AFFIDAVIT

I, Francis (Frank) Imbruglia, being duly sworn, depose and state, as follows:

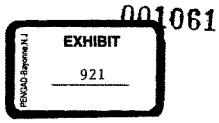
1. I am the same Francis (Frank) Imbruglia referred to in the police reports made regarding the investigation of the murder of Teddy Deegan, to wit, the Evans report, the Cass report, dated March 15, 1965, and the District Attorney report, dated November 27, 1967, attached to the motion for new trial on behalf of Peter Limone.

2. I am stating under oath and of my own personal knowledge that Peter Limone, Henry Tameleo, and Louie Greco had nothing to do with, in any shape or manner, in the decision to murder, the planning of the murder, the payment for the murder, and the commission of the murder of Teddy Deegan.

3. As far as I know there was no payment for the murder of Deegan, because Deegan had continuously bothered Richard Castucci, the owner of the Ebbtide, and was shaking him down for money. Castucci told Cassesso, and Cassesso said, in my presence, "We're going to clip him." There was never any mention of Tameleo, Greco, or Limone.

4. I do not wish to make any further statements at this time.

Subscribed and sworn to, under the pains and penalties of perjury, this 27 July, 2000.



Before me, notary public

John Cavicchi Attorney at Law Fax: 617-567-4697 Voice: 617-567-4697

August 30, 2000

John Cavicchi
Attorney at Law
25 Barnes Avenue
East Boston, MA 02128

Dear John:

Thanks for the papers to refresh my memory. In fact; my **Affidavit** was right on the money with the exception of Joseph Salvati. Also; it appears that you were present in a legal capacity as "notary public" and I never made the connection after all these years, but for the fact that I just had examined the "affidavit" of Louie Greco for the first-time, also.

For the record, I have no memory of Joseph Salvati being a part of my involvement with the shooting death of "Teddy Deegan." He in no way aided me directly or indirectly in the "shooting death of "Teddy Deegan". **I did not get any money for shooting "Deegan"...**

Relevant to the issue of a **conflict of interest**, I have no record of hiring Attorney Joseph Balliro, prior to my trial nor subsequent to my trial. If, he delegated my legal rights to an independent appellate lawyer, it had to be free of charge as I was indigent at that time. Furthermore; I signed no release to that effect and no "effective" appeal issues were raised on my behalf, specifically, in conjunction with the **newly discovered evidence** obtained from the United States Department of Justice dated **"4/6/65"**, compiled by the FBI that were mailed to me at MCI-Norfolk from the FBI Office in Boston during November **1998...30 years after my conviction?...**Brady v Maryland, (1963), Com v Tucceri, 412 Mass 401 and 589 NE 2d 1216, 1217 at 1224; **on undisclosed evidence & absent evidence** by JUSTICE WILKINS, see also the latest USSC decision in Williams v Taylor, 120 S.Ct. (2000)...counsel "failed" to obtain mitigating **evidence**.

My testimony at trial is the truth to the best of my vision on March 12, 1965, during the tremendous abnormal strain to survive "Barboza-Baron's plot to kill "Deegan & Stathopoulos" because of the belief that they were responsible for the **savage killing** of Anthony Sacramone. **I do not know of any money contract to kill "Deegan".**

I never saw Louie Greco's **"affidavit"**, but, note "1" states what I have previously repeated as a matter of **fact**, that, was never developed at trial and was a major **GROUNDS** for **ineffective trial counsel**...to truly defeat the testimony of Tony Stathopoulos...also note "12" affirms what was an obvious **fact** to everyone that had ever met personally with Louie Greco or had seen Louie Greco from some viewing distance and was told that, that is Louie Greco walking with a **LIMP**. His name should be cleared, his family has a legal interest for it to be cleared...there is enough **evidence** to support that any stride of walking or slowly running or hurriedly walking, was an **impossibility to perform** by Louie Greco; without: **LIMPING**. . .with the polygraph **evidence** and other type of **scientific proof**...such as **"evidence accumulated by the Florida attorney"..."not presented at trial."** Louie may have been convicted for **Fitzgerald's test after the fact.** NOT THE TRUTH...

BEFORE.

Wilfred Roy French

God Bless and best regards for your client... Wilfred Roy French

EXHIBIT
922

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

Superior Court
Cr. Nos. 32367, 69-70

Commonwealth

v.

Peter Limone

Motion to Vacate Conviction and Dismiss Indictments

This motion is made pursuant to the mandates of *Brady v. Maryland*, 373 U.S. 83 (963), and *Roviaro v. United States*, 353 U.S. 53 (1957).

Facts I

Joseph, "The Animal," Barboza, a/k/a Joseph Baron, a/k/a, Joseph Bentley, a/k/a Joseph Donati, was the only witness linking the defendant, Peter Limone, to the murder of Edward "Teddy" Deegan, on March 12, 1965, in an alleyway, in Chelsea. For a summary of his testimony, see *Comm. v. French*, 357 Mass. 356 (1970). Barboza, the uncorroborated, unpolygraphed accomplice in Deegan's murder, was an admitted murderer, loan shark, and perjurer with a long criminal record who was facing decades of incarceration as a habitual criminal. Barboza had repeatedly denied, under cross-examination, that he had ever entered the alley to murder Deegan, and had also denied that he was armed, or that he had seen the killing, or that he, in truth, had shot

Deegan. He claimed that the murder was authorized by Tameleo, and that he was paid by the defendant Peter Limone. He also testified to numerous conversations with Limone and Greco, and stated that Greco had been given a .45. After the murder, he said Greco told him that he wanted prompt payment, and that Greco said he "started shooting Deegan" in the chest. One of the weapons used to kill Deegan was a .45.

Henry Tameleo did not testify, but Greco and Limone repeatedly denied involvement in Deegan's murder. Both Tameleo and Greco died in prison. Tameleo,. in 1983, Greco, in 1995.

In 1993, Greco and Limone[1] filed motions for new trials alleging the suppression of a police report which showed that Barboza had lied when he denied having left the Ebb Tide Restaurant with "Jimmy" Flemmi to commit the murder. A second police report, the Cass report, and a waitress statement corroborated defendants' Limone's and Greco's claims that Barboza had lied regarding having left with Flemmi, also surfaced.

The motions for new trial were denied in January, 1994. In allowing Limone and Greco to appeal to the Full Court, pursuant to G.L. c. 278 s 33E, Single Justice Greaney stated:

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[1] Another defendant, Salvati, filed a motion for new trial and the cases were consolidated.

> [If] disclosed and properly developed, the information could have had considerable relevance to the credibility of Baron's testimony which was at the core of the Commonwealth's case, and it would have supported the defendant's alibi and other defenses.[2]

In June, 1995, the SJC affirmed the convictions. See *Comm. v. Salvati,* 420 Mass. 499. In that decision, the SCJ did not address the perjury of Barboza and concluded that the information did not materially aid the defendants and, although there was nothing in the record by which the SJC could have arrived at its conclusion, stated that the "informant" was not an "informant," but a "tipster."[3] It made no mention of the waitress statement, or of the Cass report.

We now arrive at the present issue, which requires this Court to grant the motion.

FACTS II

In its original decision, *Comm. v. French,* supra, at 397, 398, the SJC said of Barboza:

> [We] give weight to the fact that ***the principal issue before the jury was one of Baron's credibility***...we recognize that Baron...had various incentives and motives

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[2] Limone et al. v. Commonwealth, Nos. 94-223-24, slip op. at 3 (Mass. June 22, 1994) (order granting leave to appeal).

[3] See, Comm. v. Brzezinski, 405 Mass 401 (1989), citing the difference between an "informant" and a "tipster."

for testifying[4]...Baron had a long criminal record and was a "highly vulnerable witness" (citation omitted).

[T]he jurors, when they retired to deliberate, were in a far better position to appraise the witnesses and what was said than we now are. ***They had heard full discussion of all imaginable infirmities in the vital testimony of these witnesses.***

Subsequent to the filing of the current motion for new trial, counsel received a redacted FBI informant statement which was made eleven days after Deegan's murder, which showed that there had been an "informant," not a "tipster," who had valuable, relevant, material, credible, exculpatory evidence, in the government's possession, which had been withheld from the defense.

At trial, under cross-examination by Lawrence O'Donnell, Barboza had repeatedly denied that he had entered the alleyway to murder Deegan. He also claimed that he was not armed, and that he did not shoot Deegan. However, what Barboza stated to the informant, shortly after the murder,

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[4] The prosecutor told the jury at trial that Barboza's only deal was that in return for his testimony the FBI would protect his wife and family and call his testimony to the attention of any judge that tried his other cases; and further told the jury that he testified because his friends had been killed and his wife and child threatened. In fact, less than eight months after defendant Limone received the death sentence, the same judge, Felix Forte, gave Barboza a one year suspended sentence, despite having previously told the jury that he was serving four to five years in Walpole, "to be served." Barboza was then released from prison, given a new identity, brought to California, and entered the Federal Witness Protection Program. While in California, he murdered again, served a short prison sentence, and was ultimately murdered in San Francisco, on February 11, 1976.

There can be little doubt that Barboza was the single most despicable miscreant ever called as a witness by the prosecution in the history of the Commonwealth.

was a completely different story. Barboza said that he, Barboza, had shot Deegan with a .45. Therefore, it was not Louie Greco in the alley with the .45, but Barboza himself. This would have also corroborated Roy French, who testified that Greco was in Florida when the murder was committed. See, *French*, supra, at 356. Had this information been made available to the defense, it would have completely refuted Barboza's testimony, as Barboza himself did, subsequent to the trial. See, affidavits of Barboza, French, F. Lee Bailey, Judge Gerald Alch, James Southwood, Frank Imbruglia, and polygraphs[5] of Greco. The jury would have to have been instructed that if it found Barboza lying regarding one aspect of the murder scheme, it could find that he had been lying throughout the trial regarding his alleged conversations with and payment from Limone (*falsus in uno, falsus in omnibus*).

THE LAW

In *Comm. v. Salvati*, 420 Mass. 499, at 501-502 n.3 (1995), the SJC applied 1968 case law, because that was the law at the time of defendants' trial.[6] Since we are relying

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[5] In light of the emergence of the FBI informant statement, these documents must be reevaluated. The inescapable conclusion is that Barboza lied at the trial. Furthermore, the Suffolk District Attorney also has in his possession the video of the polygraph of Greco given on national television, in 1983, by renowned polygrapher Ed Gelb. This was turned over to the Office of the District Attorney, in 1983, and again in 1992.

[6] At Salvati, supra, 507, n.7, the SJC says that defendant should have requested a hearing

on 1968 law, an analysis of the *Brady*, supra, and *Roviaro*, supra, is all the Court needs to grant the motion.

1. **Brady claims.** In quoting Brady, the SJC stated: "suppression by [a] prosecutor of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or punishment." *Salvati*, supra, at 500. In affirming the conviction's in *Salvati*, the SJC said, "Limone's primary criminal act was soliciting 'the hit' on Deegan and Grieco was not at the Ebb Tide with Baron, but rather in an alley waiting for Deegan...Furthermore, ...the fact that the informant saw Baron leave the Ebb Tide at the same time as six other individuals does not 'conclusively establish a common destination or scheme' between those individuals given the possibility that Baron left with those individuals who did not participate in the crimes". *Salvati*, supra, at 505. The SJC, however, ignored the fact that these individuals were notorious gangsters, and had been under surveillance by law enforcement officials. In addition, the SJC did not address

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pursuant to Comm. v. Amral, 407 Mass. 511, 522-523 (1990). This is error for three reasons. First, the defendant did not dispute the information provided by the informant, which showed Barboza was lying. Second, the defendant requested an evidentiary hearing. If the Commonwealth doubted the information provided by its informant, it should have requested the hearing. Third, the Amral hearing did not exist in 1968. Amral has its origin in Franks v. Delaware, 438 U.S. 154 (1978).

the allegation of Barboza's perjured statement, which was known by the Suffolk District Attorney. See, affidavit of ADA James McDonough, who admitted he had the Evans report.

The present case presents a far more overwhelming issue, because the murderers had arrived at their destination, and Barboza, not Greco, was, in fact, in the alley, and shot Deegan with a .45. The fact that Barboza was repeatedly questioned by Greco's lawyer, O'Donnell, about whether he committed the murder, to which questions Barboza repeatedly lied under oath, goes to the very heart of the Commonwealth's case. Furthermore, questions on cross-examination that are denied by a witness are not evidence for a jury's consideration. Proof that Barboza had lied about his committing the murder would have devastated the Commonwealth's case. Had the defendants had access to this witness, who would have refuted Barboza's implication of Louie Greco in the murder, *in toto*, it would have been able to demonstrate Barboza's false testimony, which, in turn, would have cast doubt upon the veracity of Barboza's implicating Limone in the murder scheme. The Commonwealth cannot logically, honestly or ethically argue that the substitution of even one innocent name for a member of his own murder party does not completely undermine his credibility.

2. Roviaro claims. In quoting *Roviaro,* the SJC stated: "Where the disclosure of an informer's identity, or the contents of his communication, is relevant and helpful to the defense of the accused, or is essential to a fair determination of the cause, the information must be disclosed to the defendant or the case must be dismissed," *Salvati,* at 505.

In the case at bar, the defendants made specific requests for statements of Commonwealth's witnesses, Grand Jury testimony, police reports, and exculpatory evidence, all of which were denied. The SJC however, in *Salvati, supra,* at 506, surmised that the "informant" was not an "informant", but merely a "tipster." The SJC also stated that the "informant's report did not materially aid any of the defendants on the issue of guilt or punishment." *Id.*

This is not the case at bar. The FBI intelligence report states that the informant's rating is "very good," and the report indicates "positive" results from contact with the informant. The informant, in the case at bar, materially aided Greco and Limone, because the authorities knew Greco was in Florida when the murder was committed, and had, in their possession, the Miami Police Polygraph, and other corroborating evidence, prior to trial, which supported his claims of innocence, and which would have been material to Limone's claims that Barboza was lying about his involvement

in the murder scheme. Prosecuting authorities also had a request by Greco's Florida attorney, Richard Barest, a part-time judge and former prosecutor, for Barboza to submit to a polygraph.

In addition, the informant's statement should have been given to the defense, because it was a statement made by Barboza to a witness regarding his own role in the murder, which would have cast doubt upon his entire testimony, if in reality, the Commonwealth would have actually proceeded to trial had the general public known that Barboza was, in fact, the shooter, and was not on the corner, or sitting in a car, as he had falsely testified.

Wherefore, the defendant requests that the conviction be vacated, and the indictments be dismissed.

Respectfully submitted,
by his attorney
John Cavicchi

September 19, 2000

John Cavicchi
BBO 079360
25 Barnes Ave.
E. Boston, MA 02128
617-567-4697

Certificate of Service

I, John Cavicchi, hereby certify that I have served a copy of the above upon ADA Mark Lee, by mailing to his address of record.

John Cavicchi

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	) Crim. No. 99-10371-RGS
v.	) Violations:
KEVIN P. O'NEIL,	) 18 U.S.C. § 1962(d)
JAMES J. BULGER, and	) 18 U.S.C. § 1962(c)
STEPHEN J. FLEMMI,	) 18 U.S.C. § 1963
	) 18 U.S.C. § 1956(a)(1)
	) 18 U.S.C. § 1956(h)
Defendants.	) 18 U.S.C. § 1957
	) 18 U.S.C. § 1951
	) 18 U.S.C. § 1503
	) 18 U.S.C. § 894
	) 26 U.S.C. § 5841
	) 26 U.S.C. § 5845(a)
	) 26 U.S.C. § 5861(d)
	) 26 U.S.C. § 5871
	) 18 U.S.C. § 2

SUPERSEDING INDICTMENT

THE UNITED STATES GRAND JURY in and for the District of Massachusetts charges that:

COUNT ONE
(Racketeering Conspiracy)

THE ENTERPRISE

1. From in or before 1972 and continuing until in or about 1999, within the District of Massachusetts and elsewhere, the defendants **JAMES J. BULGER**, also known as "Whitey," "Jim," and "Jimmy," **STEPHEN J. FLEMMI**, also known as "Stevie," and **KEVIN P. O'NEIL**, and others known and unknown to the grand jury, were members and associates of a criminal organization known by various names such as "Winter Hill," "the Hill," "the Winter Hill Gang," and "South Boston" (hereinafter the "Bulger Group") whose members and associates associated together and with others for

the purpose of, among other things, earning money through extortion, loansharking, bookmaking, trafficking in narcotics and other controlled substances, and committing crimes of violence including murder, attempted murder, and assault.

2. The Bulger Group, including its leadership, membership, and associates, constituted an "enterprise" as defined by Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact, which engaged in, and the activities of which affected, interstate and foreign commerce. The Bulger Group affected interstate and foreign commerce by, among other things, the sale of narcotics and other controlled substances in Massachusetts and elsewhere that had been brought into Massachusetts from places outside thereof, the extortion of individuals and entities whose activities affected interstate commerce, the control and operation of businesses affecting interstate commerce, the use of financial institutions affecting interstate commerce, and travel in interstate commerce.

3. At various times during the period covered by this Superseding Indictment, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI** were the leaders of the Bulger Group. At various times during the period covered by this Superseding Indictment, the defendant **KEVIN P. O'NEIL** was a member of the Bulger Group who engaged in criminal activities, including

Avenue, and the Rotary Variety Store located within 309-325 Old Colony Avenue. These transactions were designed to facilitate the control of, and acquisition of income from, those assets by members of the Bulger Group, while disguising their true relationships to those assets and that the assets had been obtained, maintained, and operated through extortion and with the proceeds of extortion and other racketeering activities.

12. To further their goals of earning money and gaining prestige within the Bulger Group, as well as to protect members of the Bulger Group, to preserve and enhance the reputation and position of the Bulger Group with respect to others, and to foster and maintain the Bulger Group's relationships with others, members and associates of the Bulger Group engaged in the threatened and actual use of violence, including assault, attempted murder and murder. These activities included, but were not limited to, the following:

a. In or about and between March 1973 and February 1974, at various locations in the District of Massachusetts and elsewhere, members and associates of the Bulger Group including **JAMES J. BULGER**, John V. Martorano, Joseph M. McDonald, James L. Sims, and others known and unknown to the grand jury, assaulted and murdered the following individuals in connection with a dispute with members of a rival group led by Al Notorangeli:

(1) Michael Milano - murdered on March 8, 1973;

(2) Dianne Sussman - shot on March 8, 1973;

(3) Louis Lapiana - shot on March 8, 1973;

(4) Al Plummer - murdered on March 19, 1973;

(5) Hugh Shields - shot on March 19, 1973;

(6) Frank Capizzi - shot on March 19, 1973;

(7) William O'Brien - murdered on March 24, 1973;

(8) Ralph DiMasi - shot on March 24, 1973;

(9) James Leary - murdered on April 3, 1973;

(10) Joseph Notorangeli - murdered on April 18, 1973; and

(11) Al Notorangeli - murdered on February 21, 1974.

b. On or about December 1, 1973, in the vicinity of Dorchester, Massachusetts, the defendant **JAMES J. BULGER**, John V. Martorano, Joseph M. McDonald, and others known and unknown to the grand jury, murdered James O'Toole, a former associate of the Charlestown-based McLaughlin Gang and an enemy of members and associates of the Bulger Group.

c. In or about October 1974, in the vicinity of Somerville, Massachusetts, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI**, John V. Martorano, Joseph M. McDonald, and others known and unknown to the grand jury, murdered James Sousa, a criminal associate who was involved in a botched robbery with other members and associates of the Bulger Group, after he was

arrested and charged in connection with that robbery because he was believed to be a potential witness against and liability to members of the Bulger Group.

d. In or about November 1974, in the vicinity of South Boston, Massachusetts, the defendant **JAMES J. BULGER**, and others known and unknown to the grand jury, murdered Paul McGonagle, who had been a member of the Mullins Gang and an opponent of **BULGER** during the battle for control of South Boston among rival criminal groups, and thereafter buried his remains in the vicinity of Tenean Beach, Dorchester, Massachusetts.

e. On or about June 12, 1975, in the vicinity of Dorchester, Massachusetts, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI**, John V. Martorano, and others known and unknown to the grand jury, murdered Edward Connors, a person who had knowledge of the participation of members of the Bulger Group in the murder of James O'Toole.

f. On or about November 5, 1975, in the vicinity of South Boston, Massachusetts, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI**, John V. Martorano, and others known and unknown to the grand jury, murdered Thomas King, a member of the Bulger Group who was viewed as a threat to **BULGER** and other members of the organization, and thereafter buried his remains in the vicinity of the Neponset River, Quincy, Massachusetts.

g. On or about November 6, 1975, in the vicinity of South Boston, Massachusetts, the defendant **JAMES J. BULGER**, and others known and unknown to the grand jury, murdered Francis "Buddy" Leonard, in an effort to divert attention from the disappearance of Thomas King.

h. In or before May 1981, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI**, John V. Martorano, Joseph M. McDonald, John B. Callahan, and others known and unknown to the grand jury, conspired to murder Roger Wheeler, the owner of a business known as World Jai Alai. On or about May 27, 1981, in the vicinity of the Southern Hills Country Club, Tulsa, Oklahoma, John V. Martorano and Joseph M. McDonald murdered Roger Wheeler.

i. In or about late 1981, in the vicinity of South Boston, Massachusetts, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI** murdered Debra Davis, a girlfriend of **FLEMMI** whom **BULGER** and **FLEMMI** viewed as posing a threat to **FLEMMI**.

j. In or about July 1983, in the vicinity of South Boston, Massachusetts, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI**, Kevin J. Weeks, and others known and unknown to the grand jury, kidnaped, extorted, and murdered Arthur "Bucky" Barrett.

k. In or about early 1985, in the vicinity of South Boston, Massachusetts, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI** murdered Deborah Hussey, who was the step-daughter of

FLEMMI and whom BULGER and FLEMMI viewed as posing a threat to FLEMMI.

13. In preparation for and in furtherance of their commission of crimes of violence, members and associates of the Bulger Group acquired and maintained firearms of various types and calibers, including handguns, rifles, automatic weapons, and shotguns, ammunition of various types and calibers, explosive devices and materials, and other weapons. Such weapons and ammunition were secreted at times in hidden locations and in large stockpiles. Such locations included, but were not limited to, a hidden location at the residence of George Kaufman in Brookline, Massachusetts and a hidden compartment in the interior wall of a detached structure in the rear yard of 832 East Third Street, South Boston, Massachusetts, which was the residence at times of the defendant STEPHEN J. FLEMMI and his parents.

14. As a means of preserving and protecting the enterprise and its leadership from prosecution, members and associates of the Bulger Group engaged in activities designed to hinder and obstruct the administration of justice. These activities included, but were not limited to, the following:

a. Members and associates of the Bulger Group used and threatened to use violence, including murder, against actual and potential witnesses with knowledge of the criminal activities

of the Bulger Group. These activities included, but were not limited to, the following:

(1) In or about December 1976, members and associates of the Bulger Group learned that Richard Castucci was providing information to agents of the Federal Bureau of Investigation regarding the whereabouts of fugitives Joseph M. McDonald and James L. Sims. On or about December 30, 1976, in the vicinity of Somerville, Massachusetts, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI**, John V. Martorano, and others known and unknown to the grand jury, murdered Richard Castucci.

(2) In or about May 1982, members and associates of the Bulger Group learned that Brian Halloran was providing information to agents of the Federal Bureau of Investigation regarding, among other things, the involvement of the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI** and John V. Martorano in the murder of Roger Wheeler, and the involvement of **BULGER** and others in the murder of Louis Litif. On or about May 11, 1982, in the vicinity of Northern Avenue, South Boston, Massachusetts, **BULGER**, Kevin J. Weeks, and others known and unknown to the grand jury, murdered Brian Halloran and Michael Donahue, who was riding in an automobile with Halloran at the time Halloran was murdered.

(3) In or about July 1982, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI** learned that investigative efforts relating to the murder of Roger Wheeler were being

directed towards John B. Callahan, former president of World Jai Alai. Concerned that Callahan might implicate **BULGER** and **FLEMMI** in the murder of Wheeler, **BULGER** and **FLEMMI** agreed with John V. Martorano to murder Callahan. On or about August 1, 1982, in the vicinity of Ft. Lauderdale, Florida, John V. Martorano and Joseph M. McDonald murdered John Callahan.

(4) In or about October and November 1984, members and associates of the Bulger Group learned that John McIntyre was cooperating with law enforcement officials including agents of the Federal Bureau of Investigation and the United States Customs Service concerning illegal activities of the Bulger Group. These illegal activities included the illegal shipment of arms and ammunition aboard the fishing trawler Valhalla to elements of the Irish Republican Army in Ireland in September of 1984 and the illegal distribution of drugs by members and associates of the Bulger Group, including the importation of approximately thirty-six tons of marihuana into Boston Harbor on board the vessel Ramsland, which had been seized by federal authorities on or about November 14, 1984. On or about November 30, 1984, in the vicinity of South Boston, Massachusetts, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI**, Kevin J. Weeks, and others known and unknown to the grand jury, kidnaped and murdered John McIntyre.

(5) In order to evade detection for the murders of Arthur "Bucky" Barrett, John McIntyre, and Deborah Hussey, the defendants **JAMES J. BULGER** and **STEPHEN J. FLEMMI**, Kevin J. Weeks, and other members and associates of the Bulger Group, buried the remains of these three persons in the basement of a private home located in South Boston, Massachusetts. In or about October 1985, **BULGER**, **FLEMMI**, Weeks, and others, having learned of the impending sale of that residence, exhumed the remains of these three persons and buried those remains in a common grave which they prepared in the vicinity of 55 Hallett Street, Dorchester, Massachusetts.

b. Members and associates of the Bulger Group attempted to monitor the activities of grand juries investigating the Bulger Group and to improperly influence the testimony of witnesses called before those grand juries, as well as to improperly influence courts conducting proceedings related to members and associates of the Bulger Group. For example, in or about late 1993, the defendant **STEPHEN J. FLEMMI** attempted to prevent the potential testimony of Richard O'Brien. In or about and between August and November 1995, **FLEMMI** improperly influenced the grand jury testimony of Richard O'Brien. In or about 1997 and 1998, Kevin J. Weeks met with and passed information between the defendant **STEPHEN J. FLEMMI** and John J. Connolly as part of an effort by **FLEMMI**, Connolly, and others to

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	:	CRIMINAL NO. 99-10428 - JLT
v.	:	Racketeering (18 U.S.C. §1962(c))
JOHN J. CONNOLLY, JR. and STEPHEN FLEMMI	:	Racketeering Conspiracy (18 U.S.C. §1962(d))
	:	Conspiracy to Obstruct Justice (18 U.S.C. §371)
	:	Obstruction of Justice (18 U.S.C. §§1503, 1512)
	:	False Statement (18 U.S.C. §1001)

SUPERSEDING INDICTMENT

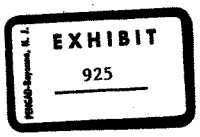
The Grand Jury charges:

COUNT ONE - Racketeering
(John J. Connolly, Jr.)

GENERAL ALLEGATIONS

1. From November 1968 to December 1990, the defendant JOHN J. CONNOLLY JR. ("CONNOLLY") was a Special Agent of the Federal Bureau of Investigation ("FBI"). From February 1973 until his retirement in December 1990, CONNOLLY was assigned to the Boston Field Office of the FBI.

2. At all times material to this Indictment, the "Winter Hill Gang" was a clandestine



criminal organization that engaged in multiple crimes, including murder, bribery, extortion, loan sharking, and illegal gambling in the greater Boston, Massachusetts area.

3. At all times material to this Indictment, James Bulger ("Bulger"), also known as "Whitey," was a member of the Winter Hill Gang.

4. At all times material to this Indictment, Stephen Flemmi ("Flemmi") also was a member of the "Winter Hill Gang."

5. At all times material to this Indictment, "La Cosa Nostra," commonly referred to as "the Mafia," was a nationwide clandestine criminal organization that also engaged in crimes including extortion, loansharking, and illegal gambling in the greater Boston area.

6. Although the Winter Hill Gang and La Cosa Nostra frequently competed for the same criminal turf in greater Boston, at other times material to this indictment members of the two groups also jointly engaged in various criminal activities.

7. In or about 1988, Francis P. Salemme, not a defendant herein, was a soldier in the New England family of La Cosa Nostra. In about 1991 Salemme became the boss of the New England family.

8. From 1970 until in or about December 1995, John Morris, who is not a defendant herein, was an FBI Special Agent. From approximately March 1972 until approximately November 1991, John Morris was assigned to the FBI's Boston Field Office. For much of that time, John Morris was a Supervisory Special Agent and, between December 1977 and January 1983, was the direct supervisor of CONNOLLY on the FBI's organized crime squad, which primarily investigated La Cosa Nostra.

9. In or about September 1975, CONNOLLY officially opened James Bulger as a

confidential informant for the FBI.

10. In or about September 1980, CONNOLLY officially re-opened Stephen Flemmi as a confidential informant for the FBI.

11. At all times material to this Indictment, during the period of ~~time~~ when Bulger and Flemmi were FBI informants, CONNOLLY was the FBI contact agent assigned to receive and report their information.

THE RACKETEERING ENTERPRISE

12. At all times material to this Indictment, in the District of Massachusetts and elsewhere, CONNOLLY, James Bulger, Stephen Flemmi, and others known and unknown to the Grand Jury, who are not charged in this indictment, were members and associates of an enterprise ("the Enterprise") as defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact, the activities of which affected interstate and foreign commerce.

PURPOSE OF THE ENTERPRISE

13. The Enterprise, through its members and associates, acted to protect James Bulger, Stephen Flemmi and their associates, including Francis P. Salemme and those in the Winter Hill Gang, from arrest and prosecution for criminal activities including murder, loan sharking, illegal gambling, extortion, obstruction of justice, and bribery; and it acted to facilitate those criminal activities of Bulger, Flemmi, and their associates.

MANNER AND MEANS

14. From approximately 1976 through 1994, CONNOLLY both received bribes from Stephen Flemmi and James Bulger, and with Stephen Flemmi and James Bulger paid a series of bribes to former Supervisory Special Agent John Morris. CONNOLLY and John Morris were thereby influenced to provide to Bulger and Flemmi sensitive and confidential law enforcement information designed to protect the criminal activities of Bulger, Flemmi, and, at times, their criminal associates.

15. From at least 1976 through December 1990, while he served as a Special Agent of the FBI, CONNOLLY, using confidential information that he received from Supervisory Special Agent John Morris and from other FBI and law enforcement sources, tipped Bulger and Flemmi to various law enforcement initiatives in order to protect their ongoing criminal activities.

16. From at least 1976 through December 1990, while he served as a Special Agent of the FBI, CONNOLLY, using confidential information that he received from FBI and other law enforcement sources, alerted Bulger and Flemmi to the identity of confidential law enforcement informants in order to protect Bulger's and Flemmi's ongoing criminal activities.

17. From about 1976 until his retirement from the FBI in December 1990, in order to protect Bulger and Flemmi from prosecution and to further their criminal activities, CONNOLLY knowingly omitted material information from official FBI documents regarding Bulger and Flemmi.

18. From at least 1976 until his retirement from the FBI in December 1990, in order to protect Bulger and Flemmi from prosecution and to further their criminal activities, CONNOLLY, in knowing and willful violation of his responsibilities as an FBI agent,

endeavored to preserve Bulger's and Flemmi's status as confidential informants by failing to report information relating to Bulger and Flemmi which was material to the investigation of criminal activity in the Boston area.

19. Following his retirement from the FBI in December 1990, CONNOLLY maintained associations at the Boston Field Office of the FBI in order, in part, to obtain law enforcement information related to the criminal activities of Bulger, Flemmi, and others. CONNOLLY used information obtained from FBI and other law enforcement sources to alert and apprise Bulger and Flemmi and their associates of law enforcement investigations into their criminal activities.

OBJECT OF THE ENTERPRISE

20. It was the object of the Enterprise to protect and foster the criminal activities of Bulger, Flemmi and their associates by (1) providing Bulger and Flemmi with confidential law enforcement information regarding Grand Jury investigations, court-authorized electronic surveillance, and other investigative efforts; (2) deflecting and squelching prosecutions and criminal investigations of their crimes; and (3) improperly preserving their status as FBI informants through the filing of misleading official reports and by failing to report information relating to Bulger and Flemmi which was material to the investigation of criminal activity.

THE RACKETEERING VIOLATION

21. From in or about September 1975 to in or about September 1998, in the District of Massachusetts and elsewhere, CONNOLLY, together with others known and unknown to the Grand Jury, being a person employed by and associated with the above-described Enterprise, which was engaged in, and the activities of which affected, interstate and foreign commerce, unlawfully and knowingly conducted and participated, directly and indirectly, in the conduct of

affairs of the Enterprise through a pattern of racketeering activity, that is, the commission of Racketeering Acts One through Fourteen, as described below.

THE PATTERN OF RACKETEERING ACTIVITY

22. The pattern of racketeering activity, as defined in Title 18, United States Code, Sections 1961(1) and 1961(5), consisted of the following acts:

A. BRIBERY

Racketeering Act #1

23. In about June 1976, the exact date being unknown, in the District of Massachusetts, CONNOLLY, being a public official, corruptly received, accepted, and agreed to receive and accept from Bulger and Flemmi a thing of value, that being a diamond ring, in return for being induced to do and omit to do acts in violation of his official duty, specifically to divulge confidential and sensitive law enforcement information in order to protect Bulger's and Flemmi's ongoing criminal activities in violation of his official duty, in violation of Title 18, United States Code, Sections 201(c) (later re-codified as 201(b)) and 2.

Racketeering Act #2

24. Beginning in the latter part of 1981 or early 1982, the exact date being unknown, in the District of Massachusetts, CONNOLLY, Bulger and Flemmi did corruptly give a thing of value, that being a case of fine wine, to a public official, that being Supervisory Special Agent John Morris, to induce such public official to do and omit to do acts in violation of his official duty, specifically to divulge confidential and sensitive law enforcement information in order to protect Bulger's and Flemmi's ongoing criminal activities in violation of his official duty, in violation of Title 18, United States Code, Sections 201(b) and 2.

Racketeering Act #3

25. In or about June 1982, the exact date being unknown, in the District of Massachusetts, CONNOLLY, Bulger and Flemmi did corruptly give a thing of value, that being $1,000 in United States currency, to a public official, that being FBI Supervisory Special Agent John Morris, to induce that public official to do and omit to do acts in violation of his official duty, specifically to divulge confidential and sensitive law enforcement information in order to protect Bulger's and Flemmi's ongoing criminal activities in violation of his official duty, in violation of Title 18, United States Code, Sections 201(b) and 2.

Racketeering Act #4

26. Sometime in late 1982 or 1983, the exact date being unknown, in the District of Massachusetts, CONNOLLY, Bulger, and Flemmi did corruptly give a thing of value, that being a case of fine wine containing $1,000 in United States currency, to a public official, that being FBI Supervisory Special Agent John Morris, to induce that public official to do and omit to do acts in violation of his official duty, specifically to divulge confidential and sensitive law enforcement information in order to protect Bulger's and Flemmi's ongoing criminal activities in violation of his official duty, in violation of Title 18, United States Code, Sections 201(b) and 2.

Racketeering Act #5

27. Sometime in or about 1986 - 1987, the exact date being unknown, in the District of Massachusetts, CONNOLLY, Bulger and Flemmi did corruptly give a thing of value, that being $5,000 in United States currency, to a public official, that being FBI Supervisory Special Agent John Morris, to induce that public official to do and omit to do acts in violation of his official duty, specifically to divulge confidential and sensitive law enforcement information in order to

protect Bulger's and Flemmi's ongoing criminal activities in violation of his official duty, in violation of Title 18, United States Code, Sections 201(b) and 2.

B. INTERFERENCE WITH INTERSTATE COMMERCE BY EXTORTION

Racketeering Act 6

28. CONNOLLY committed the following acts, any one of which alone constitutes Racketeering Act 6:

Racketeering Act #6A

29. In or about December 1983, the exact date being unknown, Stephen Rakes and his wife, Julie Rakes, opened a liquor store at 295 Old Colony Avenue, South Boston, Massachusetts.

30. In or about January 1984, the exact date being unknown, Bulger, Flemmi and Kevin Weeks threatened Stephen Rakes with physical harm if he refused to convey the liquor store to them.

31. Shortly thereafter, Joseph Lundbohm, then a Boston police officer, approached CONNOLLY on behalf of the Rakes, to report the extortionate demands of Bulger and Flemmi.

32. In response to Joseph Lundbohm's report, CONNOLLY falsely told Lundbohm that unless Rakes agreed to wear a recording device in conversations with Bulger and Flemmi, the FBI was unlikely to take action on the complaint.

33. Stephen Rakes acceded to the extortionate demands of Bulger and Flemmi, and Stephen Rakes and Julie Rakes conveyed their interest in the liquor store to Kevin Weeks, who was acting on behalf of Bulger and Flemmi.

34. In violation of FBI regulations, and in a further effort to protect the extortionate activities of Bulger and Flemmi, CONNOLLY failed to report or to otherwise memorialize on any official FBI document the information that he had received from Joseph Lundbohm.

35. In or about January through May 1984, the exact date being unknown, in the District of Massachusetts, Bulger and Flemmi, aided and abetted by CONNOLLY, obstructed, delayed, and affected commerce by extortion, in violation of Title 18, United States Code, Sections 1951 and 2.

Racketeering Act #6B

36. The allegations contained in Paragraphs 29 through 34 of Racketeering Act 6A are realleged in this Racketeering Act and are incorporated by reference as if fully set forth.

37. In or about January through May 1984, the exact date being unknown, in the District of Massachusetts, Bulger and Flemmi, aided and abetted by CONNOLLY, conspired to obstruct, delay, and affect commerce by extortion, in violation of Title 18, United States Code, Sections 1951 and 2.

C. OBSTRUCTION OF JUSTICE AND WITNESS TAMPERING

Racketeering Act #7

38. On or about July 31, 1975, Joseph McDonald and James Sims, both members of the Winter Hill Gang were charged with crimes in a federal indictment in the District of Massachusetts. Joseph McDonald and James Sims became fugitives from that charge.

39. In 1976 Richard Castucci was a nightclub owner and bookmaker who associated with the Winter Hill Gang. At the behest of the Winter Hill Gang, Castucci subsequently assisted

McDonald and Sims in obtaining an apartment in the Greenwich Village section of New York City while they remained fugitives.

40. During that time, Richard Castucci also was a confidential informant of the FBI. In the latter part of 1976, Castucci began to provide the FBI with specific information regarding the whereabouts of McDonald and Sims.

41. In late 1976, in the District of Massachusetts, CONNOLLY did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede the due administration of justice in a case captioned United States v. Sims et al., Cr. No. 359G (D. Mass.), in the District of Massachusetts, by providing confidential law enforcement information to Bulger which alerted him to the fact that Richard Castucci was a confidential informant of the FBI, with intent to thwart the arrest and prosecution of Joseph McDonald and James Sims in United States v. Sims, Cr. No. 359G (D. Mass.), in violation of Title 18, United States Code, Sections 1503 and 2.

42. On or about December 29, 1976, as a result of being informed of Castucci's relationship with the FBI, members of the Winter Hill Gang murdered Richard Castucci to prevent the capture of Joseph McDonald and James Sims.

Racketeering Act #8

43. CONNOLLY committed the following acts, any one of which alone constitutes Racketeering Act #8.

Racketeering Act #8A

44. On May 27, 1981, Roger Wheeler was shot to death in the parking lot of the Southern Hills Country Club in Tulsa, Oklahoma.

45. Shortly thereafter, a Federal Grand Jury for the Northern District of Oklahoma began an investigation into the murder of Roger Wheeler.

46. In or about January 1982, Brian Halloran approached the FBI in Boston, Massachusetts and offered to cooperate in the investigation of the Roger Wheeler homicide.

47. Brian Halloran told FBI Agents Gerald Montaneri and Leo Brunnick that Bulger and Flemmi, along with John Callahan and John Martorano, not named as defendants herein, had caused Roger Wheeler to be murdered.

48. As a Supervisory Special Agent in the FBI's Boston Office, John Morris learned of the information that Brian Halloran had provided to Special Agents Montaneri and Brunnick.

49. John Morris told CONNOLLY that Halloran had implicated Bulger and Flemmi in the Roger Wheeler homicide.

50. In or about April 1982, the exact date being unknown, in the District of Massachusetts, CONNOLLY did corruptly endeavor to influence, obstruct, and impede the due administration of justice in a federal grand jury sitting in the Northern District of Oklahoma and investigating the murder of Roger Wheeler, by providing confidential law enforcement information to Bulger and Flemmi which alerted them to the fact that Brian Halloran had provided information about the murder of Roger Wheeler in Tulsa, Oklahoma on May 27, 1981, in order to prevent Halloran's further cooperation and testimony, in violation of Title 18, United States Code, Section 1503.

51. Bulger and others then caused Brian Halloran to be murdered in Boston, Massachusetts on May 11, 1982, in order to prevent his further cooperation with law enforcement authorities and to prevent his testimony before a federal grand jury investigating the

murder of Roger Wheeler.

Racketeering Act #8B

52. Paragraphs 44 through 49 and paragraph 51 of Racketeering Act #8A are realleged in this Racketeering Act and are incorporated by reference as if fully set forth.

53. In or about April 1982, the exact date being unknown, in the District of Massachusetts, CONNOLLY did wilfully endeavor by means of intimidation and force and threats thereof to obstruct, delay, and prevent the communication of information by Brian Halloran to a criminal investigator relating to a violation of a criminal statute of the United States, by providing confidential law enforcement information to Bulger and Flemmi which alerted them to the fact that Brian Halloran had provided information about the murder of Roger Wheeler in Tulsa, Oklahoma on May 27, 1981, in violation of Title 18, United States Code, Section 1510 (later recodified at Section 1512) and 2.

Racketeering Act #9

54. CONNOLLY committed the following acts, any one of which alone constitutes Racketeering Act #9.

Racketeering Act #9A

55. The allegations contained in Paragraphs 44 through 49 and Paragraph 51 of Racketeering Act #8A are realleged in this Racketeering Act and are incorporated by reference as if fully set forth.

56. In or about June, 1982, CONNOLLY told Bulger and Flemmi that John Callahan was sought as a witness in the Wheeler homicide investigation.

57. In or about June 1982, the exact date being unknown, in the District of

Massachusetts, CONNOLLY did corruptly to endeavor to influence, obstruct, and impede the due administration of justice in a federal grand jury sitting in the Northern District of Oklahoma and investigating the murder of Roger Wheeler, by providing confidential law enforcement information to Bulger and Flemmi which alerted them to the identity of a witness who was being sought to testify in the Wheeler homicide investigation, in order to prevent the witness's cooperation and testimony, in violation of Title 18, United States Code, Section 1503.

58. Acting in response to CONNOLLY'S information, Bulger and Flemmi caused John Callahan to be murdered in Fort Lauderdale, Florida on or about August 1, 1982, in order to prevent his cooperating with law enforcement authorities and to prevent him from being able to provide testimony in the Wheeler homicide investigation.

Racketeering Act #9B

59. Paragraphs 55 through 56 and paragraph 58 of Racketeering Act #9A are realleged in this Racketeering Act and are incorporated by reference as if fully set forth.

60. In or about June 1982, the exact date being unknown, in the District of Massachusetts, CONNOLLY did wilfully endeavor by means of intimidation and force and threats thereof to obstruct, delay, and prevent the communication of information by John Callahan to a criminal investigator relating to a violation of a criminal statute of the United States, by providing confidential law enforcement information to Bulger and Flemmi which alerted them that Callahan was sought as a witness in the Wheeler homicide investigation, in violation of Title 18, United States Code, Section 1510 (later recodified at Section 1512) and 2.

Racketeering Act #10

61. In or about June 1988, Supervisory Special Agent John Morris learned that other

agents of the FBI who were working with the Organized Crime Strike Force of the Department of Justice had obtained court authorization to conduct a wiretap of telephones used by a person known to the Grand Jury to conduct illegal gambling activity.

62. This wiretap authorization was obtained in conjunction with an ongoing Grand Jury investigation in the District of Massachusetts.

63. In keeping with the understanding among Morris, Bulger, Flemmi, and CONNOLLY, Morris informed CONNOLLY of the wiretap authorization.

64. Also in keeping with that understanding, and because the individual known to the Grand Jury was suspected of paying extortion payments, commonly referred to as "rent," to Bulger and Flemmi in order to be able to continue to conduct his illegal gambling operation, CONNOLLY arranged a meeting among Morris, Bulger, Flemmi and Connolly so that Morris could directly advise them of the wiretap.

65. Shortly thereafter, at a meeting arranged by CONNOLLY, Morris did inform Bulger and Flemmi of the wiretap authorization and investigation.

66. In or about June 1988, in the District of Massachusetts, CONNOLLY did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede the due administration of justice before a federal Grand Jury in the District of Massachusetts, by providing confidential law enforcement information to Bulger and Flemmi which alerted them that a federal wiretap had been authorized in conjunction with a Grand Jury investigation into the activities of a person known to the Grand Jury, in violation of Title 18, United States Code, Sections 1503 and 2.

Racketeering Act #11

67. On or about December 23, 1994, in the District of Massachusetts, CONNOLLY did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede the due administration of justice in a federal Grand Jury in the District of Massachusetts by causing confidential law enforcement information to be provided to James Bulger which alerted him to the fact that law enforcement agents would soon attempt to arrest him in connection with the Grand Jury's investigation, in violation of Title 18, United States Code, Section 1503.

Racketeering Act 12

68. CONNOLLY committed the following acts, any one of which alone constitutes Racketeering Act 12:

Racketeering Act #12A

69. Beginning in or about December 23, 1994 and continuing until about early January 1995, the exact date being unknown, in the District of Massachusetts, CONNOLLY did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede the due administration of justice in a federal Grand Jury in the District of Massachusetts by causing confidential law enforcement information to be provided to Flemmi which alerted him to the fact that the Grand Jury would be asked to issue an indictment against him, in violation of Title 18, United States Code, Section 1503.

Racketeering Act #12B

70. In or about early January 1995, the exact date being unknown, in the District of Massachusetts, Flemmi, aided and abetted by CONNOLLY, did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede the due administration of justice in a

federal Grand Jury in the District of Massachusetts by providing confidential law enforcement information to Francis P. Salemme which alerted him to the fact that the Grand Jury would be asked to issue an indictment against him, in violation of Title 18, United States Code, Sections 1503 and 2.

Racketeering Act #13

71. On or about March 27, 1997, during pretrial proceedings in United States v. Salemme et al., Cr. No. 94-10287-MLW (D. Mass.), CONNOLLY caused to be sent to United States District Judge Mark L. Wolf a letter falsely purporting to have been written by three unnamed members of the Boston Police Department.

72. That letter stated, in part, that "[t]he Massachusetts State Police, DEA and the FBI are ... guilty of prosecutorial misconduct in the so-called investigation of Frank Salemme, Whitey Bulger and Stevie Flemmi." The letter went on to state that Boston Police Detective Frank Dewan, the Massachusetts State Police, the DEA, the FBI and the Department of Justice Organized Crime Strike Force had furnished or relied upon false information in efforts to prosecute James Bulger and Stephen Flemmi. In specific reference to an issue directly before the Court at the time, the letter contended that: "You, Judge Wolf, were deliberately lied to by the Government when they testified under oath that they did not know a Mafia induction ceremony was going to take place at the time they applied for their wire." The letter implored Judge Wolf to "expose Dewan, [former FBI Special Agent John] Morris, and all the rest of the criminal element in those agencies who every bit as much tarnished their own badges!"

73. The defense attorneys in United States v. Salemme et al., Cr. No. 94-10287-MLW (D. Mass.) filed a brief regarding the letter and on April 18, 1997, Judge Wolf held a hearing

regarding the letter.

74. On or about March 27, 1997, in the District of Massachusetts, CONNOLLY did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede an officer of a court of the United States in the discharge of his duty and did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede the due administration of justice in pretrial proceedings in United States v. Salemme et al., Cr. No. 94-10287-MLW (D. Mass.) by, having obtained letterhead of the Boston Police Department, causing to be sent to United States District Judge Mark L. Wolf a letter falsely purporting to have been written by unnamed Boston Police Officers in an effort to dupe Judge Wolf into crediting defense claims and to assist through false representations the defense of Stephen Flemmi, in violation of Title 18, United States Code, Sections 1503 and 2.

Racketeering Act 14

75. CONNOLLY committed the following acts, any one of which alone constitutes Racketeering Act 14:

Racketeering Act #14A

76. In or about early 1998, the exact date being unknown, Flemmi was preparing to testify in pretrial hearings in United States v. Salemme et al., Cr. No. 94-10287-MLW (D. Mass.) in support of his claim that he had been authorized by the Federal Bureau of Investigation to commit certain of the crimes charged in that indictment.

77. Through an intermediary, Flemmi informed CONNOLLY that he would falsely testify that it was John Morris, rather than CONNOLLY, who had alerted him and James Bulger to the impending indictment, as alleged in Racketeering Acts 11 and 12.

78. Through the same intermediary CONNOLLY informed Flemmi that Flemmi should assert that John Morris learned of the impending indictment through Washington which had received a "pros memo."

79. In or about early 1998, the exact date being unknown, in the District of Massachusetts, CONNOLLY did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede an officer of a court of the United States in the discharge of his duty and did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede the due administration of justice in pretrial proceedings in United States v. Salemme et al., Cr. No. 94-10287-MLW (D. Mass.) by corruptly persuading Stephen Flemmi to testify falsely that John Morris had learned of the impending indictment in United States v. Salemme et al. through Washington which had received a "pros memo," so that Flemmi could more plausibly testify falsely that John Morris had tipped James Bulger and him to the impending indictment in that case, in violation of Title 18, United States Code, Sections 1503 and 2.

80. Subsequently, on August 28, 1998 and September 1, 1998, Flemmi falsely testified before United States District Judge Mark L. Wolf that John Morris had alerted Bulger to the impending indictment in United States v. Salemme et al., Cr. No. 94-10287-MLW (D. Mass.) after Morris had learned of the indictment from Washington, which had received a copy of the "cross memo" in the case.

Racketeering Act #14B

81. The allegations contained in Paragraphs 76 through 78 and 80 of Racketeering Act 14A are realleged in this Racketeering Act and are incorporated by reference as if fully set forth.

82. In or about early 1998, the exact date being unknown, in the District of Massachusetts,

CONNOLLY did knowingly and corruptly persuade Stephen Flemmi, with intent to influence the testimony of Stephen Flemmi in pretrial proceedings in United States v. Salemme, Cr. No. 10287-MLW (D.Mass.), to testify falsely that John Morris had learned of the impending indictment in United States v. Salemme et al. through Washington which had received a "pros memo," so that Flemmi could more plausibly testify falsely that John Morris had tipped James Bulger and him to the impending indictment in that case, in violation of Title 18, United States Code, Section 1512(b)(1).

1512

All in violation of Title 18, United States Code, Section 1962(c).

COUNT TWO - Racketeering Conspiracy
(John J. Connolly, Jr.)

NO

1. The allegations contained in Paragraphs 1-20 and 22-82 of Count One are realleged in this Count and are incorporated by reference as if fully set forth.

2. From in or about September 1975 to on or about September 1998, in the District of Massachusetts and elsewhere, the defendant JOHN J. CONNOLLY, JR., being a person employed by and associated with the Enterprise described above, which was engaged in, and the activities of which affected interstate and foreign commerce, unlawfully and wilfully did combine, conspire, confederate, and agree with persons known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1962(c); that is, to conduct and participate, directly and indirectly, in the conduct of affairs of the Enterprise through a pattern of racketeering activity.

3. The pattern of racketeering activity through which CONNOLLY unlawfully and

knowingly agreed to conduct the Enterprise's affairs consisted of the acts set forth in Paragraphs 22 through 82 of Count One, which are realleged and incorporated here by reference.

4. It was further part of the conspiracy that CONNOLLY agreed that a conspirator would commit two or more acts of racketeering in the conduct of the affairs of the Enterprise.

All in violation of Title 18, United States Code, Section 1962(d).

COUNT THREE- Conspiracy to Obstruct Justice
(John J. Connolly, Jr. and Stephen Flemmi)

A. GENERAL ALLEGATIONS

1. The allegations contained in Paragraphs 1-11 and 14-19 of Count One are realleged in this Count and are incorporated by reference as if fully set forth.

2. During the period of time that the defendant JOHN J. CONNOLLY, JR. was acting as the contact agent for FBI informants defendant STEPHEN FLEMMI ("FLEMMI") and James "Whitey" Bulger, John Morris asked CONNOLLY what FLEMMI and James "Whitey" Bulger "wanted." CONNOLLY responded, "a head start."

3. On or about January 4, 1995, in connection with the case subsequently captioned United States v. Salemme et al., Cr. No. 94-10287-MLW (D. Mass.), arrest warrants were issued for FLEMMI, James "Whitey" Bulger, Francis P. Salemme, and others.

4. On or about January 5, 1995, Francis P. Salemme fled the District of Massachusetts. He was apprehended on or about August 12, 1995 in West Palm Beach, Florida.

5. On or before January 5, 1995, the exact date being unknown, James "Whitey" Bulger fled the District of Massachusetts. He remains a fugitive.

6. On or about January 10, 1995, FLEMMI, James "Whitey" Bulger, Francis P. Salemme and others were indicted in United States v. Salemme, et al., Cr. No. 94-10287-MLW (D. Mass.), and charged therein with violations of federal racketeering and racketeering-related laws.

B. THE CONSPIRACY

7. From in or about 1993 and continuing thereafter until on or about January 10, 1995, in the District of Massachusetts, CONNOLLY and FLEMMI, together with Francis P. Salemme and others known and unknown to the Grand Jury, unlawfully, knowingly and wilfully conspired to corruptly influence, obstruct and impede the due administration of justice in a federal Grand Jury in the District of Massachusetts by disclosing information concerning a then ongoing Grand Jury investigation, including but not limited to the information that a federal Grand Jury in the District of Massachusetts would be asked to issue an indictment in a case subsequently captioned United States v. Francis P. Salemme, Cr. No. 94-10287-MLW (D. Mass.), in violation of Title 18, United States Code, Section 1503.

Overt Acts

8. In furtherance of the conspiracy and to effect its objects, at least one of the defendants committed or caused to be committed one or more of the following acts in the District of Massachusetts:

a. In or about 1993, CONNOLLY provided FLEMMI confidential law enforcement information concerning a federal Grand Jury investigation in the District of Massachusetts.

b. In or about early 1994, CONNOLLY met with Francis P. Salemme and informed Salemme that he was being investigated by a federal Grand Jury.

c. In or about early 1994, on at least one occasion, CONNOLLY informed Francis P. Salemme that, by communicating through FLEMMI, CONNOLLY would provide Salemme with advance notice of any indictment arising from a federal Grand Jury.

d. On or about December 23, 1994, acting with corrupt intent to influence, obstruct and impede the due administration of justice, CONNOLLY caused to be conveyed to Bulger and Flemmi the information that law enforcement agents would attempt to arrest them in the ensuing weeks in connection with the investigation of a federal Grand Jury in the District of Massachusetts.

e. Beginning in or about December 23, 1994 and continuing through in or about early January 1995, the exact date being unknown, acting with corrupt intent to influence, obstruct and impede the due administration of justice, CONNOLLY caused to be conveyed to FLEMMI the information that a federal Grand Jury in the District of Massachusetts would be asked to issue an indictment against FLEMMI, Francis P. Salemme, and others, in a case subsequently captioned United States v. Francis P. Salemme, Cr. No. 94-10287-MLW (D. Mass.).

f. In or about early January 1995, acting with corrupt intent to influence, obstruct and impede the due administration of justice, FLEMMI conveyed to Francis P. Salemme the information that a federal Grand Jury in the District of Massachusetts would be asked to issue an indictment on January 10, 1995 against FLEMMI, Bulger, Francis P. Salemme and others, in a case subsequently captioned United States v. Francis P. Salemme, Cr. No. 94-10287-MLW (D. Mass.).

g. On or about January 5, 1995, Francis P. Salemme fled the District of Massachusetts.

All in violation of Title 18, United States Code, Section 371.

COUNT FOUR- Obstruction of Justice
(John J. Connolly, Jr.)

Beginning on or about December 23, 1994 and continuing until in or about early January 1995, the exact date being unknown, in the District of Massachusetts, the defendant JOHN J. CONNOLLY, JR. did corruptly influence, obstruct and impede ~~and did~~ endeavor to influence, obstruct and impede the due administration of justice in a federal Grand Jury in the District of Massachusetts by causing confidential law enforcement information to be provided to Stephen Flemmi, which alerted Stephen Flemmi that a federal Grand Jury in the District of Massachusetts would be asked to issue an indictment against Bulger, Salemme, and him in a case subsequently captioned United States v. Francis P. Salemme, Cr. No. 94-10287-MLW (D. Mass.).

In violation of Title 18, United States Code, Section 1503.

COUNT FIVE - Obstruction of Justice
(Stephen Flemmi)

In or about early January 1995, the exact date being unknown, in the District of Massachusetts, the defendant STEPHEN FLEMMI did corruptly influence, obstruct and impede and did endeavor to influence, obstruct and impede the due administration of justice in a federal Grand Jury in the District of Massachusetts by providing confidential law enforcement information to Francis P. Salemme, which alerted Francis P. Salemme that a federal Grand Jury in the District of Massachusetts would be asked to issue an indictment against Bulger, Salemme, and Flemmi on January 10, 1995 in a case subsequently captioned United States v. Francis P. Salemme, Cr. No. 94-10287-MLW (D. Mass.).

In violation of Title 18, United States Code, Section 1503.

COUNT SIX - Obstruction of Justice
(John J. Connolly, Jr.)

1. Paragraphs 71 through 73 of Count One Racketeering Act # 13 are realleged in this Count and are incorporated by reference as if fully set forth.

2. On or about March 27, 1997, the exact date being unknown, in the District of Massachusetts, the defendant JOHN J. CONNOLLY, JR. did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede an officer of a court of the United States in the discharge of his duty and did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede the due administration of justice in pretrial proceedings in United States v. Salemme et al., Cr. No. 94-10287-MLW (D. Mass.) by, having obtained letterhead of the Boston Police Department, causing to be sent to United States District Judge Mark L. Wolf a letter falsely purporting to have been written by unnamed Boston Police Officers in an effort to dupe Judge Wolf into crediting defense claims and to assist through false representations the defense of Stephen Flemmi.

In violation of Title 18, United States Code, Sections 1503 and 2.

COUNT SEVEN - Obstruction of Justice
(John J. Connolly, Jr.)

1. Paragraphs 76 through 78 and 80 of Count One Racketeering Act #14A are realleged in this Count and are incorporated by reference as if fully set forth.

2. In or about early 1998, the exact date being unknown, in the District of

Massachusetts, the defendant JOHN J. CONNOLLY, JR. did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede an officer of a court of the United States in the discharge of his duty and did corruptly influence, obstruct and impede, and did endeavor to influence, obstruct, and impede the due administration of justice in pretrial proceedings in United States v. Salemme et al., Cr. No. 94-10287-MLW (D. Mass.), by corruptly persuading Stephen Flemmi to testify falsely that John Morris had learned of the impending indictment in United States v. Salemme et al. through Washington which had received a "pros memo," so that Flemmi could more plausibly testify falsely that John Morris had tipped James Bulger and him to the impending indictment in that case.

In violation of Title 18, United States Code, Sections 1503 and 2.

COUNT EIGHT - Obstruction of Justice
(John J. Connolly, Jr.)

1. The allegations contained in Paragraphs 76 though 78 and 80 of Count One Racketeering Act 14A are realleged in this Racketeering Act and are incorporated by reference as if fully set forth.

2. In or about early 1998, the exact date being unknown, in the District of Massachusetts, the defendant JOHN J. CONNOLLY, JR. did knowingly and corruptly persuade Stephen Flemmi, with intent to influence the testimony of Stephen Flemmi in pretrial proceedings in United States v. Salemme, Cr. No. 10287-MLW (D.Mass.), to testify falsely that John Morris had learned of the impending indictment in United States v. Salemme et al. which had received a "pros memo" through Washington, so that Flemmi could more plausibly testify falsely that John Morris had tipped James Bulger and him to the impending indictment in that case.

In violation of Title 18, United States Code, Section 1512(b)(1).

COUNT NINE - False Statement

(John J. Connolly , Jr.)

On or about July 16, 1997 in the District of Massachusetts, the defendant JOHN J. CONNOLLY, JR. knowingly and willfully made a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, that is the Federal Bureau of Investigation, in that CONNOLLY represented to a Special Agent of the Federal Bureau of Investigation that he had no contact with the defense team in the case of United States v. Francis P. Salemme, Cr. No. 94-10287-MLW (D. Mass.), when, in truth and in fact, as he well knew, he had been in contact with the defense team on multiple occasions between January 10, 1995 and July 16, 1997.

In violation of Title 18, United States Code, Section 1001.

A TRUE BILL

_____

FOREPERSON

UNITED STATES OF AMERICA

DONALD K. STERN
UNITED STATES ATTORNEY

_____
JOHN H. DURHAM
SPECIAL ATTORNEY

_____
LEONARD C. BOYLE
SPECIAL ATTORNEY

_____
CYNTHIA M. SHEPHERD
TRIAL ATTORNEY

DISTRICT OF MASSACHUSETTS , 2000.
Returned into the District Court by the Grand Jurors and filed.

_____
Deputy Clerk

UN-SEALED

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	:	CRIMINAL NO. 1:00CR10412-EFI
	:	
v.	:	Conspiracy to Obstruct Justice
	:	(18 U.S.C. § 371)
RICHARD J. SCHNEIDERHAN,		:
EDWARD G. DUFF,	:	Obstruction of Justice
and LINDA REARDON	:	(18 U.S.C. §1503)
	:	
	:	Aiding and Abetting
		(18 U.S.C. § 2)

INDICTMENT

The Grand Jury charges:

COUNT ONE - Conspiracy to Obstruct Justice
(Richard J. Schneiderhan, Edward G. Duff, Linda Reardon)

GENERAL ALLEGATIONS

1. The "Winter Hill Gang" was a clandestine criminal organization that engaged in multiple crimes, including bribery, extortion, loan sharking, and gambling in the greater Boston, Massachusetts area. James Bulger, also known as "Whitey," Stephen Flemmi, also known as "the Rifleman", and John Martorano, among others, were members of the "Winter Hill Gang."

2. On or about January 4, 1995, in connection with the case subsequently captioned United States v. Francis P. Salemme, et al., Cr. No. 94-10287-MLW (D. Mass.), arrest warrants were issued for, among others, James Bulger and Stephen Flemmi.

3. Between on or about December 23, 1994 and on or about January 5, 1995, the exact date being unknown to the grand jury, James "Whitey" Bulger fled the District of Massachusetts. He remains a fugitive as of the date of this Indictment.

4. On or about January 10, 1995, a federal grand jury for the District of Massachusetts, returned the indictment known as United States v. Francis P. Salemme, et al., Cr. No. 94-10287-MLW (D. Mass.). Two of the persons named as defendants in the case and charged therein with violations of the federal racketeering laws were James Bulger and Stephen Flemmi. Later, in or about August, 1995, a superseding indictment was returned by the grand jury which again named Bulger and Flemmi, among others, as defendants and added John Martorano as a defendant in the case.

5. Beginning as far back as the 1950's and at all times material to this Indictment, RICHARD J. SCHNEIDERHAN maintained a personal friendship with Stephen Flemmi.

6. Beginning in or about the late 1960's and continuing through in or about 1978, the exact dates being unknown to the grand jury, SCHNEIDERHAN maintained a personal, non-law enforcement relationship with John Martorano.

7. At all times relevant to this Indictment, SCHNEIDERHAN and EDWARD G. DUFF were related through marriage as brothers-in-law.

8. DUFF and LINDA REARDON (nee Duff) are father and daughter. At all times relevant to this Indictment, SCHNEIDERHAN and REARDON were uncle and niece.

9. At all times material to this Indictment, REARDON was employed by the Bell

Atlantic Company in its Taunton, Massachusetts exchange location as an Administrative Assistant. In that capacity, REARDON was responsible for processing work orders and assigning work orders to telephone technicians.

10. At all times relevant to this Indictment, the Federal Bureau of Investigation was actively involved in the fugitive search for James "Whitey" Bulger so that he could be brought to trial in the case known as United States v. Francis P. Salemme, et al., Cr. No. 94-10287-MLW (D. Mass.).

11. As part of the effort to locate James "Whitey" Bulger so that he could be held to stand trial, the Federal Bureau of Investigation utilized a variety of investigative techniques, including, but not limited to, court orders authorizing the installation and use of "pen register" devices to capture potential evidence as to Bulger's whereabouts.

THE CONSPIRACY

12. From on or about September 21, 1999 and continuing thereafter until on or about September 23, 1999, in the District of Massachusetts, the defendants, RICHARD J. SCHNEIDERHAN, EDWARD G. DUFF and LINDA REARDON, together with others known and unknown to the Grand Jury, unlawfully, knowingly and wilfully conspired to corruptly influence, obstruct and impede the due administration of justice in the case known as United States v. Francis P. Salemme, et al., Cr. No. 94-10287-MLW (D. Mass.), in the District of Massachusetts, by disclosing information concerning a then ongoing investigative effort being conducted by the Federal Bureau of Investigation pursuant to court order and designed to capture information which might be of assistance

in apprehending James "Whitey" Bulger so that he could be held to stand trial in the case captioned United States v. Francis P. Salemme, Cr. No. 94-10287-MLW (D. Mass.), in violation of Title 18, United States Code, Section 1503.

Overt Acts

13. In furtherance of the conspiracy and to effect its objects, at least one of the defendants committed or caused to be committed one or more of the following acts in the District of Massachusetts:

a. On or about September 21, 1999, in the District of Massachusetts, the defendant REARDON, acting with corrupt intent to influence, obstruct and impede justice, provided confidential law enforcement information to DUFF concerning an FBI investigation utilizing electronic surveillance (namely, devices known as "pen registers" which are designed to capture all telephone numbers called from the specified telephone number) on certain South Boston telephone lines.

b. On or about September 21, 1999, defendant DUFF, who was acting with corrupt intent to influence, obstruct and impede justice, met with the defendant SCHNEIDERHAN and informed SCHNEIDERHAN that the specified telephone lines in South Boston, Massachusetts were the subject of electronic surveillance being conducted by the Federal Bureau of Investigation.

c. On or about September 22, 1999, the defendant SCHNEIDERHAN, who was acting with corrupt intent to influence, obstruct and impede justice, conveyed

information to Kevin Weeks that the specified telephone lines in South Boston, Massachusetts were the subject of electronic surveillance being conducted by the Federal Bureau of Investigation.

d. On or about September 23, 1999, Kevin Weeks, who was acting with corrupt intent to influence, obstruct and impede justice, conveyed to one of the targets of the electronic surveillance the information that had been provided to him by the defendant SCHNEIDERHAN.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO- Obstruction of Justice
(Richard J. Schneiderhan, Edward G. Duff, Linda Reardon.)

1. Paragraphs 1 through 11 of Count One are incorporated and realleged as if set forth in full hereinafter.

2. Between on or about September 21, 1999 and September 23, 1999, in the District of Massachusetts, the defendants RICHARD J. SCHNEIDERHAN, EDWARD G. DUFF, and LINDA REARDON did corruptly influence, obstruct and impede and did endeavor to influence, obstruct and impede the due administration of justice in the case known as United States v. Francis P. Salemme, et al., Cr. No. 94-10287-MLW (D. Mass.) by disclosing information concerning a then ongoing investigative effort being conducted by the Federal Bureau of Investigation pursuant to court order which was designed to capture information that might be of assistance in apprehending James "Whitey" Bulger so that he could be held to stand trial in the case captioned United States

v. Francis P. Salemme, Cr. No. 94-10287-MLW (D. Mass.).

All in violation of Title 18, United States Code, Sections 1503 and 2.

A TRUE BILL

FOREPERSON

UNITED STATES OF AMERICA

DONALD K. STERN
UNITED STATES ATTORNEY

JOHN H. DURHAM
SPECIAL ATTORNEY
DISTRICT OF MASSACHUSETTS

LEONARD C. BOYLE
SPECIAL ATTORNEY
DISTRICT OF MASSACHUSETTS

CYNTHIA M. SHEPHERD
TRIAL ATTORNEY
UNITED DEPARTMENT OF JUSTICE

DISTRICT OF MASSACHUSETTS: 11/15/, 2000

Returned into the District Court by the Grand Jurors and filed.

Deputy Clerk AT 4:30pm

11/19/00 Boston Globe C4
2000 WL 3352775

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Sunday, November 19, 2000

Focus

FOCUS ON NOV. 12-18 FROM HANOI TO HAND COUNTS TO HEART ATTACKS TO HEARTLESSNESS
TO HIGH SPEED WORLD HANOI BILL?
FROM STAFF AND WIRE REPORTS

President Clinton last week became the first American president to visit Hanoi, the enemy capital during the Vietnam War. In a city rebuilt after the bombing, Vietnamese President Tran Duc Luong welcomed the prospect of "immense" cooperation between the former enemies, and thousands greeted Clinton with great curiosity and some excitement. Vietnamese leaders welcomed the prospects for greater cooperation between the nations but were cool to Clinton's call for greater freedoms. He said guaranteeing the right to religious worship and political dissent builds confidence in the fairness of institutions. Vietnamese officials suggested that they have different interpretations of human rights.

NATION FLORIDA KEY There was only one (big) story in the nation again last week, and it was set in Florida. There, Election 2000 remained on tantalizing hold as Democrat Al Gore and Republican George W. Bush vied for advantage in that still-contested state. It was a week of dueling press conferences and legal maneuvers as each side saw their share of incremental defeats and victories. Gore's team labored mightily to have ballots in Democratic counties recounted by hand, hoping to add votes overlooked by machines. Bush's team strived to restrict the count to the machine totals plus overseas absentee ballots. Americans, meanwhile, soaked up a civics lesson that made them instantly conversant in election jargon; "chad" became a household word. At the center of the storm was Florida Secretary of State Katherine Harris, a Bush partisan and friend whose rulings on vote certification threatened to have her candidate declared the winner by today. But at week's end, the Florida Supreme Court forbade the vote certification that Harris had set for yesterday, saying she could not act until justices had mulled whether she could ignore votes discovered by a hand recount. The high court's arguments begin tomorrow.

HEALTH MORE? NO THANKS Eating an unusually large, heavy meal raises your risk of a heart attack fourfold over the following two hours, Boston researchers reported last week - just in time for Thanksgiving. The warning applies particularly to people already diagnosed with heart disease, who should adopt a pattern of many small meals rather than a few large ones, said the researchers. No one seems quite sure why overeating can trigger a heart attack. One theory is that a lot of food entering the digestive system can cause the release of hormones that raise blood pressure and speed up the heart, making the heart work harder and making blood clot more

easily. Another is that a large meal spurs the pancreas to release a lot of insulin, which can cause the heart's arteries to narrow. The finding, released at the American Heart Association meeting in New Orleans, might explain why the reported incidence of heart attacks always peaks in December and January.

CITY & REGION UP AND DOWN There was good news and bad on the MCAS front last week. Statewide 2000 test results made public Tuesday showed that math scores improved so that, for the first time, more than half of high school sophomores passed the math portion of the test. But at the same time, the 10th-grade failure rate on English rose for the third straight year. Minority failure rates remained high, and the first group of students to take the test twice did worse as 10th-graders in 2000 than they did as eighth-graders. Overall, there was slight improvement in most subjects in the three grades - 4, 8, and 10 - that took the test, prompting state officials to hail what they called "steady progress." The announcement came as anti-MCAS activity has picked up in recent weeks: The Massachusetts Association of School Committees and voters in six legislative districts have called on Beacon Hill to suspend the test as a graduation requirement, which begins in 2003, and the Massachusetts Teachers Association has launched a $600,000 anti-MCAS ad campaign.

Starved to death

The leader of a small Attleboro religious sect, along with his wife and sister, all pleaded innocent Tuesday in the starvation death of his infant son. They were ordered held on bail. In indictments returned Monday, Jacques Robidoux was charged with first-degree murder for allegedly "directing the systematic withholding of nourishment" from 10-month-old Samuel, who died in April 1999. His mother, Karen Robidoux, 25, was charged with second-degree murder for going along with the plan, and Michelle Robidoux Mingo - whose prophesy that it was God's will to withhold food from Samuel began the starvation - was charged as an accessory before the fact to assault and battery on a child. Prosecutor David Frank told the judge the baby's death was a deliberate act by the adults. "He was starved and killed in a house full of food."

Like the wind

The Acela Express, a new, 150 m.p.h. bullet train, hit record speeds and grabbed rave reviews Thursday on its debut Washington-to-Boston run. The day's highlight came at 4:18 p.m. A palpable surge near Kingston, R.I., brought the train to its top speed of 150 mph, faster than any train in Amtrak's 29-year history. Those on board marked the moment with a champagne toast. The train arrived in Boston - two minutes early - and was greeted by fireworks shot from the top of South Station. Said Michael Dukakis, the former governor and now Amtrak's vice chairman, "This is the future." Regular service on the train begins Dec. 11 in the Northeast.

What's that click?

A former Massachusetts State Police lieutenant and two relatives were indicted Thursday by a federal grand jury on charges they tipped

off associates of fugitive mob boss James "Whitey" Bulger about phone lines the FBI sought to secretly monitor. Indicted were former State Police Lieutenant Richard Schneiderhan; his brother-in-law Edward Duff; and Linda Reardon, who is Duff's daughter, and Schneiderhan's niece - all on obstruction of justice charges. Reardon and Schneiderhan pleaded innocent; Duff will be arraigned next month. Reardon worked at Bell Atlantic in Taunton, where she learned the FBI was using a "pen register" device to capture telephone numbers dialed from certain South Boston telephone lines in an attempt to catch Bulger. She allegedly told her father, who then told Schneiderhan, who passed the information along to Bulger associates. Among the lines monitored was that of University of Massachusetts President William M. Bulger and John Bulger, clerk magistrate of Boston Juvenile Court, both brothers of the fugitive.

TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE

Caption: WHOLELY ENGAGED - A Palm Beach County (Fla.) canvassing board member examines a ballot last Saturday during the manual recount. / AP PHOTO

---- INDEX REFERENCES ----

NAMED PERSON: CLINTON, BILL; LUONG, TRAN DUC; GORE, ALBERT JR; BUSH, GEORGE W; SCHNEIDERHAN, RICHARD

NEWS SUBJECT: English language content; Religion; Political and General News; Religion (ENGL GREL GCAT RLG)

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Friday, November 24, 2000

Editorial

TWISTED LOYALTIES

DECEIT CAN WEAR many uniforms, including those of the Federal Bureau of Investigation, the State Police, and the Boston Police. Former members of all three law enforcement agencies face charges of aiding wanted mobster and suspected murderer James "Whitey" Bulger or his associates.

Last month, former FBI agent John Connolly was indicted for allegedly warning Bulger about a pending indictment. Bulger, who has been charged with killing 19 people, has been on the lam since 1995.

Earlier this month, retired Boston Police officer Michael Flemmi was indicted for allegedly helping his brother, Stephen "The Rifleman" Flemmi, store an arsenal of 70 guns, silencers, and assorted weaponry. And last week, former State Police Lieutenant Richard Schneiderhan was indicted along with two relatives for conspiracy and obstruction of justice after allegedly warning a Bulger crime associate that the FBI was monitoring the phones of several local residents with links to Bulger.

In the public's mind, at least, the game of fingerpointing and excuse-making by law enforcement is over. This case can no longer be characterized solely by overreaching federal agents who undermined local law enforcement to protect their prized informant. While Bulger's drug racketeers poisoned Boston neighborhoods, his toxic influences spread into federal, state, and local police agencies.

The best antidote is his arrest and successful prosecution.

Law enforcement agencies are searching for lessons in this jumble. One is the need to monitor officers with local roots who may be at greater risk of rejecting their sworn oaths and "going native." FBI agent Connolly, a son of South Boston, admired Bulger's swagger and toughness as a youth. It appears he never grew out of the infatuation. Lieutenant Schneiderhan was a boyhood pal of Stephen Flemmi.

The loyalties and impressions of youth can be a law enforcement officer's worst enemy. It takes special strength of character to put one's duty above a relative or friend. But without such strength, entire departments teeter. Testing for character remains the most important and uncertain hiring element in law enforcement.

Law enforcement operates on its own set of weights and measures. The FBI, for example, made its "devil's deal" with Bulger in order to

infiltrate the Mafia. But the scales of justice now seem defective.
It was Bulger who infiltrated law enforcement.

---- INDEX REFERENCES ----

NAMED PERSON: CONNOLLY, JOHN

ORGANIZATION: FEDERAL BUREAU OF INVESTIGATION

NEWS SUBJECT: Editorial; Content Types; Editorials and Columns; Editorial Page; General News; English language content; Crime and Courts; Political and General News; Crime (NEDI NCAT EDC EDI GEN ENGL GCRIM GCAT CRM)

NEWS CATEGORY: EPG

EDITION: THIRD

U.S. Department of Justice

United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100
United States Courthouse, Suite 9200
1 Courthouse Way
Boston, Massachusetts 02210

December 19, 2000

John Cavicchi, Esquire
Attorney at Law
25 Barnes Avenue
East Boston, MA 02128

RE: Disclosure of FBI Documents Relating to the March 12, 1965 Murder of Edward "Teddy" Deegan

Dear Mr. Cavicchi:

This letter and its enclosures are being sent in response to your letter to me dated 11/16/2000, in which you asked that I provide "any information" that would assist you in responding to a Court Order in the matter of the Commonwealth of Massachusetts v. Peter Limone, Superior Court Crim. No. 32367, 69-70, which is pending before the Honorable Margaret R. Hinkle. As you explain, this Order requires you to file a Non-Live Witness Statement listing police reports, affidavits, transcripts and any other documents that you intend to rely upon in support of your motion for a new trial filed on behalf of your client, Peter Limone. I understand the matter being heard relates to your client's conviction for the 1965 murder of Edward "Teddy" Deegan and involves your motion for a new trial in that case.

In response to your request, FBI employees assigned to the Justice Task Force (JTF) initiated a review of Boston FBI informant, intelligence and investigative files that contain information that dates back to the 1950s and 1960s. JTF's search first determined that around the time Deegan was murdered, Vincent James Flemmi was an FBI informant. According to the file maintained in support of efforts to develop Flemmi as an informant, focus on Flemmi's potential as a source began on about 3/9/1965. The first reported contact with Flemmi was by FBI Boston Special Agent (SA) H. Paul Rico on 4/5/1965. The informant file was officially opened and assigned to SA Rico on 4/15/1965 and reflects that Flemmi was contacted a total of five times as an informant, each time by SA Rico. The dates of contact were 4/5/1965, 5/10/1965, 6/4/1965, 7/22/1965 and 7/27/1965. Flemmi's file was closed on 9/15/1965 after Flemmi was charged with a crime, unrelated to the Deegan murder.

Vincent James Flemmi's informant file was found to contain two documents that relate to the Deegan murder, one of which is a summary of information known by the Boston FBI about Flemmi's criminal activities at the time he was opened as an informant. This summary includes information previously reported to the FBI by other sources. The JTF attempted to review these other source files and any other intelligence files where their information may have been filed. Efforts have also been made to locate any investigative files that relate to the Deegan murder.

PENGAD Bayonne, N.J.
EXHIBIT
928

Thus far, a total of five documents have been located that appear to be responsive to your request. These are: 1) 3/15/1965 Memorandum from Boston SA H. Paul Rico to the SAC, Boston, reporting a contact with a source on 3/10/1965. 2) 3/15/1965 Memorandum from Boston SA H. Paul Rico to the SAC, Boston, reporting a contact with the same source on 3/13/1965. 3) 3/19/1965 Airtel from SAC, Boston to Director, FBI, entitled "Criminal Intelligence Program, Boston Division" summarizing developments during that week. 4) 4/22/1965 Memorandum from a Boston "Correlator" to the SAC, Boston, entitled "Vincent James Flemmi, Aka (sic)" which summarizes information in FBI files known about Flemmi at the time he was opened as an informant. 5) 6/9/1965 Airtel from SAC, Boston, to Director, FBI, entitled "BS-9190-PC" which reports on the status of efforts to develop Vincent James Flemmi as an FBI informant. (These documents have been sequentially numbered 0000 1 thru 000026.)

Several impediments to the JTF's search for records were encountered. Since the Deegan murder occurred over 30 years ago, many files that could logically contain relevant information were routinely destroyed years ago. For example, the enclosed 4/22/1965 summary memorandum references many other source reports that contain the original record of this information. Efforts to locate these original records have been unsuccessful. As a result, this summary memorandum represents the only surviving record of its information. Simply stated, the raw source data that was originally reported appears to no longer exist. Efforts continue to locate copies of this data that may have been filed in intelligence files.

Only two informants have been found to have reported information relating to the Deegan murder after the murder occurred. Enclosures 1 and 2 report information from the same source and Enclosure 3 appears to report information from this source to FBI Headquarters. Each of the files for the informants whose information is contained in the enclosures appears to have been the subject of routine destruction. In this regard, however, I would note that a case file containing information from Joseph Baron (Barboza) was located on this date, and a review of that file will begin shortly.

You will note that the attachments have been subjected to a routine redaction process which removes information that is not relevant to your request or has otherwise been lawfully excluded. It should be noted that the JTF is not completely familiar with the issues before Judge Hinkle. In addition, the JTF has not completed its review of the many FBI files from the Deegan murder time frame. Therefore, it can not be stated with certainty at this time that the attached documents represent the only relevant material in FBI files. If either party to the Limone matter wishes to provide greater specificity as to the materials that would be relevant to that proceeding, the JTF will consider this information in its record search. Regardless of whether such a request is received, the JTF will promptly advise you if any additional relevant documents are discovered.

As you know, the JTF has also been in contact with Attorney Victor Garo who represents Joseph Salvati. Mr. Garo previously has brought issues regarding Salvati's conviction for the

Deegan murder before the Superior Court and is continuing his efforts to exonerate Salvati for this murder. These documents also appear to be relevant to concerns previously expressed to the JTF by Attorney Victor Garo on behalf of his client, Joseph Salvati, and, therefore, copies are being provided to him.

Let me conclude by stating that the JTF, the United States Attorney's Office, the Boston FBI Office and FBI Headquarters understand the potential significance of the enclosures to Mr. Limone and Mr. Salvati. These documents are being made available to you with the concurrence and encouragement of the Boston FBI and FBI Headquarters. Collectively, efforts will continue to locate other documents that may be responsive to your concerns. If you have questions concerning the enclosures, please do not hesitate to contact me at telephone number (617) 854-1500 (Justice Task Force, 18 Tremont Street, Suite 300, Boston, MA 021308), or (203) 821-3700 (United States Attorney's Office, 157 Church Street, 23rd Floor, New Haven, CT 06510).

Very truly yours,

DONALD K. STERN
United States Attorney

JOHN H. DURHAM
Special Attorney

cc: Assistant District Attorney Mark Lee w/ Enclosures
William Koski, Esquire w/ Enclosures
Victor Garo, Esquire w/ Enclosures

Donald K. Stern
United States Attorney

Charles Prouty
SAC FBI Boston

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CRIMINAL ACTION
NOs. 32367, 32369, 32370

COMMONWEALTH

vs.

PETER J. LIMONE

MEMORANDUM OF DECISION AND ORDER ON DEFENDANT'S MOTION FOR A NEW TRIAL AND COMMONWEALTH'S MOTION TO VACATE DEFENDANT'S CONVICTIONS, GRANT A NEW TRIAL AND ADMIT DEFENDANT TO BAIL

Defendant Peter J. Limone was convicted in 1968 for being an accessory before the fact in the murder of Edward Deegan, for conspiracy to murder Deegan and for conspiracy to murder Anthony J. Stathopoulos. The matter is now before me on defendant's motion for a new trial, under Mass. R. Crim. P. 30(b) and the Massachusetts and Federal Constitutions, on numerous grounds, and the Commonwealth's motion to vacate defendant's convictions, grant a new trial and admit the defendant to bail. Based upon certain developments, more fully described below, which occurred while discovery was proceeding, it became apparent that certain of Limone's new evidence-based claims were likely to prove dispositive of this motion favorably to Limone. For this reason, the scope of an evidentiary hearing was confined to address Limone's claims

1-5-01
Filed

regarding certain newly discovered exculpatory evidence.[1] This evidentiary hearing was conducted on January 5, 2001; the court received into evidence 26 pages of documents produced by the Justice Task Force to the parties on December 19, 2000. For reasons more fully discussed below, after review of the trial transcript, I ALLOW Limone's motion for a new trial and I ALLOW the Commonwealth's motion to vacate defendant's convictions, grant a new trial and admit defendant to bail.

BACKGROUND

I. Background of the Case Before This Motion

The facts of this case are set forth in the opinion of the Supreme Judicial Court affirming the convictions of Limone and his five codefendants. See *Commonwealth* v. *French*, 357 Mass. 356, 361-370 (1970), judgments vacated as to death penalty *sub nom. Limone* v. *Massachusetts*, 408 U.S. 936 (1972). Between May 27, 1968 and July 31, 1968 Limone was tried jointly with five codefendants.[2] Briefly stated, the evidence presented at trial through the key prosecution witness, one Joseph Barboza (also known as Joseph Baron), was that Limone offered Barboza a contract to kill Deegan for $7,500. Barboza testified that Limone later offered an additional $2,500 if Stathopoulos were also killed. During a break-in at a financial institution, Deegan was killed in an alley in Chelsea on March 12, 1965, but Stathopoulos drove away from the crime

[1] I intend this decision to address only those claims which I discuss. I have not considered any of Limone's claims or arguments not discussed in this decision. I save all of Limone's rights as to those other claims and arguments, should that be necessary.

[2] Limone's codefendants at trial were Wilfred Roy French, Lewis Grieco, Henry Tameleo, Joseph L. Salvati and Ronald Anthony Cassesso. On January 4, 2001, the Commonwealth moved to vacate Salvati's conviction and for a new trial in that case. Those motions are pending.

scene.[3, 4]

More specifically, Barboza testified at trial that about January 20, 1965, Limone saw Barboza and offered him a "contract" to kill Deegan for $7,500, and told Barboza that this had been approved by the "office." Barboza spoke with Tameleo a few days later to confirm that the "office" approved of the murder. Tameleo agreed to it. Some weeks later, after securing the assistance of others, some of whom would become Limone's codefendants at trial, Barboza reported to Limone that the murder would occur soon but that Stathopoulos would be involved. According to Barboza, Limone agreed to add $2,500 if Stathopoulos were also killed. Barboza confirmed with Tameleo that it was okay to kill Stathopoulos as well. According to the evidence presented at trial, the murder of Deegan was carried out by Barboza,[5] Cassesso, Salvati, French, Grieco and others, not including Limone.[6] Stathopoulos escaped. Some time later, Barboza testified, he met with Limone, who paid him for the Deegan murder.

A jury convicted Limone on the two counts of conspiracy to commit murder and of being an accessory before the fact. Limone was sentenced to death.[7] The convictions of Limone and all the codefendants were affirmed by the Supreme Judicial Court. *Commonwealth* v. *French*,

[3] Limone testified at trial that he had been friendly with Deegan; had no alibi for March 12-13, 1965; first met Barboza in February 1965; had seen Stathopoulos with Deegan at a veterans' club and had known Grieco only from late 1965. Limone said he had met French in the Charles Street jail and had known Cassesso, Salvati and Tameleo for some years. *French*, 357 Mass. at 370 n.10; Trial Transcript, Vol. 45, pp. 6183 *et seq.*

[4] Stathopoulos subsequently cooperated with the District Attorney's office in prosecuting this case. Although he testified at trial, his testimony did not implicate Limone.

[5] Barboza pled guilty to two indictments for conspiracy on the first day of jury selection. He was murdered in 1976.

[6] Barboza mentions Vincent James Flemmi as a participant in the scheme. Flemmi, who is now deceased, was never indicted. The newly disclosed evidence reveals that Flemmi was an F.B.I. informant around the time Deegan was murdered and for a period thereafter.

[7] French, who the trial evidence showed shot Deegan, was found guilty of murder in the first degree with a recommendation that death not be imposed. Salvati was convicted of being an accessory, also with a recommendation against death. Grieco, who the evidence also showed shot Deegan, was found guilty of murder in the first degree, and Cassesso and Tameleo were found guilty as accessories. Grieco, Cassesso and Tameleo were convicted on two conspiracy indictments; each was sentenced to death.

357 Mass. 356 (1970). Limone's death sentence was vacated by the United States Supreme Court following its decision in *Furman* v. *Georgia*, 408 U.S. 238 (1972). See *Limone* v. *Massachusetts*, 408 U.S. 936 (1972).[8]

Limone's first motion for a new trial was denied in 1970, and this denial was affirmed on appeal. *Commonwealth* v. *Cassesso*, 360 Mass. 570 (1971). A petition for habeas corpus filed in the United States District Court for the District of Massachusetts was dismissed, and this dismissal was affirmed by the First Circuit Court of Appeals. *Grieco* v. *Meachum*, 533 F.2d 713 (1st Cir. 1976), *cert. denied sub nom. Cassesso* v. *Meachum*, 429 U.S. 858 (1976). Limone's second motion for a new trial was denied in 1990, and this denial was affirmed on appeal. *Commonwealth* v. *Limone*, 410 Mass. 364 (1991). Other motions for a new trial were filed in 1993 and were denied, which was also affirmed. *Commonwealth* v. *Salvati*, 420 Mass. 499 (1995).

II. Developments Since This Motion Was Filed

Defendant's motion for a new trial was filed on June 19, 2000. The case was assigned to me on August 2, 2000 because the trial judge (Forte, J.) had retired from the Superior Court. After a number of hearings, it became apparent that the Commonwealth had in its possession documents that the Commonwealth agreed should be made available to Limone. A discovery deadline was set, and the matter proceeded largely in compliance with that deadline. I issued an order setting forth the parties' responsibilities in compiling an itemized list of non-live evidence that would be introduced an at evidentiary hearing on this motion, should I determine an

[8] Limone was resentenced to life imprisonment.

evidentiary hearing to be appropriate.

Meanwhile, counsel for Limone had moved to intervene in *United States* v. *Stephen J. Flemmi et al.*, Crim. No. 94-10287-MLW (D. Mass.), pending before United States District Court Judge Mark L. Wolf. Judge Wolf denied intervention but indicated that certain documents might be discoverable in this proceeding. I thereafter gave notice to the United States Attorney's office of Limone's request for discovery of matters relating to the pending motion. The local United States Attorney's office agreed to review its files. This led to the parties each receiving a telephone call from John H. Durham, a Special Attorney with the United States Attorney's office. This telephone contact was followed by a letter to the parties from AUSA Durham dated December 19, 2000 enclosing 26 pages of F.B.I. documents.[9] In that letter, AUSA Durham states that in response to Limone's November 2000 request for information, F.B.I. employees assigned to the Justice Task Force began reviewing Boston F.B.I. informant, intelligence and investigative files. According to AUSA Durham, that review showed that Vincent James Flemmi was an F.B.I. informant around the time of the Deegan murder. F.B.I. focus on Flemmi as a potential source began on March 9, 1965, and the first reported contact with Flemmi as an informant was by F.B.I. Special Agent H. Paul Rico on April 5, 1965. In his letter, AUSA Durham also states that F.B.I. 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 after Flemmi was charged with a crime "unrelated to the Deegan murder."

AUSA Durham further states in his letter that Vincent Flemmi's F.B.I. file contains two

[9] Durham's letter and the attached F.B.I. records were admitted into evidence at the hearing on this motion.

documents relating to the Deegan murder. One is a summary of information known by the Boston F.B.I. about Flemmi's criminal activities at the time Flemmi became an F.B.I. informant. The Justice Task Force attempted to locate other investigative files that relate to the Deegan murder. Five such documents had been located as of December 19, 2000. I refer to these documents collectively as the "F.B.I. documents." These are:

(1) Memorandum dated March 15, 1965 from Special Agent Rico to the "SAC, Boston" reporting a contact with a source on March 10, 1965.

(2) Memorandum dated March 15, 1965 from Special Agent Rico to the SAC, Boston, reporting a contact with the same source on March 13, 1965.

(3) March 19, 1965 "Airtel" from SAC, Boston, to "Director, F.B.I." titled, "Criminal Intelligence Program, Boston Division" which summarizes that week's developments.

(4) Memorandum dated April 22, 1965 from a Boston "Correlator" to SAC, Boston titled "Vincent James Flemmi, Aka." which summarizes information in F.B.I. files known about Flemmi at the time he was opened as an informant.

(5) June 9, 1965 Airtel from SAC, Boston to Director, F.B.I. titled "BS 919-PC" which reports on the status of efforts to develop Vincent James Flemmi as an F.B.I. informant.

These documents are heavily redacted, and portions are of marginal legibility.[10] I summarize them below.

[10] On December 20, 2000, the District Attorney's office filed the documents received from the Justice Task Force as a pleading in this case.

AUSA Durham's letter states that there were "[s]everal impediments" to the Justice Task Force's search for records, including routine destruction of files. The result of this is that, for example, the April 22, 1965 summary memorandum "represents the only surviving record of its information. Simply stated, the raw source data that was originally reported appears to no longer exist." However, "a case file containing information from Joseph Baron (Barboza) was located on this date, and a review of that file will begin shortly." In addition, AUSA Durham states that "it can not be stated with certainty at this time that the attached documents represent the only relevant materials in FBI files." AUSA Durham invites counsel for Limone to provide "greater specificity" as to what materials are relevant, but states that in any event the Justice Task Force will advise the parties of additional relevant documents that are discovered.

AUSA Durham included with his letter five documents, whose pages were numbered sequentially 00001 through 000026:

Document 1 is a memorandum from Special Agent Rico to the SAC, dated March 15, 1965. As noted, it states that the date of contact was March 10, 1965 and under "Titles and File [illegible] on which contacted" states "Edward [illegible] Deegan." The memorandum states:

> 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.

Document 2 is a memorandum from Special Agent Rico to the SAC dated March 15,

1965. It lists March 13, 1965 as the date of contact and "Edward F. Deegan" as the title/file on which the informant was contacted. This document states:

> 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."
>
> This information has been disseminated by SA DONALD V. SHANNON to Capt. ROBERT RENFREW (NA) of the Chelsea, Mass. PD.

Document 3 is from SAC, Boston to Director, F.B.I. (then J. Edgar Hoover). It begins by summarizing much of the information contained in the March 1965 Memoranda.[11] It then states:

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[11] The document states:

> The following are the developments during the current week:
>
> On 3/12/65, EDWARD "TEDDY" DEEGAN was found killed in an alleyway in Chelsea, Mass. in gangland fashion.
>
> Informants report that RONALD CASESSA, ROMEO MARTIN, VINCENT JAMES FLEMMI, and JOSEPH BARBOZA, prominent local hoodlums, were responsible for the killing. They accomplished this by having ROY FRENCH, another Boston hoodlum, set DEEGAN up in a proposed "breaking & entering" in Chelsea, Mass. FRENCH apparently walked in behind DEEGAN when they were gaining entrance to the building and fired the first shot hitting DEEGAN in the back of the head. CASESSA and MARTIN immediately thereafter shot DEEGAN from the front.
>
> ANTHONY STATHOPOULOS was also in on the burglary but had remained outside in the car.
>
> When FLEMMI and BARBOZA walked over to STATHOPOULOS's car, STATHOPOULOS thought it was the law and took off. FLEMMI and BARBOZA were going to kill STATHOPOULOS also.
>
> Immediately thereafter, STATHOPOULOS proceeded to Atty. AL FARESE. FARESE called the Chelsea, Mass. PD before Chelsea knew of the killing and FARESE wanted to bail out ROY FRENCH and "TEDDY" DEEGAN. Shortly thereafter the Chelsea PD found the body of DEEGAN and immediately called Atty. FARESE's office, and Atty. JOHN FITZGERALD, FARESE's law partner, came to the Chelsea PD.
>
> Efforts are now being made by the Chelsea PD to force STATHOPOULOS to furnish them the

> It should be noted that this information was furnished to the Chelsea PD and it has been established by the Chelsea Police that ROY FRENCH, BARBOZA, FLEMMI, CASESSA, and MARTIN were all together at the Ebb Tide night club in Revere, Mass. and they all left at approximately 9 o'clock and returned 45 minutes later.
>
> It should be noted that the killing took place at approximately 9:30 p.m., Friday, 3/12/65.
>
> [What appears to be two paragraphs of text is redacted here].
>
> Informant also advises that [redacted] had given the "OK" to JOE BARBOZA and "JIMMY" FLEMMI to kill [redacted] who was killed approximately one month ago.

Following this is an additional page which states that it "is being deleted in its entirety for codes: F, B."

Document 4 is from "correlator" to SAC, Boston, regarding Vincent James Flemmi. It is a lengthy, heavily redacted document and need not be quoted in its entirety. Relevant portions state:[12]

> Boston airtel to Director, FBI dated 10/23/64 captioned [redacted] [Redacted] advised that Peter Limone had mentioned to Raymond Patriarca that Jimmy FLEMMI is the type of individual who is difficult to control and when FLEMMI visited his club, the West End Veterans Club recently Limone asked FLEMMI to leave because of the heat that was on FLEMMI at that time. FLEMMI denied that any heat was on him and at that time FLEMMI inquired about Edward Deegan, close associate of [redacted]. Limone told FLEMMI that Deegan does not visit the club and immediately after FLEMMI departed Limone telephonically contacted Deegan and told him that FLEMMI was looking for him allegedly for a $300 loan which FLEMMI claimed DEEGAN owed to him. Deegan denied that he owed such a loan and Limone and Deegan were of the opinion that FLEMMI was out to kill DEEGAN.
>
> Boston airtel to Director, FBI dated 10/19/64 captioned [redacted]. [Redacted] advised that he received a telephone call from JAMES FLEMMI, on 10/18/64, who told him that he had been with Edward "Teddy" Deegan and Tony (LNU) at the West End Social Club during the early morning hours of 10/17/64. Informant stated the name of [redacted] was mentioned in a conversation but FLEMMI Stated he could not recall what was said. FLEMMI stated that he definitely knows that Deegan, after leaving the West End Social Club, murdered [redacted] and he was concerned about

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necessary information to prosecute the persons responsible.

[12] The document contains what appears to be a form of document code numbers, which I omit.

leaving his fingerprints in the car in which [redacted] was murdered.

....

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].

....

Memo. of H. Paul Rico to SAC, Boston 10/8/64 and captioned: [redacted]
Informant advised 10/5/64, that he is friendly with the FLEMMI's, but VINCENT FLEMMI is an extremely dangerous individual....Informant also advised that he suspects that FLEMMI had committed several murders....Informant advised that [several lines redacted] and "JIMMY" FLEMMI wanted to be considered the "best hit man" in the area.

....

Boston airtel to Director, FBI & SACS Las Vegas, Phoenix 1/7/65 captioned: [redacted]
A review of information furnished by [redacted] on 1/4/65 reflected that Ronald Cassessa, JAMES FLEMMI, [redacted] contacted Patriarca. Cassessa told Patriarca that "that thing was straightened out." (Informant did not know what it pertained to.)

....

[Document identifying data redacted].
Gennaro J. Angiulo and Peter Limone contacted Patriarca. Angiulo stated that Larry Baione, Boston hoodlum, had contacted him when he (Baione) was released from prison concerning the loan shark business of [redacted].

Patriarca advised that [redacted] and JAMES FLEMMI, both of Boston, contacted him. This contact was arranged by Ronnie Cassessa, and Angiulo had knowledge of same.

Patriarca stated that the word was that "we" (meaning Patriarca and his group) wanted FLEMMI and [redacted] for something and consequently they both arranged the meet. [Paragraph redacted]

....

According to Angiulo, [redacted] told Peter Limone that JIMMY FLEMMI had told [redacted], "Don't worry about [redacted]," (indicating that he knew [redacted] was going to get hit.).

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

....

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.

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

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.
.....
Memo. of [redacted] 4/6/65 captioned: [redacted]
....
PCI stated that JIMMY FLEMMA had gone to Providence just before Teddy Deegan was slain in Chelsea.

Document 5 is from SAC, Boston to Director, F.B.I. and reports on the status of efforts to develop Vincent James Flemmi as an informant for the F.B.I. Much of this document is illegible, but it provides in relevant 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 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.

DISCUSSION

Massachusetts Rule of Criminal Procedure 30(b) provides that a motion for a new trial may be granted "at any time if it appears that justice may not have been done." Grounds for a new trial include newly discovered evidence and failure to disclose exculpatory evidence. Among the grounds Limone now asserts in support of his motion for a new trial is newly discovered exculpatory evidence.[13]

Limone's claim that the government improperly failed to disclose exculpatory evidence fits into a number of analytical boxes, with differing standards. On the one hand, it can be analyzed as a typical claim for a new trial based on newly discovered evidence. *Commonwealth* v. *Tucceri*, 412 Mass. 401, 408-09 (1992). Such a motion based on newly discovered evidence may be made without regard to whether that evidence was improperly withheld by the government. *Id.*; *Commonwealth* v. *Grace*, 397 Mass. 303, 305 (1986). Limone's claim can also be analyzed as a claim that there was a violation of *Brady* v. *Maryland*, 373 U.S. 83 (1963), because a *Brady* claim may be made in the context of a claim regarding newly discovered evidence. *Tucceri*, 412 Mass. 408-09. A *Brady* claim may also, however, be made even if the undisclosed evidence is not "newly" discovered. *Id.* at 409. In ruling on the pending motion, I address Limone's claim only on the newly discovered evidence ground and do not address his claim in the context of *Brady*.

I. Newly Discovered Evidence

A defendant seeking a new trial on grounds of newly discovered evidence must establish

[13] Limone has presented numerous other grounds. I decide his motion based only on the newly discovered exculpatory evidence. I do not reach the other grounds Limone asserts.

both that the evidence is newly discovered and that it casts "real doubt" on the justice of the conviction. *Commonwealth* v. *LeFave*, 430 Mass. 169, 176 (1999). Limone has satisfied both parts of that standard. Evidence is newly discovered when it was unavailable at the time of trial and could not have been, with reasonable diligence, discovered at trial or at the time of a prior motion for a new trial. *Id.*; *Commonwealth* v. *Moore*, 408 Mass. 117, 126 (1990); *Grace*, 397 Mass. at 306. The Commonwealth concedes that these documents are "newly" discovered.[14] The evidence "not only must be material and credible...but also must carry a measure of strength in support of the defendant's position." *Commonwealth* v. *Scanlon*, 412 Mass. 664, 680 (1992), quoting *Grace*, 397 Mass. at 305-06. Thus, if the newly discovered evidence is cumulative of evidence admitted at trial, it tends to carry less weight than evidence that is different in kind. *Scanlon*, 397 Mass. at 680. "Moreover, the judge must find there is a substantial risk that the jury would have reached a different conclusion had the evidence been admitted at trial."[15]

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[14] There is no credible evidence before me that the Suffolk District Attorney's office had actual possession of the F.B.I. documents or of the information contained therein before those documents were produced by the Justice Task Force on December 19, 2000.

[15] The Commonwealth argues that the proper standard in this regard for the trial court is whether there is a "substantial likelihood of a miscarriage of justice." That argument is based on *Commonwealth* v. *Simmons*, 417 Mass. 60, 73 (1994). In *Simmons*, the procedural posture of the case was such that the Court decided the defendant's (1) direct appeal from his conviction for murder in the first degree, (2) appeal from the denial of his motion for a new trial filed in and decided by the Superior Court and (3) appeal from the denial of his second motion for a new trial filed with an decided by a single justice of the Supreme Judicial Court. *Simmons*, 417 Mass. at 61. There, the Court held that "[w]here the prosecution denies the defendant exculpatory evidence but the defendant has not requested it or has made only a general request, *this court* will order a new trial or reduction of the verdict whenever the court concludes that there has been a substantial likelihood of a miscarriage of justice." *Id.* at 73 (emphasis added). The Court's decision was based on G.L. c. 278, § 33E. *Commonwealth* v. *Tucceri*, 412 Mass. 401, 412-13 (1992), which articulated the standard to govern motions for a new trial where the prosecution improperly failed to deliver exculpatory evidence to a defendant, involved a defendant who was not convicted of first degree murder. That case was before the Court on an appeal from the allowance of the defendant's motion for a new trial by the Superior Court; that appears to have been the defendant's first motion for a new trial and first appeal, although it was filed years after his conviction. *Id.* In *Tucceri*, the Court held that when the defendant has made no request or only a general request for exculpatory evidence, the standard for the trial court is "whether there is a substantial risk that the jury would have reached a different conclusion." *Tucceri*, 412 Mass. at 413. *Tucceri* cited *Grace*, 397 Mass. at 306, which also used the language *Tucceri* used. *Grace* involved the motion for a new

Grace, 397 Mass. at 306. Where, as here, I was not the trial judge, I must carefully scrutinize the trial record to determine fairly whether newly discovered evidence demonstrates that justice may not have been done. *Commonwealth* v. *Hill*, 432 Mass. 704, 710 (2000); *Commonwealth* v. *Leaster*, 395 Mass. 96, 101 (1985). I have conducted that review by reading the entire trial transcript and held several hearings.[16]

Here, the jury would likely have reached a different conclusion by this previously undisclosed evidence for two principal reasons. First, the new evidence casts serious doubt on Barboza's credibility in his account of Limone's role. Second, the new evidence reveals that Vincent James Flemmi, a participant of some sort in the Deegan murder, was an F.B.I. informant around the time of the murder.

Turning first to the Barboza issue, Barboza was a "vital, principal prosecution witness at trial." *Commonwealth* v. *Cassesso*, 360 Mass. 570, 572 (1971). In effect, "the principal issue before the jury was one of [Barboza's] credibility."[17] *Commonwealth* v. *French*, 357 Mass. 356, 397 (1970). Barboza, as noted, was the only government witness implicating Limone. If

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trial of a defendant convicted of murder in the first degree. *Grace*, 397 Mass. at 304. That motion, which did not involve exculpatory evidence allegedly withheld by the government, was filed in the Superior Court years after the defendant's conviction was affirmed by the Supreme Judicial Court. The upshot of this discussion is that it appears that it is the *Tucceri* "substantial risk" standard that governs Limone's present motion for a new trial, rather than the *Simmons* "substantial likelihood of a miscarriage of justice" standard. This is so because this case is in a procedural position similar to *Grace*, and is not part of an appeal to the Supreme Judicial Court under G.L. c. 278, § 33E, as was *Simmons*. See *Commonwealth* v. *Wright*, 411 Mass. 678, 681 (1992) (standard of review by Supreme Judicial Court of unpreserved claim of error in context of claim of ineffective assistance of counsel is "substantial likelihood of a miscarriage of justice"). This was the standard used in *Commonwealth* v. *Salvati*, 420 Mass. 499, 506 (1995). That said, however, which of these standards applies is not determinative of the issues I now consider. As I note below, see *infra* note 20, I conclude that the newly discovered evidence creates a substantial likelihood of a miscarriage of justice as well as a substantial risk that the jury would have reached a different conclusion vis-à-vis Limone.

[16] I did not review the transcript of the lengthy jury empanelment.

[17] Barboza was a "highly vulnerable" witness in another case. See *Patriarca* v. *United States*, 402 F.2d 314 (1st Cir. 1968) (where Barboza testified against defendants Patriarca as well as Cassesso and Tameleo).

Limone had had information that Patriarca set up the murder and not Limone, and that Flemmi was an F.B.I. informant, it is highly likely that the defense theory that the F.B.I. was manipulating Barboza's testimony could have been buttressed. Moreover, the newly disclosed evidence about Vincent James Flemmi would have provided Limone considerable opportunity to challenge Barboza's testimony as to Flemmi. Barboza calls Flemmi his "partner" during March of 1965, the time of the Deegan murder. Trial Transcript (hereafter the "Transcript") Vol. 34, pp. 4160-61. Barboza testified that Flemmi was at the Ebb Tide on the night of the murder. Transcript Vol. 34, p. 4167; *id.* at Vol. 35, p. 4431. But Barboza denies that Flemmi left the Ebb Tide with Barboza and the others on the night of the murder. Transcript Vol. 34, p. 4172.

In addition, the newly discovered evidence is consistent with other evidence Limone has previously submitted to the court in his prior new trial motions. For example, in an affidavit submitted in 1970, Barboza stated that he is "free from duress or coercion" and wishes "to recant certain portions of...[his] testimony...[concerning] the involvement of Henry Tameleo, Peter J. Limone, Joseph L. Salvati and Lewis Grieco in the killing of Teddy Deegan." *Cassesso*, 360 Mass. at 573. He further stated that the testimony he was offering "to give concerning the killing of...Deegan and those individuals responsible for his death will be the whole truth known to" him. *Id.* See also *id.* at 574-75 (detailing affidavit of counsel for Limone). The Supreme Judicial Court observed that this affidavit was deficient in a number of respects, but left it open to Limone and his codefendants to renew their new trial motion if they could expand on Barboza's affidavit. *Id.* at 573, 579. In an affidavit dated April 9, 1976 and submitted in 1990, Gerald Alch, Esq. states that he and Barboza had several conversations in July and August 1970

at the Massachusetts Correctional Institute in Walpole to discuss Barboza's trial testimony. Alch states that Barboza told him that "any testimony [Barboza] had given in the trial of the Deegan case which in any way implicated Peter Limone was false; that Mr. Limone was neither present at the time of the commission of said crime, nor had any knowledge thereof and was in no way involved under any circumstances which could classify him as an accessory before or after the fact." Barboza states that he was motivated at trial by his belief that implicating Limone in the murder would help him (Barboza) obtain a new identity, relocation and financial assistance from law enforcement officials.[18] He also claimed that the prosecution promised him post-trial protection. Because the promises made to him had not been kept, Barboza "felt no longer obligated to adhere to his false implication of Limone." Mem. of Decision of Dolan, J., dated Feb 13, 1990, at 9.

For these reasons, I find and rule that the F.B.I. documents are newly discovered evidence which, as both the Commonwealth and Limone state, cast "real doubt" on the justice of Limone's convictions. They are material[19] and carry a measure of strength in support of Limone's position. Thus, I find and rule that there is a substantial likelihood that the jury would have reached a different conclusion had this evidence been available at trial.[20] Accordingly, I allow the motions for a new trial and I also allow the Commonwealth's motion to vacate the convictions.

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[18] Barboza had been placed in protective custody by Federal officials before trial of this case. Transcript, Vol. 42, p. 5810.
[19] I make no finding, of course, as to the *accuracy* of the information set forth in the F.B.I. documents.
[20] I also find that the newly discovered evidence satisfies the higher standard of *Simmons*, 417 Mass. 60. The newly discovered F.B.I. documents create a substantial likelihood of a miscarriage of justice.

II. BAIL

Also before me are motions of the defendant and the Commonwealth to admit Limone to bail. After a bail hearing and consultation with the Department of Probation, I allowed the defendant's request (which the Commonwealth did not oppose) that Limone be released on personal recognizance subject to strict conditions detailed on the record. I did so having considered the factors enumerated in G.L. c. 276, § 58 on the basis of the information before me. That information showed, among other factors, the following:

Limone is now about 65 years old. His wife, Olympia Limone, still resides in the same house in Malden, Mass. where she and Limone lived before Limone was incarcerated; she and their children have maintained contact with Limone throughout his incarceration and Limone will reside with them now. Limone has also maintained contact with his immediate and extended family during his incarceration.

I also note that the materials provided me at today's bail hearing include a commendation letter from the Superintendent of M.C.I. Norfolk to Limone. This letter expresses appreciation to Limone for his participation in resolving a hostage situation at M.C.I. Norfolk on March 6, 1975, where two correctional officers were taken hostage and later shot. The letter also states that Limone helped to resolve the situation by negotiating personally with the hostage takers. Among the other factors I take into consideration is that Limone successfully completed approximately 170 furloughs before that program was eliminated. I also take into consideration that the Commonwealth states it is not now in a position to decide whether it will prosecute Limone again on the pending indictments.

ORDER

For the foregoing reasons, the motion for a new trial of Peter J. Limone is **ALLOWED**; the Commonwealth's motion to vacate defendant's convictions, grant a new trial and admit Limone to bail is also **ALLOWED**.

Margaret R. Hinkle
Margaret R. Hinkle
Justice of the Superior Court

DATED: January 5, 2001

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MAIN (A)

MURDERER SAID FOUR WERE INNOCENT IN '65 SLAYING, LAWYER SAYS

EDMUND H. MAHONY; Courant Staff Writer
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A local defense lawyer said Tuesday that a former client of his -- an admitted triggerman in a notorious, decades-old murder -- insisted more than 30 years ago that four men were wrongly convicted with him and that the FBI knew it.

The disclosure by defense lawyer Ronald **Chisholm** is the latest in a growing list of allegations that raise questions about FBI behavior in the 1965 case. An assortment of similar allegations has become public recently as a special U.S. Department of Justice task force enters the third year of an investigation of law enforcement misconduct in the Boston area.

Much of the information being examined by the task force seems to have been foreshadowed by events in the 1965 case and suggests that a handful of FBI agents routinely broke the law when dealing with a string of highly placed informants. In the 1965 case and others, it appears that known murderers were spared prosecution in return for cooperating with the bureau. Worse, innocent men may have been substituted for the real killers.

Chisholm said during an interview Tuesday that his former client, gangster Ronald **Cassesso**, now dead, admitted during their conversations in the late 1960s to being one of the participants in the 1965 gangland execution of Edward "Teddy" Deegan.

In addition, **Chisholm** said, **Cassesso** told him that four of the six men arrested and convicted were innocent. **Chisholm** said he believes the four innocent men were implicated by a duplicitous FBI informant named Joseph "The Animal" Barboza. Barboza's testimony at trial in the late 1960s is widely credited with ensuring the conviction of the four men.

Troubling to observers like **Chisholm**, who have followed the Deegan case for years, is substantial evidence -- some from FBI files -- that Deegan's murder was planned and carried out by Barboza. The information disclosed Tuesday by **Chisholm** supports the view that Barboza arranged to have Deegan killed and then, through his trial testimony, ultimately determined who would be convicted and who wouldn't.

A variety of information, including previously secret FBI documents discovered late last year, suggests that Barboza planned Deegan's murder and carried it out with fellow gangsters **Cassesso**, James Vincent Flemmi, Wilfred Roy French and Romeo Martin.

The men ultimately convicted of the crime were **Cassesso**, French, Joseph Salvati, Louis Greco, Henry Tameleo and Peter Limone. Of the four men widely believed to have been innocent, Greco and Tameleo died in prison, Limone remains incarcerated and Salvati was pardoned in 1997.

Three of the four had ties to the New England Mafia in the 1960s and their convictions were publicity victories in what was then the FBI's all-out war against organized crime. The fourth, Salvati, owed Barboza a small amount of money.

Chisholm said Tuesday that **Cassesso** told him during one of their talks during the late 1960s that he could have avoided prison for the Deegan murder if he had thrown in with Barboza. But, **Chisholm** said, **Cassesso**

refused to frame innocent men.

Chisholm said that at about the time **Cassesso** was awaiting trial for the Deegan murder in 1967, **Cassesso** was approached by FBI agent H. Paul Rico, now retired. Rico was a much-decorated agent in Boston known for his ability to persuade mobsters to become FBI informants and witnesses. Barboza was among the stable of informers groomed by Rico.

Chisholm said Rico told **Cassesso** he could avoid serving further time if he corroborated Barboza's testimony at the upcoming trial.

"He told me he told Rico that he wasn't going to frame any innocent people," **Chisholm** said.

Rico has repeatedly declined to comment on any aspect of the case.

Chisholm said he was prevented until recently from disclosing his conversations with **Cassesso** for legal reasons.

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, S.S.

SUPERIOR COURT DEPARTMENT
TRIAL COURT DIVISION
CR. NO.: 32367, 69-70

COMMONWEALTH

V.

PETER LIMONE

AFFIDAVIT OF JOSEPH J. BALLIRO, SR., ESQUIRE

Introduction

The following affidavit is made with the understanding that it is to be used in support of the motion for a new trial on behalf of Peter Limone.

Affidavit

I, Joseph J. Balliro, Sr., Esquire, do state and aver the following:

1. I represented Henry Tameleo in the trial of the Commonwealth v. Peter Limone et. als., that concluded with a conviction on July 31, 1968;

2. As the result of a post-conviction investigation, I received a memorandum from F. Lee Bailey, Esquire who was representing Joseph Barboza who had been the critical witness in the case against Mr. Limone and others;

A copy of the "memo" is attached hereto and will speak for itself. It obviously exculpates Mr. Limone from being in any way responsible for the death of Mr. Deegan;

3. At no time have I represented Stephen Flemmi or Nicky Flemia;

4. I have no knowledge of any information that Freddy Chiampa or Frank Imbruglia have concerning the Deegan murder case and although I may have represented either or both of them some 35 or 40 years ago, I neither remember the dates or

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EXHIBIT
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circumstances and can find no file that reflects such representation;

5. I have represented both Joseph Barboza and Vincent "Jimmy" Flemmi some 35 or 40 years ago on matters unrelated to the Deegan murder case;

6. I never received any information from Mr. Barboza relative to the Deegan murder case;

7. Pursuant to an order of the, Hinckle, J., releasing me from the attorney-client privilege of my client, James "Vincent" Flemmi, the following is a summary of a conversation I had with Mr. Flemmi in the summer of 1967 concerning the Deegan murder case:

I visted with Mr. Flemmi for the purpose of determining what evidence he could furnish, if any, that would impeach the credibility of Joseph Barboza in the Deegan murder trial. I was representing Henry Tameleo, who was one of the defendants in that case. Mr. Flemmi told me that it would be impossible for him to come up front with any evidence against Barboza. He told me that Barboza had planned the killing and that he, Flemmi, had participated. Flemmi told me that when Barboza gave his account of the crime to the authorities, he substituted Joseph Salvati for Flemmi because Salvati had disrespected him. Flemmi told me that Barboza had sent him word that although Tameleo, Limone had nothing to do with arranging the Deegan murder, that Greico was not a participant and he was putting them in because they also had disrespected him.

Flemmi told me that he had done too many things with Barboza and was concerned that if Barboza thought that Flemmi tried to help my client, that he could involve Flemmi in some serious stuff.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 2ND DAY OF JANUARY, 2001.

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