65, informant advised that PATRIARCA was concerned about a "leak" in the organization. After much discussion he reached the conclusion that the "leak" was in NYC and not in Providence, R. I.

V
COVER PAGE

OPTIONAL FORM NO. 10
5010-104-02
UNITED STATES GOVERNMENT

# Memorandum

TO : DIRECTOR, FBI (92-2961) DATE: 8/1/62

FROM: SAC, BOSTON (92-118)

SUBJECT: RAYMOND L. S. PATRIARCA, aka
AR

Re Bureau letter to Boston dated July 20, 1962 entitled, "INTERSTATE TRANSMISSION OF WAGERING INFORMATION; INTERSTATE TRANSPORTATION OF WAGERING PARAPHERNALIA; INTERSTATE TRANSPORTATION IN AID OF RACKETEERING."

In accordance with Bureau instructions set forth in relet, a complete review has been made of the entire program of inquiry concerning gambling matters in the Boston Division.

This review points out that the primary target of this office has been to develop admissible evidence which would result in the prosecution of RAYMOND L. S. PATRIARCA (Boston File 92-118, Bureau File 92-2961). In furtherance of this phase, Boston Informant 837-C* has been developed and this informant has indicated clearly that PATRIARCA is conducting activities which appear to be in violation of the ITAR Statute. Intensive efforts are continuing to develop proof of his involvement.

This investigation, which is being conducted, consists of surveillances to determine contacts outside his regular place of business and to identify his lieutenants and close confidants.

2 Bureau
15- Boston
(1 - 92-118)
(1 - 94-536)
(1 - 92-446)
(1 - 165-15)
(1 - 165-222)
(1 - 92-125)
(1 - 92-127)
(1 - 165-13)
(1 - 165-19)
(1 - 165-258)
(1 - 165-259)
(1 - 165-0)
(1 - 166-0)
(1 - 168-0)
(1 - 162-181)
(17)
DFS:ras

REC-20 92-2961-465

13 AUG 8 1962

EX-108

107
53 AUG 14 1962

EXHIBIT
02

BS 92-118

Informants are being utilized and where information is developed which can be disseminated, it is being furnished to other law enforcement agencies for the purpose of harrassing PATRIARCA and his associates with the hope that a provable violation may develop. PATRIARCA's activities seem to concern gambling, attempts to corrupt officials and he furnishes general aid and counsel to assorted members of the underworld.

In investigating those who are identified as lieutenants or close associates of PATRIARCA, it is felt that some violation of which they are guilty might be proved and if they are proven guilty, such might serve as a leverage to break through the barriers with which PATRIARCA has surrounded himself.

Some of the persons close to PATRIARCA and identified to date, have been GENNARO ANGIULO and his brothers (Boston File 92-446, Bureau File 92-5586), HENRY TAMALEO, SAMUEL GRANITO and TED FUCCILLO (Boston Files 92-446 and 92-118, Bureau File 92-2961).

As the Bureau is aware, the data being made available regularly through BS 837-C* highlights the activities of these individuals. Probing of individual situations has been and will be intensified. Wherever possible, efforts are made to so utilize this information so as to develop separate independent cases.

For example, Boston airtel to the Bureau dated July 17, 1962 (Boston File 87-7304) captioned "HENRY TAMALEO; FRANK (LNU), ITSP" indicated TAMALEO and the unknown FRANK might be involved in the theft of a million and a quarter dollars worth of stock from Bache and Company at New York.

Also, Boston airtel to Bureau dated July 18, 1962 captioned "RAYMOND L. S. PATRIARCA, aka, AR" (Boston File 92-118, Bureau File 92-2961) enclosed a letterhead memorandum setting forth facts indicating the possibility of a violation of the Bribery Statute.

Two further examples are the following cases:

BS 92-118

HERBERT ASHTON PAGE, JR.
Former Manager, Johnston, R.I.
Branch, Plantations Bank of R.I.
FRA
(Boston File 29-879)
(Bureau File 29-29913)

CARL L. STROBECK, etc., ET AL
FRA; CONSPIRACY
(Boston File 29-917)
(Bureau File 29-30764)

In the above two cases, with the assistance of BS 837-C*, interviews have been conducted with individuals who are close to PATRIARCA and the facts in these two cases will probably go to the Grand Jury sometime in August, 1962. Convictions in these cases might result in gaining information which will lead into other crimes involving some of the individuals interviewed in this case.

It is noted that JOSEPH PATRIARCA, brother of RAYMOND PATRIARCA, is a possible subject in the PAGE case. It should also be noted that at the time of the Grand Jury, many individuals will be subpoenaed.

[redacted]

0-3

SUBJECT: VINCENT JAMES FLEMMI, Aka.

[redacted] f,b

Memo of SA Dennis M. Condon 5/25/64 captioned: [redacted]

b

[redacted] was contacted on 5/22/64, advised that within the last few days he was in contact with [redacted] and JAMES FLEMMI. FLEMMI told him that all he wants to do now is to kill people, and that it is better than hitting banks. FLEMMI said that [redacted] have taken money for about six contract hits which they have not fulfilled. They spent the money for these hits drinking.

Informant said, FLEMMI said that he feels he can now be the top hit man in this area and intends to be.

[redacted]

FLEMMI told the informant that there was a big piece of money that came out of the hit on [redacted] and the informant gathered from FLEMMI's talk that he, FLEMMI, had made the hit.

[redacted] f,b

Boston letter to Director & SAC, Newark 5/25/64 captioned: [redacted]

[redacted] Informant stated that it appears that JAMES FLEMMI, a Roxbury, Mass. hoodlum, will probably become the "contract man" in the Boston area.

[redacted]

Boston letter to Director 6/4/64 captioned: [redacted]

b

This letter sets out information to the Bureau on [redacted] Under the heading CRIMINAL ASSOCIATES the following information appears concerning JAMES FLEMMI.

The informant is presently associated with [redacted] and JAMES FLEMMI. FLE

EXHIBIT 03

SAC, Boston 6/4/65

Director, FBI
CONF. INFT.

1 - Mr. Kelly

~~RS 819 PC~~
TOP ECHELON CRIMINAL
INFORMANT PROGRAM

Advise Bureau by 7/1/65 status of your efforts to effect the development of the above-captioned target.

JEK:ral
(4)

EX 105

REC-16

[redacted]

137-12516-2

10 JUN 7 1965

MAILED 7
JUN - 4 1965
COMM-FBI

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

66 JUN 14 1965

MAIL ROOM TELETYPE UNIT

EXHIBIT
04

DIRECTOR, FBI [redacted] 6/9/65

SAC, BOSTON [redacted] F

BS 919-PC

[redacted]

Rebulet to Boston dated 6/4/65.

The following are the efforts to effect the development of the above-captioned target:

F [redacted]

M [redacted]

M [redacted]

On 5/10/65, BS 919-PC was contacted on [redacted]

F

Informant advised that on the evening of 5/3/65 he left his home at approximately 10:30 p.m. He was going to meet with JOSEPH BARBOZA. As he approached his car two individuals stepped out of the bushes and fired at him with a shotgun. Informant said that he turned around as he fell and both of them were running with handkerchiefs to their faces.

2-Bureau
1-Boston
HPR:pob
(3)

000024 [redacted] F [redacted]

0003

EXHIBIT 3

F [redacted]

Informant said that he fired back at them and one of them hollered and they both ran towards the back of the building and drove away in a late model light brown Chevrolet

M

B.F. [redacted]

2. It is known through other informants and sources of this office that this individual has been in contact with RAYMOND L. S. PATRIARCA and other members of La Cosa Nostra in this area, and potentially would be an excellent informant.

Concerning the informant's emotional stability, the Agent handling the informant believes, from information obtained from other informants and sources, that BS 919-PC has murdered [redacted], [redacted], [redacted], EDWARD "TEDDY" DEEGAN, and [redacted], as well as a fellow inmate at the Massachusetts Correctional Institution, Walpole, Mass., and, from all indications, he is going to continue to commit murder.

R

Some of the information provided by the informant has been corroborated by other sources and informants of this office. Although the informant will be difficult to contact once he is released from the hospital because he feels that [redacted] will try to kill him, the informant's potential outweighs the risk involved.

R

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.

UNITED STATES GOVERNMENT

# Memorandum

TO : Director, FBI

DATE: June 20, 1967

FROM : SAC, Boston

SUBJECT: SA H. PAUL RICO
EOD: 2-26-51

SA DENNIS M. CONDON
EOD: 1-29-51

RECOMMENDATIONS FOR QUALITY SALARY INCREASE

SA H. PAUL RICO has been assigned exclusively to the development of Top Echelon Criminal Informants in the Boston Office since September 16, 1963. SA DENNIS M. CONDON has been assigned to the Top Hoodlum Program since 1962.

SA RICO was successful in developing [redacted] Based on the development of [redacted] SA RICO was able to determine the basic reasons for each gangland slaying, the identities of the majority of individuals involved, the latter information, where significant, disseminated to pertinent law enforcement agencies. Only as a result of this informant was the Boston Office able to separate the true reasons for the slayings as distinguished from the camouflage put forth by the [redacted] and/or the LCN.

During this period, SA RICO and SA CONDON were making continuing efforts to develop as an informant an active LCN member. When intensified efforts in this area were not immediately productive, SA RICO was able to have [redacted] and through this contact, able to follow the philosophy of the LCN, particularly concerning the infamous Boston gangland slayings. [redacted] and through these contacts the Boston Office had continuing high quality information concerning LCN activities. [redacted] was based on the guidance and counsel said informant received from SAS RICO and CONDON

67-1133766-150
Searched ____ Numbered ____
5 JUL 7 1967 27

REC-145

(4) - Bureau
2 - Boston
JLH:CAK JUL 12 1967
(6) 73

THREE

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5010-108

EXHIBIT
06

B

[redacted] The handling of this source, obviously, was an extremely delicate and sensitive problem requiring not only continuous skillful direction, but almost 24-hour contact on a daily basis with [redacted]

B

Realizing the potential that [redacted] might one day be victim of a homicide, SAS CONDON and RICO have continued vigorous attempts to obtain additional high quality LCN sources. Accordingly, BS 955 C-TE was developed by these agents and via imaginative direction and professional ingenuity utilized said source in connections with interviews of JOSEPH BARON, a professional assassin responsible for numerous homicides and acknowledged by all professional law enforcement representatives in this area to be the most dangerous individual known.

B, D

SAS RICO and CONDON contacted BARON in an effort to convince him he should testify against the LCN. BARON initially declined to testify but through utilization of BS 955 C-TE, the agents were able to convey to BARON that his present incarceration and potential for continued incarceration for the rest of his life, was wholly attributable to LCN efforts directed by GENNARO J. ANGIULO, LCN Boston head. As a result of this information received by BARON from BS 955 C-TE, said individual said he would testify against the LCN members.

The indictments against PATRIARCA, TAMELEO and CASSESSO are the first major blow to the LCN in New England. PATRIARCA, as LCN boss and possible Commission member, and his top lieutenant, HENRY TAMELEO, were felt to be beyond prosecution by top state and local police officials based on what for years resulted in frustration in securing witnesses who would testify. The Providence, Rhode Island Police and Rhode Island State Police have, for over twenty years, concentrated a large number of men in efforts to secure even a minor prosecution, unsuccessfully.

SAS CONDON and RICO were assigned to develop a prosecutable quality case against top LCN members in New England. They have done so via highest devotion to duty, requiring personal sacrifices, in time, on a continuing basis. Their time would have been wasted were it not for the skillful, unprecedented ability to develop the highest type criminal intelligence data, coupled with securing as a witness a professional killer who, in the past, would never furnish data other than his name to any law enforcement agency. Their performance for over twelve months

has been of the highest caliber; their drive and desire to fulfill a vital objective of the Bureau have been rewarded with the prosecution of top LCN members.

In view of the above, noting we have broken what at times has seemed to be an insurmountable barrier, I am recommending Quality Salary Increases be awarded to SAS RICO and CONDON.

FD-302 (Rev. 4-15-64)

FEDERAL BUREAU OF INVESTIGATION

Date 3/29/68

1.

JOSEPH BARON was contacted where he is in the custody of the United States Marshal. A check was made on his physical well being at this time.

BARON indicated that he was very disappointed in PAUL MARKHAM, United States Attorney, and EDWARD HARRINGTON, Assistant United States Attorney, and WALTER BARNES, Departmental Attorney, who handled the prosecution of the PATRIARCA case ~~and~~ not immediately coming down, personally, and thanking him for his contribution in the conviction of PATRIARCA.

BARON was told that United States Attorney MARKHAM had gone to Washington and, very possibly, was down there on matters relating to BARON, and BARON said that, "While these people don't want to show their appreciation, I am sure that JOE BALLIRO, the chief attorney for the defense, would show his appreciation in me, and I am sure that if things don't work out, that I can at least end up with $150,000 from BALLIRO."

---

~~3/29/68~~ at ~~Gloucester, Massachusetts~~ File # [redacted]

SA's DENNIS M. CONDON and ~~M. PAUL RICO DMC:MPR:po'b~~ 3 Date dictated ~~3/25/68~~

nt contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; its are not to be distributed outside your agency.

0

EXHIBIT 07

DIRECTOR, FBI 4/14/69

[redacted]

JOSEPH BARON, aka.
Joseph Barboza;
[redacted]

B.F

Investigation is being initiated in connection with the TECIP to develop Subject as a top echelon criminal informant; therefore, Subject is being designated a target under this program.

The Boston Office by letter dated April 1, 1969, furnished pertinent background concerning Subject, which is set forth below. The Boston Office advised that there will be occasions when that office will desire that Subject be contacted on various matters of extreme importance to the Boston Division. Further, as PC becomes acquainted in the San Francisco area, he will undoubtedly be in a position to furnish worthwhile information concerning criminal activities.

M.B

[redacted]

P

F

[redacted]

SERIALIZED FILED
APR 18 1969
FBI — BOSTON

2 - Bureau (RM)
(2) - Boston ([redacted]
2 - [redacted]

CNH:jab
(6)

000964

EXHIBIT
08

F. M. B

000965

[redacted]
CNH:jab

[redacted] federal convictions were obtained on March 8, 1968, on RAYMOND L. S. PATRIARCA, recognized leader of the LCN in the New England area; HENRY TAMELEO, LCN member and lieutenant for RAYMOND L. S. PATRIARCA; and RONALD CASSESSO, LCN member, for violating the AR Statutes. [redacted] the gangland death of EDWARD "TEDDY" DEEGAN [redacted] this information was disseminated to Suffolk County [redacted] in a murder trial which resulted in the conviction of LCN members HENRY TAMELEO, RONALD CASSESSO, PETER LIMONE and LOUIS GRIECO, all of whom received "the death sentence." Also convicted at this trial were ROY FRENCH and JOSEPH SALVATI, also known as "Joe, the Horse."

IDENTIFICATION RECORD

[redacted]

L E A D

BOSTON

At Boston, Massachusetts. [redacted]





[redacted]

FD-302 (Rev. 4-15-64)

FEDERAL BUREAU OF INVESTIGATION

Date 5/20/68

JOSEPH BARON was contacted at the location where he has been in the custody of the United States Marshal. A check was made on his physical well being.

BARON advised that United States Attorney PAUL MARKHAM and Departmental Attorney WALTER BARNES had contacted him with Attorney General DE SIMONE from Rhode Island and Colonel WALTER STONE of the Rhode Island State Police. DE SIMONE was trying to ascertain if BARON would be willing to testify against PATRIARCA in the State of Rhode Island.

BARON said he listened to what they had to say but gave them no definite answer. He said he would be very much concerned for his personal safety if he had to go to Rhode Island and testify against PATRIARCA.

On 5/13/68 at Gloucester, Massachusetts File # Boston 92-1132

SA's DENNIS M. CONDON and H. PAUL RICO

by DMC:pa'b Date dictated 5/17/68

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to y it and its contents are not to be distributed outside your agency.

EXHIBIT 09

Office of the Attorney General
Washington, D. C.

March 20, 1969

Honorable J. Edgar Hoover
Director
Federal Bureau of Investigation
Washington, D. C.

Dear Mr. Hoover:

The recent conviction of New England Cosa Nostra leader, Raymond Patriarca, and two of his cohorts is one of the major accomplishments in the Organized Crime Drive Program.

I have been advised by the Organized Crime and Racketeering Section and Mr. Paul Markham, the United States Attorney in Boston, that without the outstanding work performed by Special Agents Dennis Condon and H. Paul Rico these convictions could not have been obtained. We commend their ability, initiative, patience and resourcefulness, under the most difficult circumstances, in the handling of the Government's key witness prior to indictment and trial. These agents worked long hours and rendered immeasurable assistance to the attorneys who prosecuted this case during the grand jury presentation, the pre-trial preparation and throughout the trial itself.

In addition to Special Agent Condon, who was an excellent witness, the Government called representatives of the Rhode Island State Police, the Providence City Police, the Boston and Revere, Massachusetts Police Departments as well as an undercover agent of the Treasury Department. This prosecution is certainly one of the most significant examples of Federal-State cooperation.

It is indeed a pleasure to bring this matter to your attention. Please convey my sincere appreciation to Special Agents Condon and Rico.

Sincerely,

Ramsey Clark

Attorney General

SUBJECT TO PROTECTIVE ORDER

FD-36 (Rev. 5-22-64)

FBI

Date: July 31, 1968

Transmit the following in _____ (Type in plaintext or code)

Via TELETYPE IMMEDIATE (Priority)

TO: DIRECTOR [redacted]

FROM: BOSTON [redacted]

CRIMINAL INTELLIGENCE PROGRAM, BOSTON DIVISION.

ALL SUBJECTS IN DEEGAN GANGLAND MURDER FOUND GUILTY THIS DATE, SUFFOLK COUNTY SUPERIOR COURT, BOSTON, MASS.

ROY FRENCH FOUND GUILTY OF MURDER, FIRST DEGREE AND SENTENCED TO LIFE. JOSEPH SALVATI FOUND GUILTY OF ACCESSORY BEFORE THE FACT AND SENTENCED TO LIFE. BOTH THESE SENTENCES WERE BASED ON JURY RECOMMENDATION FOR LIENIENCY.

LOUIS GRIECO FOUND GUILTY MURDER, FIRST DEGREE AND SENTENCED TO DEATH PENALTY. HENRY TAMELEO, RONALD CASSESSO AND PETER JOSEPH LIMONE, ALL LCN MEMBERS, FOUND GUILTY OF ACCESSORY BEFORE THE FACT AND ALL SENTENCED TO DEATH PENALTY.

ALL SIX SUBJECTS FOUND GUILTY OF CONSPIRACY TO MURDER EDWARD DEEGAN AND SENTENCED TO TWO YEARS IN HOUSE OF CORRECTION. ALL FOUND GUILTY OF CONSPIRACY TO MURDER ANTHONY J. STATHOPOULOS AND SENTENCED ONE YEAR IN HOUSE OF CORRECTION.

TAMELEO, LIMONE AND CASSESSO ALL PROMINENT MEMBERS OF LCN IN PATRIARCA FAMILY. TAMELEO WAS CAPOREGIME OF PATRIARCA IN

Approved: _____ Special Agent in Charge

Sent 4:03 P M Per _____

[redacted] 32

EXHIBIT

FD-36 (Rev. 5-22-64)

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____ _____
(Priority)

[redacted] P

2.

PROVIDENCE, R.I. AREA.

GARRETT H. BYRNE, DISTRICT ATTORNEY, SUFFOLK COUNTY, STATED PROSECUTION WAS DIRECT RESULT OF FBI INVESTIGATION AND PARTICULARLY NOTED DEVELOPMENT OF PRINCIPAL GOVERNMENT WITNESSES JOSEPH BARON, AKA BARBOZA, AND ROBERT GLAVIN. BYRNE WAS EXTREMELY PRAISEWORTHY OF COOPERATION BETWEEN FBI AND HIS OFFICE.

SAS H. PAUL RICO AND DENNIS M. CONDON WERE INSTRUMENTAL IN DEVELOPMENT OF BARON AND GLAVIN.

SA CONDON TESTIFIED INSTANT CASE, AS DID SA WILLIAM T. BOLAND. SA BOLAND, WHO HAD INTERVIEWED WIFE OF GRIECO, WAS ABLE TO CONTRADICT ALIBI TESTIMONY OF MRS. GRIECO AT TIME OF TRIAL. BYRNE STATED TESTIMONY OF SAS IN THIS TRIAL WAS MOST EFFECTIVE.

NOTED THAT BYRNE COOPERATED WITH THIS OFFICE IN CONNECTION WITH FEDERAL TRIAL OF RAYMOND L. S. PATRIARCA, ET AL, WHO WAS CONVICTED USDC, BOSTON.

RECOMMENDED LETTER OF COMMENDATION BE FORWARDED GARRETT H. BYRNE, DISTRICT ATTORNEY, SUFFOLK COUNTY, ROOM SIX TWO SIX, ~~NEWXEWRTHGNXXEWFLOING,XRIX~~

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

FD-36 (Rev. 5-22-64)

FBI

Date:

Transmit the following in _____ (Type in plaintext or code)

Via _____ (Priority)

[redacted]

3.

NEW COURTHOUSE BUILDING, FIVE FIVE PEMBERTON SQUARE, BOSTON, MASS., ZERO TWO ONE ZERO EIGHT, AND STAFF FOR THEIR SUCCESSFUL PROSECUTION OF THIS CASE.

ALSO RECOMMENDED THAT LETTERS OF COMMENDATION BE FORWARDED SAS RICO, CONDON AND BOLAND. SAS RICO AND CONDON WERE RESPONSIBLE FOR THE DEVELOPMENT OF GOVERNMENT WITNESSES BARBOZA AND GLAVIN. SA CONDON ALSO TESTIFIED IN AN EXCELLENT MANNER IN THIS CASE. SA BOLAND ALSO TESTIFIED IN AN EXCELLENT MANNER. BOLAND'S TESTIMONY REFUTED THE ALIBI OF GRECO AS FURNISHED BY HIS WIFE. SA BOLAND HAD INTERVIEWED GRECO'S WIFE AND SHE TESTIFIED IN X THE CASE, CONTRARY TO THE FACTS AS FURNISHED BY HER TO BOLAND. HIS TESTIMONY WAS DEVASTATING TO THE DEFENSE OF GRECO. BOTH AGENTS TESTIFIED REFLECTING GREAT CREDIT ON FBI.

JFK:CAK
(1)

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

August 5, 1968

PERSONAL

Mr. Dennis M. Condon
Federal Bureau of Investigation
Boston, Massachusetts

Dear Mr. Condon:

In recognition of the excellent fashion in which you performed in the investigation of a local murder case involving Roy French and others, I am pleased to commend you.

You were highly instrumental in the development of principal witnesses and, through your effective testimony at the trial, all the subjects were successfully prosecuted. I do not want the occasion to pass without conveying my appreciation to you.

Sincerely yours,

J. Edgar Hoover

MAILED 27
AUG 5 - 1968
COMM-FBI

67- 433766-166
Searched ..... Numbered 60
AUG 6 1968

REC-149

1 - SAC, Boston (Personal Attention)

1 - Miss Usilton (Sent Direct)
JMP:bla
(5)
67-433766
Based on Boston teletype 7/31/68 and addendum Special Investigative Division 8/1/68 re Criminal Intelligence Program, Boston Division.

Tolson
DeLoach
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

AUG 9 1968
MAIL ROOM TELETYPE UNIT

EXHIBIT
12

August 5, 1968

PERSONAL

Mr. H. Paul Rico
Federal Bureau of Investigation
Boston, Massachusetts

Dear Mr. Rico:

The manner in which you performed in the investigation of a local murder case involving Roy French and others was splendid and I want to commend you.

The successful prosecution of these subjects was a direct result of your noteworthy development of pertinent witnesses. I want you to know that I am most appreciative of your fine services.

MAILED 27
AUG 5 - 1968
COMM-FBI

Sincerely yours,

J. Edgar Hoover

1 - SAC, Boston (Personal Attention)

1 - Miss Usilton (Sent Direct)
JMP
(5)

67-458484
Based on Boston teletype 7/31/68 and addendum Special Investigative Division 8/1/68 re Criminal Intelligence Program, Boston Division.

67-[illegible]-144
Searched ... Numbered ...
AUG 6 1968

REC-136

Tolson
DeLoach
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

AUG 9 1968

MAIL ROOM ☐ TELETYPE UNIT ☐

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

# *Memorandum*

Assoc. Dir.
Dep. AD Adm.
Dep. AD Inv.
Asst. Dir.
Admin.
Comp. Syst.
Ext. Affairs
Files & Com.
Gen. Inv.
Ident.
Inspection
Intell.
Laboratory
Legal Coun.
Plan. & Eval.
Spec. Inv.
Training
Telephone Rm.
Director Sec'y

TO : Mr. Walsh

DATE: 10-22-75

FROM : S. R. Burns

SUBJECT: SA DENNIS M. CONDON
Boston Office
Veteran

CONFIDENTIAL - PRODUCED SUBJECT TO PROTECTIVE ORDER

PERMANENT BRIEF

| | | |
|---|---|---|
| Entered on Duty | | 1-29-51 |
| Reported to Field | | 3-28-51 |
| Present Grade and Salary | | GS-13, $29,782 |
| Last Salary Change | | 10-12-75, Basic Increase |
| Age | | 51, Born 11-23-1923 |
| Place of Birth | | Charlestown, Massachusetts |
| Marital Status | | Married - 6 Children |
| Education | | Bachelor of Arts Degree |
| Language Ability | | None |
| Office of Preference since 2/74 | | Boston |
| 1975 Annual Performance Rating | | EXCELLENT |
| Firearms Ability | | Qualified |
| Immediate Relatives in Bureau | | None |
| Offices of Assignment: | | |
| 3-28-51 | assigned | Philadelphia |
| 1-8-52 | reported | New York |
| 4-11-52 | reported | Boston |

JS:lrb
(1)

5010-108

*Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan*

EXHIBIT
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resourcefulness and ingenuity, was most accurate and paid attention to pertinent detail. He testified in U. S. District Court 3 times, before a U. S. Grand Jury 3 times, in state court 3 times and was considered an experienced and outstanding witness. He was completely available and continued to be listed as being not interested in administrative advancement.

His daily average overtime for March, 1968 was 2'14"; April, 2'53".

EFFECTIVE 5-5-68, he receives a QUALITY WITHIN-GRADE SALARY INCREASE in GS-13 to $16,207 per annum. By letter dated 4-10-68, he was advised he was receiving this award in recognition of his having discharged his duties in splended fashion for the period 4-1-67, to 3-31-68.

He attended Top Eschelon Informant In-Service Training from 4-29-68 to 5-10-68.

On 4-29-68 while attendind In-Service Training the Director saw him and commented that he seemed interested in his work and would rate him above average.

His daily average overtime for May, 1968, 2'27"; June, 3'13"; July, 2'02".

On 7-14-68 he received a Basic Increase to $17,289 in GS-13.

By letter dated 8-15-68 he was COMMENDED for the excellent fashion in which he performed in the investigation of a local murder case involving Roy French and others.

His daily average overtime for August, 1968, 2'51"; September, 2'15"; October, 2'56"; November, 2'20"; December, 2'54"; January, 1969, 2'12"; February, 2'56".

On 3-31-69 he was rated EXCELLENT and comments reflected that he was considered outstanding in dependability, loyalty and enthusiasm and was capable of handling the most complicated investigative matters with a minimum degree of supervision. He was not interested in administrative advancement.

His daily average overtime for March, 1969, 2'13"; April, 2'38"; May, 2'41"; June, 2'25".

On 7-13-69 he received a Basic Increase to $18,974 in GS-13.

His daily average overtime for July, 1969, 2'57"; August, 2'24"; September, 2'47"; October, 2'26"; November, 2'44".

12-28-69 he received a Basic Increase to $20,114 in GS-13.



FBI-HCGR-000003349

CONFIDENTIAL PRODUCED SUBJECT TO PROTECTIVE ORDER

SPECIAL INVESTIGATIVE DIVISION
10/4/68

Department is requesting interview of Boston hoodlum Baron by 2 Boston Agents who developed Baron as a cooperative witness which resulted in the conviction of six hoodlums in connection with gangland slayings in that area. He also testified and was of material assistance in the Bureau's investigation of La Cosa Nostra (LCN) boss Patriarca and testified against Patriarca in case which resulted in latter's conviction for Interstate Transportation in Aid of Racketeering - Gambling. Department advises Baron has indicated having additional information to discuss with Boston Agents Condon and Rico who developed his cooperative attitude. Department requests in view of valuable information previously furnished that interview of Baron be undertaken by Agents Condon and Rico at [redacted] where Baron is being held in protective custody since LCN boss Patriarca has issued an order that Baron be murdered.

In view of Baron's tremendous knowledge of organized crime matters in the New England area, it is recommended that Agents Condon and Rico of Boston be authorized to travel to [redacted] to conduct the requested interview and that their presence in the [redacted] area be confined to two days in the absence of unusual circumstances which may subsequently be ascertained during the interview.

AAS:mfd
"J" Title 18 U.S.C.
Section 3521 (b) (1) (G)

DEPARTMENT OF

DATE: October

FMV:WTB:tl

165-36-2

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Bishop
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

oped by the Bureau which
England Cosa Nostra
at he has additional
Special Agents Dennis
ffice.

is in our custody at
these agents over the
's testimony also led
lk Superior Court in

valuable information
would be appreciated
tion.

EXP. PROC.
33 OCT 1 1968

REC 44

EX-101

EXHIBIT
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Copyright 1997 Globe Newspaper Company
The Boston Globe

June 24, 1997, Tuesday, City Edition

**SECTION:** METRO/REGION; Pg. B1

**LENGTH:** 753 words

**HEADLINE:** Jimmy **Bulger:** fox in FBI coop;
MIKE **BARNICLE**

**BYLINE:** By Mike **Barnicle,** Globe Staff

**BODY:**
If Louis Freeh, head of the FBI, thinks the bureau had a headache after Waco, wait until he discovers how many naive dopes he had working as agents here in Boston. Why, Freeh's squash will be bigger than the Goodyear blimp with this migraine because it appears that for years a crook turned his cops into informants.

The entertaining story begins long before Judge Freeh got the big job running the bureau. It starts about 25 years ago with a bunch of obsessed Irish FBI agents thrilled at the prospect of arresting almost any Italian at all. Then, the FBI sought desperately to put Jerry Angiulo, and anybody who had ever nodded to him on Hanover Street, inside federal prison until they rotted. Of course, the government had a significant advantage in this war on the Mob: Angiulo and his men were merely bragging morons with bad tempers who lacked the self discipline to keep their faces shut.

To real police, this fatal flaw would have been enough. But because the FBI for decades sought to portray itself - through the media, through movies and through constant propaganda eagerly consumed by a public that grew up on myths of Dillinger and communists - as infallible, the bureau constantly required more material to prop up its image and grab gangsters so dumb they often held the keys to jail in their own hands.

So the FBI went out and retained an army of confidential informants to help catch their splendid prize, this Angiulo. Among those enrolled as Junior G-Men was Jimmy **Bulger,** today a fugitive.

According to observers at federal court, the **Bulger** file has been in the Justice Department through the terms of several United States attorneys. It is stamped "T.E." for Top Echelon status.

Reportedly, one of the former US attorneys who learned of it was William F. Weld. James "Whitey" **Bulger's** alleged role as informant was, according to sources, revealed to Weld years ago when he sought sophisticated electronic surveillance on **Bulger** but was told the bureau did not tap active informants.

Jimmy **Bulger** is many things. Stupid is not among them.

Now while a federal judge, Mark Wolf, tries to peel away several layers of secrecy in order to find out who is lying more - the good guys or the bad guys - the foundation of prior convictions quakes beneath the possibility of perjury having been committed by those sworn to uphold truth: Government lawyers who may have said the Mafia had to be tapped because there was no other way to get them. This is called "lying people into jail" and it can happen when arrogant prosecutors feel their cause is so just that any means necessary to



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achieve it - including deception or omissions under oath - must be tolerated.

The FBI figured **Bulger** was their prize source on all things criminal, locally. What the FBI apparently did not factor into that lame equation was **Bulger's** cunning. According to sources, the man has his own **tapes** - years' worth - of FBI agents supplying him with more critical information than **Bulger** ever gave the bureau. This is a classic case of an informant being cute enough to end up actually handling his own handlers.

There were times when **Bulger** would arrive, electronically wired, for a meet with an agent assigned to gather intelligence (and that is a truly ludicrous word when employed in this scenario) from him. Perfect irony, tapping the tappers.

The entire spectacle has marvelous potential. It is loaded with the possibility of deep embarrassment and perhaps worse for the government, for the FBI as well as for a few former Justice Department lawyers. The government might see some convictions tossed out. The FBI could be put on display as an agency easily conned, and some lawyers might have to explain what they knew about the role of confidential informants and when they knew it.

And the tale is also a tribute to the power of charm. Jimmy **Bulger,** enmeshed in a bad business as his chosen career, had the capacity to be enormously charming at times. Certainly, his personality and demeanor were far more entrapping and seductive to Irish FBI agents than to complete thugs named Salemme, Angiulo, Ferrara or Carozza, which explains why, whenever the FBI would be be told the truth by the State Police or Boston cops, some agent would always say, "Hey, Jimmy's not a bad guy. We know him."

Well, judgment day is close at hand. And the Justice Department might soon have to stand in open court and explain how it was that the FBI became thick as thieves with a fugitive they only thought they knew.

**LOAD-DATE:** June 24, 1997

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*Memoranaum*

TO : SAC [redacted] F

DATE: 3/15/65

FROM : SA H. PAUL RICO

☒ CI ☐ SI ☐ PCI ☐ PSI

SUBJECT: [redacted] B

Dates of Contact
3/10/65

Titles and File #s on which contacted
EDWARD F. DEEGAN
[redacted] B1

Purpose and results of contact

☐ NEGATIVE
☒ POSITIVE

Informant advised that he had just heard from "JIMMY" FLEMMI that FLEMMI told the informant that RAYMOND PATRIARCA has put out the word that EDWARD "TEDDY" DEEGAN is to be "hit" and that a dry run has already been made and that a close associate of DEEGAN's has agreed to set him up.

FLEMMI told the informant that the informant, for the next few evenings, should have a provable alibi in case he is suspected of killing DEEGAN. FLEMMI indicated to the informant that PATRIARCA put the word out on DEEGAN because DEEGAN evidently pulled a gun and threatened some people in the Ebb Tide restaurant, Revere, Mass.

| ☒ Informant certified that he has furnished all information obtained by him since last contact. | Rating | Coverage 92's |
|---|---|---|
| Personal Data [redacted] 1- (DEEGAN) F | | [redacted] 314 6M 5M |

HPR:pob
(5)

Relive

EXHIBIT 16

# THE JUSTICE DEPARTMENT'S USE OF INFORMANTS IN NEW ENGLAND

**FRIDAY, DECEMBER 6, 2002**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
*Boston, MA.*

The committee met, pursuant to notice, at 10 a.m., in Courtroom 6, 15th Floor, J.W. McCormack U.S. Post Office and Courthouse, 90 Devonshire Street, Boston, MA, Hon. Dan Burton (chairman of the committee) presiding.

Present: Representatives Burton, Tierney, and Lynch.

Also present: Representative Meehan.

Staff present: James C. Wilson, chief counsel; Chad Bungard, Hilary Funk, and Matt Rupp, counsels; Blain Rethmeier, communications director; Allyson Blandford, assistant to chief counsel; and Robert A. Briggs, chief clerk.

Mr. BURTON. Good morning. The Committee on Government Reform will come to order. I think yesterday we put in the record all the sessions that we needed.

Edmund Burke said: "The only thing necessary for the triumph of evil is for good men to do nothing." He wasn't talking about why we're here, but he might just as well have been.

Everyone in this room knows that the Government Reform Committee has been trying to get to the bottom of what happened here back in the 1960's and subsequent to that. We've tried to be thorough. We've tried to be fair. Perhaps if others had done this, we wouldn't need to be here.

Perhaps people like Joe Salvati wouldn't have spent their lives in prison. People like Roger Wheeler wouldn't be dead. But we are here, and we are going to do our very best.

For the most part, cooperation has been the rule. We've talked to hundreds of people. Most have tried to be helpful. We haven't needed to issue many subpoenas and I'm encouraged that most people genuinely want to know what happened. And most of them want to help. That's a good sign.

I'm glad Mr. Bulger is here. I'm glad he's going to testify. But I do wish it had been easier. The committee wasted months when executive privilege was claimed over documents. Yesterday, you could see how important those documents were.

I wish Mr. Bulger had been a little more willing to discharge his civic duty and cooperate. We don't need to be running into court like yesterday. It's a big distraction, and it takes valuable time away from what we need to be doing. But I am glad we are going to move forward.

I'll close by reminding you why we're here.

Rogue members of the FBI, up to the highest levels, protected informants at the expense of innocent people.

Informants committed murders with impunity.

Killers were tipped off so they could flee before being arrested.

Local investigations of murders, and drug dealing, and arms smuggling were compromised.

When people went to the Justice Department with evidence about murders, some of them wound up dead.

It is sad. It's tragic. It's unbelievable. But it did happen. I think an awful lot of good people stood by and did nothing. Hopefully, we'll never see anything like it again.

But we can't stand by now and do nothing. That's why congressional oversight like this is so important. I thank my colleagues for being here. I really appreciate it. I look forward to Mr. Bulger's testimony.

With that, Mr. Tierney, do you have an opening statement?

Mr. TIERNEY. Just very brief, Mr. Chairman. Thank you. I welcome our witness here today. Again, Mr. Chairman, I want to thank you for these hearings which have really been a vigilant pursuit of the facts in this case. Without reiterating yesterday's opening statement, I'll just say once again how important it is to shed light on the relationship between the FBI and members of organized crime so that we can determine just what went on in this situation and get to the proper culture of our FBI.

People need to trust this investigative body and they need to have faith in its integrity and the integrity of its agents. The same is true of the Department of Justice. That has been the goal of this hearing, to make sure that we determine what must be done in this process with respect to informants and protected witnesses and relationships of that office.

Yesterday there was some disturbing testimony as to how at least one U.S. Assistant Attorney or U.S. Attorney felt somewhat intimidated by the culture of the FBI and their attitude toward how they did their work. Today's hearing presumably will give us more information about how the FBI operated in this area and we need to know that. We need to move forward. I thank you for the opportunity and I thank the witness for being here today to give us what information he may have.

Mr. BURTON. Mr. Meehan.

Mr. MEEHAN. Mr. Chairman, again, thank you for your diligence and your dedication in terms of conducting these hearings. Also including members of the Judiciary Committee who have oversighted the Justice Department. Frankly, when we look at the regulations and procedures that were violated in this case, ultimately what this case is about is trying to make sure that this never happens again.

We heard yesterday how the Boston FBI agents actively handled Michael Huff's investigation into the murder if Roger Wheeler. We heard about the terrible impact this had on the Wheeler family. We heard extremely disturbing testimony about the practices of the Boston FBI agents and Federal prosecutors. These hearings have raised serious questions about law enforcement practices in the

United States. Who watches the guidelines? What happens to those who are supposed to protect the public trust?

There has been incredible distractions swirling around in the media and I want to clear a couple of thing up. First, these hearings are about getting to the truth. We are trying to get to the truth for the Wheeler family. Trying to get to the truth so that we make sure that these violations of the public trust never happen again.

We have seen abuses in law enforcement. Frankly, in this particular instance we saw grand jury testimony that apparently had been leaked. I don't know who leaked the information but there is a possible violation there as well. All of these violations of the rules and procedures that law enforcement are required to follow should be followed diligently.

I believe that every Member of Congress should make a commitment to making sure the rules of procedure are followed and to do everything we can to make sure the type of corruption that was seen in this horrible case involving the Boston FBI office never happens again. The ultimate goal of all in Congress should be to make sure that this type of abuse in law enforcement never happens again.

Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Meehan. I appreciate the Judiciary Committee and I am confident that you folks will be pursuing this investigation next year as well.

Congressman Lynch is on his way. He'll be here shortly. We'll recognize him when he gets here if he wants to make a statement.

Before we swear in the witness, I just like to say to the witness's counsel, according to the rules of the committee, your client can confer with you at anytime and there is no problem with that. But we admonish you not to participate in answering the questions. If he has reason to confer with you, he can do that. You can do that here in the room or outside, whatever you want to do but we are here to hear from Mr. Bulger.

Mr. KILEY. Certainly, Mr. Chairman. I understand the rules. I will certainly will not participate in answering the questions you pose to the witness. I think, as you know from the letter I sent yesterday, that I have asked you to postpone Mr. Bulger's hearing. I want to formally request it again today.

The principal bastian that we have protecting us against the abuses of Government is the Bill of Rights. In order to protect my client I want to exercise rights under the Bill of Rights. It is my intention to appeal yesterday's order and I want to formally ask you to postpone pending that appeal. I have no illusion that you are going to grant it but I want to ask it.

Mr. BURTON. I understand, Mr. Kiley. Have a seat. Let me just say that we have conferred with legal counsel and we checked all of the reasons why we can't do that. As you know, we are at the end of this session. It has been going on for a long time.

Because of that and other reasons, we can't grant an extension. That coupled with the fact that, you know, we asked that Mr. Bulger testify and we had to end up sending a subpoena so the subpoena is only valid for a period of time. We feel like we must continue today.

With that, Mr. Bulger, would you stand to be sworn, please.

[Witness sworn.]

Mr. BURTON. Would you like to make an opening statement, Mr. Bulger?

Mr. BULGER. I believe my attorney, if it is acceptable, would like to make a statement.

Mr. BURTON. Mr. Bulger, we will allow you to make any statements you want. You can confer with your attorney but we want to hear from you.

**STATEMENT OF WILLIAM BULGER, PRESIDENT OF THE UNIVERSITY OF MASSACHUSETTS**

Mr. BULGER. Mr. Chairman, some of our communications during the past week may have resulted in a misunderstanding and that is regrettable. There certainly was no intention on my part to show disrespect to the committee or to the institution of the Congress.

Mr. Chairman, under the rules of the House that the committee has provided to me, if a witness believes that the evidence or testimony he is going to give the committee may tend to defame or degrade the witness, he may request that the committee proceed in closed session. That is Rule 11K5 of the House. I am asking the committee to do that at this time.

Mr. BURTON. Mr. Bulger, we will take a vote on that at your request. We may have to wait just a minute until Mr. Lynch gets here. Oh, Mr. Lynch is here.

Glad you made it.

We talked about this yesterday and we feel like the issue is such that the questions should be asked in open session, but we will ask for a vote.

All those in favor of closing the hearing to the media and the public, say aye. All opposed, say no. It's unanimous we will proceed in open session. We talked to the parliamentarian about the rule to make sure we were following the rules of the parliamentarian. It was concurred so we will proceed with the questions.

Mr. Bulger, have you talked to your brother, James, since 1995? If so, where was he and where is he now?

Mr. BULGER. On advice of counsel, I am unable to answer any questions today. This position is based, among other things, on privacy and due process rights, and the right against being compelled to provide evidence that may tend to incriminate myself, all of which are found in the Bill of Rights including the rights and privileges under the first, fifth, and sixth amendments to the U.S. Constitution.

As the Supreme Court recognized in the case of Ohio versus Ranier, one of the Fifth Amendment's basic functions is to protect innocent men who might be ensnared by ambiguous circumstances. I find myself in such circumstances and, hence, stand on my constitutional rights as advised by counsel.

Mr. BURTON. I presume then that any of the questions posed to you by the committee will be met with the same Fifth Amendment response?

Mr. BULGER. Yes, sir.

Mr. BURTON. Well, unless members of the committee have some comments or questions. Jim, is there anything you think we should

proceed further with? Any comments or questions from the Members?

Well, you have that right, Mr. Bulger. We'll honor that right and the committee stands adjourned.

[Whereupon, the hearing was adjourned.]