

of perjury.⁷⁴⁵ Harrington, when asked about the Rhode Island Supreme Court's finding that Rico committed perjury, said: "It's a stupid lie. Why would Rico tell him that? It's ludicrous."⁷⁴⁶ However, Harrington held out with great pride that he "developed such significant accomplice witnesses as . . . 'Red' Kelley."⁷⁴⁷ Rico also identified Harrington at the Lerner trial as being the one to whom Rico spoke in connection with providing personal security to Kelley.⁷⁴⁸ Moreover, as Head of the Strike Force, Harrington was one of the individuals who decided what terms a witness would receive in exchange for his testimony and, in fact, was instrumental in arranging the terms for Joe "the Animal" Barboza's testimony in three trials.⁷⁴⁹ Likewise, it is quite possible that Harrington decided Kelley's terms as well. In addition, employees of the U.S. Marshals Service and other Department of Justice officials may have known of the perjury due to their involvement with and protection of Kelley.⁷⁵⁰

In conclusion, Rico's interference with Rhode Island law enforcement interfered with the administration of justice and resulted in a considerable waste of government resources in opposing the appeals of guilty defendants. Furthermore, a convicted murderer was released from prison specifically because of the perjury committed by Red Kelley and encouraged by Special Agent Rico. The Rhode Island Supreme Court found that Rico did whatever it took to achieve the ends he desired, which included committing perjury and encouraging the state's main witness to commit perjury. This is just another unfortunate example of the FBI's interference with state law enforcement.

IV. THE USE OF JAMES "WHITEY" BULGER AS AN INFORMANT RAISED QUESTIONS ABOUT WHETHER THE FBI USED ITS AUTHORITY TO ADVANCE OR PROTECT FORMER MASSACHUSETTS STATE SENATE PRESIDENT WILLIAM BULGER

The revelation that the FBI had used James "Whitey" Bulger as an informant raised serious questions for the Committee regarding whether former Special Agent John Connolly or others used the authority of the FBI to advance or protect James "Whitey" Bulger's brother former Massachusetts State Senate President William Bulger. Accordingly, the Committee sought to take testimony from William Bulger regarding his knowledge of the relationship between the FBI and his brother.

⁷⁴⁵ See Interview with Edward F. Harrington, former Attorney in Charge, Organized Crime and Racketeering Section, Boston U.S. Dept. of Justice Field Office (Dec. 20, 2001).

⁷⁴⁶ Interview with Edward F. Harrington, former Attorney in Charge, Organized Crime and Racketeering Section, Boston U.S. Dept. of Justice Field Office (Dec. 20, 2001).

⁷⁴⁷ Letter from Edward Harrington, former Attorney in Charge, Organized Crime and Racketeering Section, Boston U.S. Dept. of Justice Field Office, to the Honorable Joseph Biden, United States Senator (Jan. 20, 1988) (Exhibit 813).

⁷⁴⁸ Lerner Trial Transcript at 2621-22 (Exhibit 302).

⁷⁴⁹ See Letter from Edward Harrington, former Attorney in Charge, Organized Crime and Racketeering Section, Boston U.S. Dept. of Justice Field Office, to the Honorable Joseph Biden, United States Senator (Jan. 20, 1988) (Exhibit 813); Interview with Edward F. Harrington, former Attorney in Charge, Organized Crime and Racketeering Section, Boston U.S. Dept. of Justice Field Office (Dec. 20, 2001).

⁷⁵⁰ Financial Statement for Witness Program Participant John "Red" Kelley (May 6, 1983) (Exhibit 764). This document was prepared by the U.S. Marshal's Service of the United States Department of Justice and sets forth what Kelley was receiving as a witness in the Witness Protection Program.

On December 6, 2002, William Bulger appeared before the Committee and asserted his right under the Fifth Amendment to the Constitution not to be compelled to give testimony that may tend to incriminate him.⁷⁵¹ In response to this assertion, the Committee voted 30–1 on April 9, 2003 to grant Bulger immunity. On Thursday, June 19, 2003, the Committee on Government Reform held a public hearing entitled “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger.” Massachusetts Representatives William Delahunt and Marty Meehan attended the hearing as guests of the Committee.

The Committee is concerned about the factual accuracy in two areas of William Bulger’s testimony before the Committee. Specifically, William Bulger testified concerning the FBI’s contacts with him regarding the whereabouts of his brother. William Bulger’s testimony regarding contacts with the FBI⁷⁵² appeared to conflict with information provided to the press and Committee investigators by former Special Agent John Gamel. A full discussion of that testimony is set forth below.

Second, William Bulger testified that he had informed his lawyer about a telephone call from his brother shortly after his brother’s flight and that his lawyer had informed law enforcement authorities. The Committee was unable to substantiate the communication by any lawyer retained by William Bulger. Three lawyers retained by William Bulger who are alive either were not told of the call at the time or if told, did not report it to law enforcement authorities. A fourth lawyer is deceased. A full discussion of this testimony is set forth below as well.

A. WILLIAM BULGER’S TESTIMONY BEFORE THE COMMITTEE

At the Committee hearing, Chairman Davis’s first question was as follows:

Did there come a time when you came to believe that the FBI had protected your brother and that John Connolly may have used his authority to protect you or advance your political career?⁷⁵³

William Bulger responded: “I never asked [Connolly] to interfere in any such procedures. Never.” When asked if he was aware that Connolly may have interfered whether he asked him to or not, William Bulger responded, “No.”⁷⁵⁴

When asked about the FBI’s investigation and prosecution of former State Senate Majority Leader Joseph DiCarlo that resulted in William Bulger’s rise to leadership in the Massachusetts State Senate,⁷⁵⁵ he denied any knowledge of it other than public reports

⁷⁵¹“The Justice Department’s Use of Informants in New England,” *Hearing Before the Comm. on Govt. Reform*, 107th Cong. 406 (Dec. 6, 2002).

⁷⁵²“The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 5, 76–77, 84–85, 103 (June 19, 2003).

⁷⁵³*Id.* at 40.

⁷⁵⁴*Id.*

⁷⁵⁵J.M. Lawrence, *Panel Wanted Info on Bulger-extort link*, BOSTON HERALD, Dec. 10, 2002.

and rumors, and he testified that he had “no recollection of ever speaking of that matter with John Connolly.”⁷⁵⁶

The remaining questioning of William Bulger can be categorized into six topics:

1. The FY82 Massachusetts state budget line item that, if passed, would have forced five State Police Officers into early retirement;
2. The 1985 loan William Bulger received from his law associate, Tom Finnerty, as part of Finnerty’s 75 State Street real estate venture;
3. The circumstances surrounding Massachusetts State Police Trooper Billy Johnson’s encounter with James “Whitey” Bulger at Boston’s Logan International Airport in 1987 and William Bulger’s subsequent involvement;
4. William Bulger’s relationship with former FBI Special Agent and James “Whitey” Bulger’s handler, John Connolly;
5. William Bulger’s January 1995 telephone conversation with James “Whitey” Bulger; and
6. The FBI’s contact with William Bulger and the Bulger family concerning James “Whitey” Bulger’s whereabouts.

1. FY82 Massachusetts State Budget Line Item

Prior to 1974, the Public Safety Division of the Massachusetts State Police had two detective bureaus: the uniformed branch and Civil Service.⁷⁵⁷ The difference between these bureaus was that the Civil Service Detectives were required to have previous law enforcement experience, pass a written exam, and were permitted to retire at age 65,⁷⁵⁸ whereas, the uniformed branch officers were required to retire at age 50.⁷⁵⁹ In 1974, the two branches were consolidated.⁷⁶⁰ A grandfather clause was created to ensure that the former Civil Service Detectives would not be forced to retire until the age of 65.⁷⁶¹

In 1981, a line item was added to the FY82 Massachusetts state budget that, if passed, would have imposed mandatory retirement or a reduction in grade at the age of 50 for all state police, both detectives and the uniformed branch.⁷⁶² No sponsor was attributed to the line item.⁷⁶³ At the time, there were five state police officers who would have been affected by the line item: Lt. Col. John R. O’Donovan, bureau commander Maj. John F. Regan, and Captains Peter Agnes, William Nally, and Robert Zoulas.⁷⁶⁴ In 1980, O’Donovan led the Lancaster Street garage investigation that targeted members of the Winter Hill Gang, including James “Whitey” Bulger.⁷⁶⁵ Regan served as District Attorney William Delahunt’s

⁷⁵⁶ “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 41 (June 19, 2003).

⁷⁵⁷ Frank Mahoney, *Budget Item Threatens Crime Intelligence Unit*, BOSTON GLOBE, July 10, 1981.

⁷⁵⁸ *Id.*

⁷⁵⁹ *Id.*

⁷⁶⁰ *Id.*

⁷⁶¹ *Id.*

⁷⁶² *Id.*

⁷⁶³ *Id.*

⁷⁶⁴ *Id.*

⁷⁶⁵ Interview with William Nally (July 22, 2003) (Exhibit 972).

chief detective.⁷⁶⁶ Agnes, Nally, and Zoulas were not involved in the Lancaster Street garage investigation.⁷⁶⁷ The line item was ultimately vetoed by the Governor.⁷⁶⁸

Committee Members questioned William Bulger on whether he used his power as the President of the Massachusetts State Senate to introduce the line item anonymously as a tool to penalize members of the state police who were investigating James “Whitey” Bulger. William Bulger testified that he did not recall the line item as part of the FY82 state budget and had no knowledge of its origins.⁷⁶⁹ William Bulger further testified that he never discussed the Lancaster Street garage investigation with anyone, including former FBI Special Agent John Connolly.⁷⁷⁰

William Bulger entered affidavits from Nally and Agnes into the record.⁷⁷¹ Both affidavits exerted that they did not investigate James “Whitey” Bulger as part of the Lancaster Street garage investigation.⁷⁷² Nally’s affidavit stated he knew “of no facts which support the comparatively recent allegations that the budget item was payback for an investigation of ‘James “Whitey” Bulger . . . there was no payback message ever delivered to [him] by the Senate President.”⁷⁷³ Agnes’ affidavit stated that Agnes “never believed William Bulger to be unfavorably disposed to [him].”⁷⁷⁴

2. 75 State Street Real Estate Venture

According to William Bulger’s testimony at the hearing, in 1985, he received a \$240,000 payment that he claimed was a loan against advanced fees, from his law associate, Tom Finnerty.⁷⁷⁵ The loan money came from the same account into which Finnerty deposited \$500,000 he received from Boston real estate developer, Harold Brown.⁷⁷⁶ William Bulger testified that Brown later alleged that Finnerty extorted the \$500,000 as part of the 75 State Street real estate venture.⁷⁷⁷ William Bulger subsequently returned the loan to Finnerty.⁷⁷⁸ The 75 State Street project was investigated by the federal government and Massachusetts state government.⁷⁷⁹ All of the investigations concluded that there was no evidence of involvement by William Bulger in the 75 State Street project.⁷⁸⁰

⁷⁶⁶ *Id.*

⁷⁶⁷ Affidavit of William C. Nally (June 14, 2003) (Exhibit 972); Affidavit of Peter W. Agnes (June 14, 2003) (Exhibit 973); Interview with Robert Zoulas (July 22, 2003).

⁷⁶⁸ Frank Mahoney, *Budget Item Threatens Crime Intelligence Unit*, BOSTON GLOBE, July 10, 1981.

⁷⁶⁹ “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 47–48, 51–52, 108 (June 19, 2003) (testimony of William Bulger).

⁷⁷⁰ *Id.* at 47, 51.

⁷⁷¹ *Id.* at 48.

⁷⁷² Affidavit of William C. Nally (June 14, 2003) (Exhibit 972); Affidavit of Peter W. Agnes (June 14, 2003) (Exhibit 973).

⁷⁷³ Affidavit of William C. Nally (June 14, 2003) (Exhibit 972).

⁷⁷⁴ Affidavit of Peter W. Agnes (June 14, 2003) (Exhibit 973).

⁷⁷⁵ “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 67–68 (June 19, 2003) (testimony of William Bulger).

⁷⁷⁶ *Id.*

⁷⁷⁷ *Id.* at 68.

⁷⁷⁸ *Id.* at 68, 88–90, 93.

⁷⁷⁹ See Statement of Attorney General Scott Harshbarger on the Investigation of the 75 State Street Project (Jan. 29, 1992).

⁷⁸⁰ *Id.*

FBI Special Agent John Morris was the Supervisor of the Public Corruption Crime Unit during the 75 State Street investigation.⁷⁸¹ Morris formerly served as the Supervisor of the Boston Organized Crime Squad.⁷⁸² In April 1998, Morris testified under oath to taking gifts and money from James “Whitey” Bulger in 1982, 1984, and 1985.⁷⁸³ Former Assistant United States Attorney Jonathan Chiel testified at the trial of former FBI Special Agent John Connolly that Connolly sought to gain inside information about the 75 State Street investigation.⁷⁸⁴ The Committee Members voiced concern that Morris and Connolly’s illegal relationship with James “Whitey” Bulger may have resulted in the FBI and the U.S. Attorney’s Office turning a blind eye to William Bulger’s involvement in the 75 State Street project.⁷⁸⁵

William Bulger testified that he and Finnerty were former law partners.⁷⁸⁶ William Bulger represented brothers, Bruce and Robert Quirk, who had a dispute about property with National Semiconductor.⁷⁸⁷ The case was ultimately settled and William Bulger was owed a \$350,000 fee.⁷⁸⁸ Finnerty advanced William Bulger \$240,000 of the \$350,000, as the fee was late.⁷⁸⁹ When William Bulger discovered that the \$240,000 came from Brown, William Bulger returned the money to Finnerty.⁷⁹⁰ William Bulger testified that he knew Brown was in “some kind of trouble.”⁷⁹¹ Therefore, William Bulger returned the money so that no one could misconstrue that a relationship existed between William Bulger and Brown.⁷⁹² After the money was returned, Finnerty brought suit against Brown.⁷⁹³ In his defense, Brown alleged that Finnerty extorted \$500,000.⁷⁹⁴

William Bulger testified that he did not recall ever meeting Morris or discussing 75 State Street with Connolly.⁷⁹⁵ William Bulger entered an affidavit from Brown into the Committee record.⁷⁹⁶ In the affidavit, Brown stated that William Bulger had “zero” involvement in the 75 State Street project.⁷⁹⁷

⁷⁸¹Dick Lehr, *FBI Ties Renew Questions on 75 State Street Scandal*, BOSTON GLOBE, June 14, 1998.

⁷⁸²*Id.*

⁷⁸³*Id.*

⁷⁸⁴J.M. Lawrence, *Trial: Agent Meddled in 75 State St. Case*, BOSTON HERALD, May 21, 2002.

⁷⁸⁵See “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 41–42, 68, 98–101 (June 19, 2003).

⁷⁸⁶“The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 67, 88 (June 19, 2003) (testimony of William Bulger).

⁷⁸⁷*Id.* at 67.

⁷⁸⁸*Id.*

⁷⁸⁹*Id.* at 67–68, 89, 90.

⁷⁹⁰*Id.* at 68, 88–89, 93.

⁷⁹¹*Id.* at 68.

⁷⁹²*Id.*

⁷⁹³*Id.*

⁷⁹⁴*Id.*

⁷⁹⁵*Id.* at 41–42, 64, 68, 87, 100.

⁷⁹⁶*Id.* at 42.

⁷⁹⁷Affidavit of Harold Brown (June 16, 2003) (Exhibit 974).

3. *Massachusetts State Police Trooper Billy Johnson's Encounter with James "Whitey" Bulger at Logan Airport*

On September 8, 1987, James "Whitey" Bulger and his girlfriend, Teresa Stanley, were scheduled to fly from Boston to Montreal.⁷⁹⁸ Screeners at Logan International Airport identified two bricks of \$100 bills in James "Whitey" Bulger's carry on baggage.⁷⁹⁹ It has been reported that the bag contained at least \$50,000 in cash.⁸⁰⁰ James "Whitey" Bulger refused to have the bag searched and gave the bag to Kevin Weeks.⁸⁰¹ Massachusetts State Police Trooper Billy Johnson arrived after Weeks fled the airport with the bag.⁸⁰² Johnson confiscated \$9,923 from Stanley and released the couple.⁸⁰³

After his encounter with James "Whitey" Bulger, Johnson wrote an incident report.⁸⁰⁴ Johnson later claimed that David Davis, the Executive Director of the Massachusetts Port Authority, requested a copy of the report on behalf of William Bulger.⁸⁰⁵ Johnson, a decorated officer, was later demoted.⁸⁰⁶ After an early retirement, Johnson committed suicide in 1998.⁸⁰⁷

The Committee Members' questions regarding Trooper Johnson again focused on the concern that William Bulger used his position as the President of the Massachusetts State Senate to penalize a law enforcement officer who may have investigated James "Whitey" Bulger.⁸⁰⁸ William Bulger testified that his relationship with Davis was business in nature.⁸⁰⁹ William Bulger further stated that he never spoke to Davis regarding the incident or the incident report or sought sanctions against Johnson.⁸¹⁰ William Bulger did not learn of the incident involving James "Whitey" Bulger and Johnson at Logan Airport until it was reported in the newspapers.⁸¹¹ William Bulger testified that he never saw Johnson's incident report.⁸¹²

William Bulger introduced an affidavit from Davis into the Committee record.⁸¹³ The affidavit stated that at no time did William Bulger, or anyone acting on William Bulger's behalf, contact Davis regarding the Johnson incident.⁸¹⁴ In addition, Davis never provided a copy of Johnson's report to William Bulger.⁸¹⁵ The affidavit

⁷⁹⁸Peter Gelzinis, *Kin Await Vindication for Trooper who Crossed James "Whitey" Bulger*, BOSTON HERALD, June 19, 2003.

⁷⁹⁹*Id.*

⁸⁰⁰Peter Gelzinis, *James "Whitey" Bulger Leaves Surrogate Son Out of the \$ \$ \$*, BOSTON HERALD, Dec. 14, 1999.

⁸⁰¹Peter Gelzinis, *Kin Await Vindication for Trooper who Crossed James "Whitey" Bulger*, BOSTON HERALD, June 19, 2003.

⁸⁰²*Id.*

⁸⁰³*Id.*

⁸⁰⁴*Id.*

⁸⁰⁵*Id.*

⁸⁰⁶*Id.*

⁸⁰⁷*Id.*

⁸⁰⁸See "The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 45, 47, 56, 114 (June 19, 2003).

⁸⁰⁹"The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 47 (June 19, 2003) (testimony of William Bulger).

⁸¹⁰*Id.* at 45, 47, 56.

⁸¹¹*Id.* at 45.

⁸¹²*Id.* at 108.

⁸¹³*Id.* at 45.

⁸¹⁴Affidavit of David Davis (June 16, 2003) (Exhibit 975).

⁸¹⁵*Id.*

further stated that no form of sanction was imposed on Johnson regarding the incident with James “Whitey” Bulger.⁸¹⁶

4. *William Bulger’s Relationship with Former FBI Special Agent and James “Whitey” Bulger’s Handler, John Connolly*

According to William Bulger’s testimony, he and James “Whitey” Bulger grew up in the same South Boston neighborhood as former FBI Special Agent John Connolly.⁸¹⁷ As an adult, Connolly worked on William Bulger’s district campaigns.⁸¹⁸ In 1975, Connolly recruited James “Whitey” Bulger as an FBI informant.⁸¹⁹ Connolly served as James “Whitey” Bulger’s FBI handler until 1990, when Connolly retired from the FBI.⁸²⁰ Connolly was subsequently hired as the head of security for Boston Edison Company.⁸²¹ After six years, Connolly took a position as a lobbyist for Boston Edison’s government affairs position.⁸²²

On December 23, 1999, Connolly was indicted on charges of racketeering, racketeering conspiracy, conspiracy to obstruct justice, and obstruction of justice.⁸²³ Connolly was accused of tipping off James “Whitey” Bulger, Stephen “the Rifleman” Flemmi, and Francis “Cadillac Frank” Salemme that they would be indicted on racketeering charges in January 1995.⁸²⁴ Additionally, Connolly was accused of informing James “Whitey” Bulger and Flemmi of ongoing FBI investigations and failing to report James “Whitey” Bulger and Flemmi’s participation in extortion, loansharking and gambling to FBI superiors.⁸²⁵ Connolly pled innocent to the charges.⁸²⁶ On May 28, 2002, Connolly was found guilty of obstructing justice, racketeering, and making a false statement.⁸²⁷ Connolly was sentenced to ten years and one month in prison.⁸²⁸

Press reports have alleged that William Bulger used his political position, as well as his relationship with Connolly, to protect James “Whitey” Bulger from prosecution. At Connolly’s trial, former mob hitman, John Martorano, testified that William Bulger asked Connolly to keep James “Whitey” Bulger out of trouble.⁸²⁹ William Bulger testified that Connolly periodically stopped by his office with new FBI Agents assigned to Boston.⁸³⁰ In addition, Connolly occasionally met James “Whitey” Bulger and Flemmi at the home

⁸¹⁶ *Id.*

⁸¹⁷ “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 54 (June 19, 2003) (testimony of William Bulger).

⁸¹⁸ *Id.* at 54, 64.

⁸¹⁹ Ralph Ranalli & Patrick Healy, *Hitman: Connolly Aided Bulger as Favor to Brother*, BOSTON GLOBE, May 14, 2002.

⁸²⁰ *Id.*

⁸²¹ Jonathan Wells, *James “Whitey” Bulger’s Ex-FBI Pal Leaves Job at Nstar*, BOSTON HERALD, Mar. 1, 2001.

⁸²² *Id.*

⁸²³ Andrea Estes & Jack Sullivan, *Ex-agent Busted—Former FBI man Connolly Indicted for Racketeering*, BOSTON HERALD, Dec. 23, 1999.

⁸²⁴ *Id.*

⁸²⁵ *Id.*

⁸²⁶ *Id.*

⁸²⁷ Jose Martinez, *G-man’s Ties to Bulger Began on Southie Streets*, BOSTON HERALD, May 29, 2002.

⁸²⁸ Ralph Ranalli, *Sentence for Connolly Outstrips Others*, BOSTON GLOBE, Sept. 17, 2002.

⁸²⁹ Ralph Ranalli & Patrick Healy, *Hitman: Connolly Aided Bulger as Favor to Brother*, BOSTON GLOBE, May 14, 2002.

⁸³⁰ “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 64, 72, 90, 97 (June 19, 2003) (testimony of William Bulger).

of Flemmi's mother.⁸³¹ Mrs. Flemmi lived next door to William Bulger.⁸³² James Ring, former Supervisor for the Organized Crime Squad, testified that William Bulger walked in on a dinner at Mrs. Flemmi's house.⁸³³ The dinner was attended by Ring, Connolly, James "Whitey" Bulger, and Flemmi.⁸³⁴

William Bulger testified that he and Connolly were not close friends growing up, due to the seven-year age difference.⁸³⁵ The two men were closer friends as adults.⁸³⁶ Although he recalled that Connolly brought FBI agents who were new to Boston to the State House, William Bulger did not consider Connolly to be a frequent visitor or telephone caller to his office.⁸³⁷

William Bulger testified that he first learned that James "Whitey" Bulger might be an FBI informant from a Boston Globe article.⁸³⁸ William Bulger stated that he never discussed James "Whitey" Bulger's possible role as an FBI informant or involvement in illegal activities with Connolly.⁸³⁹ In addition, William Bulger never witnessed Connolly in the presence of James "Whitey" Bulger or Flemmi.⁸⁴⁰ William Bulger denied ever being present at a dinner at Mrs. Flemmi's house at which James "Whitey" Bulger, Flemmi, Connolly, or any other FBI agents were in attendance.⁸⁴¹

William Bulger denied asking Connolly or any law enforcement officer to use his or her position within law enforcement to keep James "Whitey" Bulger out of trouble.⁸⁴² William Bulger testified that the only discussion he had with Connolly regarding James "Whitey" Bulger occurred after reading a newspaper article that alleged James "Whitey" Bulger was involved with drugs.⁸⁴³ William Bulger asked Connolly if he could find out if the report was valid.⁸⁴⁴ According to William Bulger, Connolly informed William Bulger that the allegations were not true.⁸⁴⁵

William Bulger testified that he believed he sent a letter of recommendation on Connolly's behalf to Harvard's Kennedy School of Government.⁸⁴⁶ Connolly was accepted by the Kennedy School and earned a master's degree in Public Administration.⁸⁴⁷ William Bulger denied providing any assistance in securing Connolly a position outside the FBI, including at Boston Edison.⁸⁴⁸ William Bulger

⁸³¹Dick Lehr, *FBI Ties Renew Questions on 75 State Street Scandal*, BOSTON GLOBE, June 14, 1998.

⁸³²"The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing before the Comm. on Govt. Reform*, 108th Cong. 112 (2003) (testimony of William Bulger).

⁸³³Dick Lehr, *FBI Ties Renew Questions on 75 State Street Scandal*, BOSTON GLOBE, June 14, 1998.

⁸³⁴*Id.*

⁸³⁵"The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 74 (2003) (testimony of William Bulger).

⁸³⁶*Id.* at 94.

⁸³⁷*Id.* at 72, 90, 97.

⁸³⁸*Id.* at 66, 73, 104–105.

⁸³⁹*Id.* at 55, 72–73, 91–92, 105.

⁸⁴⁰*Id.* at 66, 96, 109.

⁸⁴¹*Id.* at 66, 96.

⁸⁴²*Id.* at 55, 57, 106–107.

⁸⁴³*Id.* at 91.

⁸⁴⁴*Id.*

⁸⁴⁵*Id.*

⁸⁴⁶*Id.* at 64.

⁸⁴⁷Affidavit of Carl Gustin (June 12, 2003) (Exhibit 976).

⁸⁴⁸"The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 64, 66, 70–71, 87–88 (June 19, 2003) (testimony of William Bulger).

submitted an affidavit signed by Carl Gustin, former Senior Vice President of Boston Edison, into the Committee record.⁸⁴⁹ According to the affidavit, Gustin was responsible for hiring Connolly as a lobbyist for Boston Edison.⁸⁵⁰ Gustin's affidavit further stated that Connolly was hired based upon his merits and that no external influences caused him to hire Connolly.⁸⁵¹

5. *William Bulger's January 1995 Telephone Conversation with James "Whitey" Bulger*

James "Whitey" Bulger fled his January 10, 1995 indictments.⁸⁵² William Bulger has admitted to speaking with James "Whitey" Bulger on the telephone in January 1995 after he fled.⁸⁵³ William Bulger took the telephone call from James "Whitey" Bulger at the home of Edward Phillips, who worked for William Bulger.⁸⁵⁴ William Bulger did not personally notify authorities of the telephone call.⁸⁵⁵ The phone call did not become public until William Bulger's grand jury testimony was leaked to the media.⁸⁵⁶

Committee Members expressed concern over William Bulger's decision to keep the telephone call with James "Whitey" Bulger a secret from law enforcement officials.⁸⁵⁷ William Bulger stated that his telephone call with James "Whitey" Bulger was "brief" and lasted approximately three to four minutes.⁸⁵⁸ William Bulger testified that James "Whitey" Bulger told him not to believe everything that was being said about him.⁸⁵⁹ In addition, the two brothers did not discuss whether James "Whitey" Bulger should turn himself in and William Bulger did not recommend that James "Whitey" Bulger stay at-large.⁸⁶⁰

William Bulger testified that he "informed [his] attorney just about immediately" after the telephone call and "he [William Bulger's attorney], in turn, told the officials."⁸⁶¹ William Bulger testified to his belief that Massachusetts statute Chapter 274, Section 4 protected his sibling relationship with James "Whitey" Bulger and did not require William Bulger to personally notify law enforcement officials of the telephone call.⁸⁶² Furthermore, William Bulger denied taking the telephone call at Phillips' home as a way to avoid telephone taps that may have been placed on William Bulger's home telephone.⁸⁶³

⁸⁴⁹ *Id.* at 64.

⁸⁵⁰ Affidavit of Carl Gustin (June 12, 2003) (Exhibit 976).

⁸⁵¹ *Id.*

⁸⁵² Ralph Ranalli & Patrick Healy, *Hitman: Connolly Aided Bulger as Favor to Brother*, BOSTON GLOBE, May 14, 2002.

⁸⁵³ "The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 33, 58–59, 74, 79, 82–84, 88, 93–95 (June 19, 2003) (testimony of William Bulger).

⁸⁵⁴ *Id.* at 83–84, 88.

⁸⁵⁵ *Id.* at 58–59, 83.

⁸⁵⁶ *Id.* at 33.

⁸⁵⁷ See "The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 59, 83 (June 19, 2003).

⁸⁵⁸ "The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 33, 58, 79 (June 19, 2003) (testimony of William Bulger).

⁸⁵⁹ *Id.* at 58.

⁸⁶⁰ *Id.* at 33, 58, 79.

⁸⁶¹ *Id.* at 83.

⁸⁶² *Id.* at 59.

⁸⁶³ *Id.* at 58, 74, 88, 104.

After the conclusion of the hearing, William Bulger provided the Committee with a personal affidavit.⁸⁶⁴ In the affidavit, William Bulger stated that he informed four attorneys of his telephone conversation with James “Whitey” Bulger: Robert Popeo, Thomas Finnerty, Thomas Kiley, and William Homans, who is now deceased.⁸⁶⁵ William Bulger further stated that the attorney to whom he referred during his testimony before the Committee was Popeo.⁸⁶⁶

Affidavits from Popeo, Finnerty, and Kiley were also provided to the Committee. Popeo stated that he did discuss the telephone call from James “Whitey” Bulger with William Bulger.⁸⁶⁷ However, Popeo stated that he was not the attorney who contacted the United States Attorney’s office regarding the telephone call between William Bulger and James “Whitey” Bulger.⁸⁶⁸ Finnerty’s affidavit stated that he was “told virtually immediately about the call.”⁸⁶⁹ Kiley’s affidavit was silent as to William Bulger’s communication with him about telephone call with James “Whitey” Bulger shortly after the call.⁸⁷⁰

6. *FBI Contact with William Bulger and the Bulger Family Concerning James “Whitey” Bulger’s Whereabouts*

Committee members were interested as to whether the FBI used William Bulger as a source in locating James “Whitey” Bulger, after he fled his January 1995 indictments.⁸⁷¹ After establishing that James “Whitey” Bulger fled in 1995, Mr. Delahunt asked:

So 8 years later the FBI gets around to inquiring of you and your wife, in your case some 6 years as to the whereabouts of your brother?

William Bulger responded: “That is the first direct effort, yes.”⁸⁷² Mr. Shays questioned William Bulger as to whether the FBI or other law enforcement officers came to his home or office.⁸⁷³

Rep. SHAYS: . . . I am asking whether you gave a signal to the FBI that you did not want to answer their questions, and that they should not ask you and that they should leave.

Mr. BULGER: I don’t recall meeting the FBI. I really don’t recall it.

Rep. SHAYS: Did the FBI ever come to your home?

Mr. BULGER: I am told that they did, but I do not recall it.

⁸⁶⁴ Affidavit of William M. Bulger (July 22, 2003) (Exhibit 977).

⁸⁶⁵ *Id.*

⁸⁶⁶ *Id.*

⁸⁶⁷ Affidavit of R. Robert Popeo (July 17, 2003) (Exhibit 978).

⁸⁶⁸ *Id.*

⁸⁶⁹ Affidavit of Thomas E. Finnerty (July 18, 2003) (Exhibit 979).

⁸⁷⁰ Affidavit of Thomas R. Kiley (July 18, 2003) (Exhibit 980).

⁸⁷¹ See “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 5, 76–77, 84–85, 103 (June 19, 2003).

⁸⁷² “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 77 (June 19, 2003) (testimony of William Bulger).

⁸⁷³ *Id.* at 84–85.

Rep. SHAYS: Did the FBI ever come to your offices?

Mr. BULGER: No, I don't think so.

Rep. SHAYS: Did any other law enforcement people come to your home?

Mr. BULGER: I don't think so.

Rep. SHAYS: Did any law enforcement people come to your offices to ask you questions?

Mr. BULGER: I don't believe so.⁸⁷⁴

William Bulger testified that the first time he was asked of his telephone call with James "Whitey" Bulger was during his grand jury testimony in 2001.⁸⁷⁵

William Bulger testified that a week before the Committee hearing, two FBI agents, James Stover and J. Michael Doyle, came to his home.⁸⁷⁶ The two agents talked to William Bulger's daughter.⁸⁷⁷ William Bulger submitted his daughter's written account of her conversation with the agents into the Committee record.⁸⁷⁸ This encounter, on June 10, 2003, was the first time William Bulger could recall the FBI visiting his home.⁸⁷⁹

On June 28, 2003, an article entitled "Retired FBI Agent Contradicts Bulger" appeared in the Boston Globe.⁸⁸⁰ In the article, former FBI Special Agent John Gamel stated that he spoke to William Bulger regarding his brother James "Whitey" Bulger on January 9, 1995.⁸⁸¹ Gamel stated he paid an unannounced visit to the state house to speak with William Bulger, who was unavailable.⁸⁸² Later, Gamel and William Bulger spoke briefly on the telephone.⁸⁸³

In William Bulger's affidavit submitted after the Committee hearing, he further addressed his testimony as to whether the FBI contacted him after James "Whitey" Bulger disappeared.⁸⁸⁴ William Bulger stated that his former attorney, Popeo, confirmed a January 9, 1995 conversation between the two regarding Gamel's visit to the state house.⁸⁸⁵ Popeo's affidavit submitted after the Committee hearing, also confirmed that he and William Bulger discussed William Bulger's conversation with Gamel.⁸⁸⁶

B. SUBSEQUENT INVESTIGATION OF WILLIAM BULGER'S TESTIMONY

Following the testimony received from William Bulger at the June 19, 2003 Committee hearing entitled "The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," Committee staff members traveled to Boston, Massachusetts to substantiate the information and affidavits that were submitted by William Bulger during the

⁸⁷⁴ *Id.*

⁸⁷⁵ *Id.* at 84.

⁸⁷⁶ *Id.* at 60-61.

⁸⁷⁷ *Id.*

⁸⁷⁸ *Id.* at 61-63.

⁸⁷⁹ *Id.* at 76-77.

⁸⁸⁰ Shelley Murphy, *Retired FBI Agent Contradicts Bulger*, BOSTON GLOBE, June 28, 2003.

⁸⁸¹ *Id.*

⁸⁸² *Id.*

⁸⁸³ *Id.*

⁸⁸⁴ Affidavit of William M. Bulger (July 22, 2003) (Exhibit 977).

⁸⁸⁵ *Id.*

⁸⁸⁶ Affidavit of R. Robert Popeo (July 17, 2003) (Exhibit 978).

Committee's hearing. Committee staff interviewed the following individuals:

- (1) John Gamel, retired FBI Special Agent and case agent for James "Whitey" Bulger;
- (2) Carl Gustin, former Senior Vice President for Boston Edison;
- (3) Captain William Nally, retired Massachusetts State Police; and
- (4) Captain Robert Zoulas, retired Massachusetts State Police.

The Committee also contacted Massachusetts State Police Lt. Col. John O'Donovan, and Lt. Col. Peter Agnes.

1. Interview of John Gamel

When asked at the Committee's hearing whether he had been "interviewed" by the FBI prior to 2001 regarding the whereabouts of his brother, William Bulger testified: "I don't believe I was." and "I don't think I was."⁸⁸⁷ Later in the same questioning, after establishing that James "Whitey" Bulger fled in 1995, Mr. Delahunt asked:

So 8 years later the FBI gets around to inquiring of you and your wife, in your case some 6 years as to the whereabouts of your brother?

Bulger responded: "That is the first direct effort, yes."⁸⁸⁸ Similarly, when Mr. Shays asked whether the FBI had ever come to his office, he responded "No. I don't think so."⁸⁸⁹ These answers certainly had the potential for leading the Committee to conclude wrongly that the FBI had never contacted William Bulger in its effort to find James "Whitey" Bulger. Several days later, Special Agent John Gamel, a retired FBI case agent who was assigned to investigate James "Whitey" Bulger from 1990 to 1995 appeared to contradict this testimony in an interview with the press.⁸⁹⁰

On July 21, 2003, Committee staff interviewed Special Agent Gamel about his contacts with William Bulger, and other Bulger family members. Assistant U.S. Attorney Joshua Levy was also present to monitor the interview on behalf of the Department of Justice. Gamel recalled the case started in July 1990, when Tim Connelly was referred to the FBI by Tom Riley, a private attorney.⁸⁹¹ Connelly was a mortgage broker who prepared fraudulent mortgage schemes for associates of James "Whitey" Bulger.⁸⁹² Connelly informed the FBI that James "Whitey" Bulger had personally extorted \$50,000 from him and that he had been "shook down" in the backroom of a liquor store with a knife to his chest.⁸⁹³

⁸⁸⁷ "The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 76 (June 19, 2003) (statement of William Bulger).

⁸⁸⁸ *Id.* at 77.

⁸⁸⁹ "The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger," *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 84 (June 19, 2003) (statement of William Bulger).

⁸⁹⁰ Shelley Murphy, *Retired FBI Agent Contradicts Bulger*, BOSTON GLOBE, June 28, 2003.

⁸⁹¹ Interview with John Gamel, retired FBI Special Agent (July 21, 2003).

⁸⁹² *Id.*

⁸⁹³ *Id.*

At that time, Gamel was working for Richard Watson, head of FBI's Counter-Terrorism Unit in Boston.⁸⁹⁴ According to Gamel, he was assigned to the case because Watson knew James "Whitey" Bulger was an FBI informant and wanted to isolate the case from James "Whitey" Bulger's involvement with the Organized Crime Squad.⁸⁹⁵ In March 1992, Gamel was transferred to the Organized Crime Squad where he continued as the case agent for the James "Whitey" Bulger investigation.⁸⁹⁶ After James "Whitey" Bulger was indicted on January 5, 1995 and became a fugitive, the case was transferred from the Organized Crime Unit to the Fugitive Squad.⁸⁹⁷

According to Gamel, on January 9, 1995, Gamel and Special Agent Joseph Hanigan went to the Massachusetts State House to speak with Senate President William Bulger regarding the whereabouts of his brother.⁸⁹⁸ Gamel said the receptionist at the Senate President's Office told them that William Bulger was unavailable, and after a short wait, they provided their business cards and left.⁸⁹⁹ Later that day, William Bulger called Gamel and they spoke for about forty-five seconds where he denied any recent contact with his brother.⁹⁰⁰ According to Gamel's interview report, William Bulger also stated that he ". . . did not wish to be interviewed by the FBI, nor answer any questions posed to him by the interviewing Agent."⁹⁰¹

In the summer of 1995, Assistant U.S. Attorney Richard Hoffman seized lottery winnings of James "Whitey" Bulger, valued at about \$119,000 a year.⁹⁰² James "Whitey" Bulger's siblings filed a case with the Norfolk Probate Court to protect these lottery winnings.⁹⁰³ As a result of the seizure and subsequent lawsuit, Gamel and Special Agent Walter Seffens attempted to contact all the Bulger siblings regarding the whereabouts of James "Whitey" Bulger.⁹⁰⁴ Gamel and Seffens were only able to speak with John Bulger and Jean Bulger Holland.⁹⁰⁵ John Bulger and Holland were informed of the Harboring Act.⁹⁰⁶

In response to questions, Gamel said the FBI had given him "carte blanche" to conduct his investigation and denied that anyone tried to hinder his efforts in locating James "Whitey" Bulger.⁹⁰⁷ Gamel explained that he made a professional decision not to follow up on his efforts in reaching William Bulger because, in his experience, a family member would either immediately give up or never give up a fugitive.⁹⁰⁸ Gamel stated that he was unaware of the

⁸⁹⁴ *Id.*

⁸⁹⁵ *Id.*

⁸⁹⁶ *Id.*

⁸⁹⁷ *Id.*

⁸⁹⁸ *Id.*

⁸⁹⁹ *Id.*

⁹⁰⁰ *Id.*

⁹⁰¹ Special Agent John Gamel, Interview Report, FBI Form 302 (Jan. 9, 1995) (Exhibit 981).

⁹⁰² Interview with John Gamel, retired FBI Special Agent (July 21, 2003).

⁹⁰³ *Id.*

⁹⁰⁴ *Id.*

⁹⁰⁵ *Id.*

⁹⁰⁶ *Id.*

⁹⁰⁷ *Id.*

⁹⁰⁸ *Id.*

January 1995 phone call between William Bulger and James “Whitey” Bulger until it became public knowledge.⁹⁰⁹

In January 1996, Gamel became the supervisor for the Organized Crime Unit and stopped being a case agent in the James “Whitey” Bulger investigation.⁹¹⁰ Subsequently, the investigation was worked on by Special Agents Jan Galbreath, Robert Walther, and Charles Gianturco.⁹¹¹

William Bulger’s lawyer, Tom Kiley, sought to respond to the apparent inconsistency between William Bulger’s testimony and Gamel’s statements that the FBI had tried to talk to him about his brother on January 9, 1995. In an affidavit submitted to the Committee, he notes that Gamel’s contact could not have been in furtherance of the fugitive investigation after the January 10, 1995 indictment but was a contact in furtherance of executing arrest warrants under the January 4, 1995 conspiracy complaint.⁹¹² He asserts that he reviewed the criminal docket, recites the docket entries, notes that Judge Wolf wrote that the FBI opened a fugitive investigation of James “Whitey” Bulger after the January 10, 1995 indictment, and concludes that “When Agent Gamel and President Bulger spoke on January 9, 1995 (according to The Boston Globe reports quoting Gamel) the Agent had to have the same purpose, as the complaint was sealed and the superceding [sic] indictment had not yet been returned.”⁹¹³

Even if it is true that a fugitive investigation had not been opened, there is no evidence that William Bulger actually knew the information that Kiley researched or that he actually used that information in the course of his testimony to distinguish between the types of contacts. Indeed, Agent Gamel’s interview report expressly states that William Bulger was expressly informed of the existence of a fugitive investigation: “Gamel advised [William Bulger] that his brother was the subject of a *Federal fugitive investigation* that would not end until he was captured.”⁹¹⁴

2. Interview of Carl Gustin

During the Committee hearing, William Bulger responded “No,” when asked whether he helped former FBI Special Agent John Connolly get a job at Boston Edison.⁹¹⁵ William Bulger also submitted an affidavit signed by Carl Gustin, former Senior Vice President of Boston Edison, who hired Connolly as a lobbyist in 1995, from his position as head of security.⁹¹⁶ Gustin’s affidavit stated that the rumors that former Senate President William Bulger got Connolly his job at Boston Edison were false and “When I tapped John Connolly for the government affairs position, there

⁹⁰⁹ *Id.*

⁹¹⁰ *Id.*

⁹¹¹ *Id.*

⁹¹² Affidavit of Thomas R. Kiley (July 18, 2003) (Exhibit 980).

⁹¹³ *Id.*

⁹¹⁴ Special Agent John Gamel, Interview Report, FBI Form 302 (Jan. 9, 1995) (emphasis supplied) (Exhibit 981).

⁹¹⁵ “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 64, 66, 88 (June 19, 2003) (statement of William Bulger).

⁹¹⁶ *Id.* at 64.

was no intercession from William Bulger or anyone in his office.”⁹¹⁷

On July 21, 2003, Committee staff interviewed Gustin to determine the circumstance surround the hiring of Connolly at Boston Edison. Gustin stated that he did not know Connolly before he was hired as the head of security and did not play a role in his initial hiring in 1990.⁹¹⁸ Gustin said that John Higgins, Vice President for Human Resources, hired Connolly based upon a strong recommendation from Jack Keough, who was the outgoing head of security at Boston Edison.⁹¹⁹ Gustin understood that Keough had a prior relationship with Connolly and was familiar with his qualifications.⁹²⁰ As head of security, Connolly’s responsibilities included working with local public safety officials and protecting Boston Edison’s facilities and the safety of its 4,000 employees.⁹²¹

As part of a corporate restructuring in 1995, Gustin hired Connolly as a lobbyist for Boston Edison’s Government Affairs Division.⁹²² Gustin asserted that he received no outside influence about hiring Connolly for the lobbyist position.⁹²³ The policy then was to fill the position internally due to the extensive layoffs and downsizing of personnel.⁹²⁴ Gustin said he discussed Connolly’s qualifications with Higgins.⁹²⁵ Gustin hired Connolly because he was the internal candidate with the most experience and maturity.⁹²⁶ Connolly had a Masters in Public Administration from Harvard and was a highly decorated FBI agent.⁹²⁷ In addition, Connolly was well known in Boston and had extensive contacts in the city and State legislature.⁹²⁸ Gustin said he initiated the contact with Connolly about the position, he did not recall Connolly applying for the position.⁹²⁹ Gustin believed Connolly was hired based on his merits and that no one had exerted external influences on him to hire Connolly.⁹³⁰ Gustin added that the hiring was considered a lateral transfer and may have included a slight increase in salary.⁹³¹ Connolly managed a staff of five to six people who were assigned to oversee community relations at various towns around Boston.⁹³²

According to Gustin, he met with Connolly about every two weeks to discuss ongoing projects.⁹³³ Gustin was aware that Connolly and William Bulger were friends and speculated that they would have shared information about activities at the State Senate.⁹³⁴ Gustin recalled that Connolly and William Bulger had a

⁹¹⁷ Affidavit of Carl Gustin (June 12, 2003) (Exhibit 976).

⁹¹⁸ Interview with Carl Gustin, former Senior Vice President of Boston Edison (July 21, 2003).

⁹¹⁹ *Id.*

⁹²⁰ *Id.*

⁹²¹ *Id.*

⁹²² *Id.*

⁹²³ *Id.*

⁹²⁴ *Id.*

⁹²⁵ *Id.*

⁹²⁶ *Id.*

⁹²⁷ *Id.*

⁹²⁸ *Id.*

⁹²⁹ *Id.*

⁹³⁰ *Id.*

⁹³¹ *Id.*

⁹³² *Id.*

⁹³³ *Id.*

⁹³⁴ *Id.*

professional interaction during the electric utility restructuring.⁹³⁵ In particular, Gustin remembered that Boston Edison was receiving environmental pressures about power plant emissions in South Boston.⁹³⁶ Gustin said that Connolly participated in the efforts between Boston Edison and William Bulger in seeking a modification of an environmental order from EPA.⁹³⁷

Gustin never heard Connolly talk about James “Whitey” Bulger prior to the public disclosure of their relationship.⁹³⁸ Gustin recalled that he had to field numerous press inquiries before Connolly’s indictment.⁹³⁹ Although Connolly professed his innocence, he was forced to take a leave of absence.⁹⁴⁰ Gustin was unsure if Connolly was ultimately fired or retired.⁹⁴¹ Gustin left Boston Edison at the end of 2000.⁹⁴²

According to Gustin, he spoke with Higgins after allegations began to surface that William Bulger interceded in Connolly’s hiring at Boston Edison.⁹⁴³ Higgins told Gustin that William Bulger had nothing to do with Connolly being hired.⁹⁴⁴ According to Higgins, Connolly had numerous job opportunities after retiring from the FBI.⁹⁴⁵ Higgins said he respected Keough’s judgment and seriously considered his recommendation in hiring Connolly.⁹⁴⁶ Finally, Gustin said he did not recall ever asking Jack Keough about the relationship between John Connolly and William Bulger.⁹⁴⁷

3. *Interview of William Nally*

During the Committee hearing, in response to questions regarding the introduction of FY82 Massachusetts State budget line item that, if passed, would have caused the early retirement or demotion of five Massachusetts State Police officers, William Bulger testified: “I have never sought to punish anyone who was in law enforcement and was in pursuit of my brother.”⁹⁴⁸ One of the five officers had participated in the Lancaster Street Garage investigation involving James “Whitey” Bulger and other leaders of the Boston mob.⁹⁴⁹ William Bulger submitted an affidavit signed by retired Massachusetts State Police Major William Nally.⁹⁵⁰ Nally, who was a Captain in 1981, would have been affected by the state budget line item.⁹⁵¹ Nally’s affidavit stated that he played no role in the Lancaster Street garage matter and stated, “I know of no facts which

⁹³⁵ *Id.*

⁹³⁶ *Id.*

⁹³⁷ *Id.*

⁹³⁸ *Id.*

⁹³⁹ *Id.*

⁹⁴⁰ *Id.*

⁹⁴¹ *Id.*

⁹⁴² *Id.*

⁹⁴³ *Id.*

⁹⁴⁴ *Id.*

⁹⁴⁵ *Id.*

⁹⁴⁶ *Id.*

⁹⁴⁷ *Id.*

⁹⁴⁸ “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 52 (June 19, 2003) (testimony of William Bulger).

⁹⁴⁹ Fox Butterfield, *Subpoena for UMass Leader Over Brothers Crime Role*, N.Y. TIMES, Nov. 30, 2002.

⁹⁵⁰ “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 48 (June 19, 2003) (testimony of William Bulger) (Exhibit 972).

⁹⁵¹ Affidavit of William Nally (June 14, 2003).

support the comparatively recent allegations that the budget item was payback for an investigation of ‘Whitey’ Bulger.”⁹⁵²

On July 22, 2003, Committee staff interviewed Nally. He explained that in the 1960s, the Department of Public Safety had two competing branches of police detectives.⁹⁵³ The state detectives were civil service employees with retirement at age 65.⁹⁵⁴ The state uniformed officers were not civil service employees and retired at age 50.⁹⁵⁵ The state detectives were paid a higher salary than the state uniform officers.⁹⁵⁶ In order to become a state detective, an individual was required to obtain a rank of police sergeant, have ten years in the FBI or Secret Service, or pass a competitive law exam and physical.⁹⁵⁷

Nally said that in 1974, when the Department of Public Safety was reorganized, a division of state detectives and uniformed officers named CPacks was created to work in the District Attorneys’ offices.⁹⁵⁸ However, the uniformed officers had to retire from the CPacks at age 50 or return to the uniform division.⁹⁵⁹ Around 1998 or 1999, the law was changed to give state detectives and uniformed officers equal status, which allowed uniformed officers to stay in CPacks as long as they desired.⁹⁶⁰ Lt. Col. John O’Donovan was responsible for the uniformed officers within the CPacks.⁹⁶¹

Nally said he first learned of the state budget line item from Major John Regan, a few days before the measure went to the Governor for signature.⁹⁶² Nally recalled Regan and O’Donovan were concerned about the budget line item. Nally doubted that the measure would ever be passed.⁹⁶³

Nally provided two possible motives for the budget line item. First, the union had sufficient influence to get the item introduced to equalize treatment of the uniformed officers and detectives—the union was concerned that uniformed officers had difficulty passing the state detective exam and could not otherwise escape the mandatory retirement at age 50.⁹⁶⁴ Second, the District Attorneys also had enough influence to have used the budget line item as a means to retaliate against O’Donovan for the way he managed CPacks.⁹⁶⁵

Nally expressed doubt that William Bulger attempted to use the budget line item as a way to punish the officers who investigated Lancaster Street.⁹⁶⁶ Nally said he never met William Bulger or investigated James “Whitey” Bulger.⁹⁶⁷ Nally first learned of the Lancaster Street investigation when he questioned O’Donovan’s overtime submissions.⁹⁶⁸ At that time, the Lancaster Street inves-

⁹⁵² *Id.*

⁹⁵³ Interview with William Nally, retired Massachusetts State Police Major (July 22, 2003).

⁹⁵⁴ *Id.*

⁹⁵⁵ *Id.*

⁹⁵⁶ *Id.*

⁹⁵⁷ *Id.*

⁹⁵⁸ *Id.*

⁹⁵⁹ *Id.*

⁹⁶⁰ *Id.*

⁹⁶¹ *Id.*

⁹⁶² *Id.*

⁹⁶³ *Id.*

⁹⁶⁴ *Id.*

⁹⁶⁵ *Id.*

⁹⁶⁶ *Id.*

⁹⁶⁷ *Id.*

⁹⁶⁸ *Id.*

tigation was already closed, and O'Donovan showed him the books and pictures regarding the investigation.⁹⁶⁹

4. *Interview of Robert Zoulas*

On July 22, 2003, Committee staff interviewed retired Massachusetts State Police Captain Robert Zoulas. Zoulas was a state detective who would have been affected by the FY82 Massachusetts State budget line item. Zoulas was not asked by William Bulger to sign an affidavit for the Committee hearing.

Zoulas stated that he first learned of the budget line item from Nally a few days before the Governor vetoed the measure.⁹⁷⁰ Zoulas suggested three theories as to who was responsible for the budget line item. The first theory was that the union was responsible.⁹⁷¹ The union would benefit because five younger officers would advance into higher positions.⁹⁷² The second theory was that the District Attorneys were responsible because they were unhappy with the organizational setup within law enforcement.⁹⁷³ The third theory, and in his mind the least credible, was that there was an ulterior motive to upset the State Police.⁹⁷⁴ Zoulas stated he has no specific idea of who introduced the budget line item.⁹⁷⁵

Zoulas was not involved in the Lancaster Street investigation and never investigated James "Whitey" Bulger.⁹⁷⁶ Zoulas did not recall any discussion that William Bulger was responsible for the budget line item.⁹⁷⁷

5. *Contact with John O'Donovan*

On July 21, 2003, Committee staff contacted retired Massachusetts State Police Lt. Col. John O'Donovan. O'Donovan would have been affected by the FY82 Massachusetts State budget line item. O'Donovan was not asked by William Bulger to sign an affidavit for the Committee hearing.

O'Donovan asked Committee staff to call back the next day so he could have time to consider the interview request.⁹⁷⁸ On July 22, 2003, O'Donovan agreed to an interview but due to prior commitments, the Committee staff could not meet with him on that day.⁹⁷⁹ O'Donovan then stated he would be available for a conference call the following week.⁹⁸⁰

On August 14, 2003, in a follow-up attempt to interview O'Donovan, he advised that he was a uniformed police officer and passed a civil service exam to become a Lieutenant Detective.⁹⁸¹ He stated that the budget line item never became law and therefore had no affect on his career.⁹⁸² O'Donovan said, however, the

⁹⁶⁹ *Id.*

⁹⁷⁰ Interview with Robert Zoulas, retired Massachusetts State Police Captain (July 22, 2003).

⁹⁷¹ *Id.*

⁹⁷² *Id.*

⁹⁷³ *Id.*

⁹⁷⁴ *Id.*

⁹⁷⁵ *Id.*

⁹⁷⁶ *Id.*

⁹⁷⁷ *Id.*

⁹⁷⁸ Telephone call with John O'Donovan, retired Massachusetts State Police Lt. Col. (July 21, 2003).

⁹⁷⁹ *Id.* (July 22, 2003).

⁹⁸⁰ *Id.*

⁹⁸¹ *Id.* (Aug. 14, 2003).

⁹⁸² *Id.*

effort to reorganize the State Police that precipitated the budget line item had decimated his detective division.⁹⁸³ He said he believes that he was a “target” of the state budget line item and claimed the Committee knows the identity of the “suspect” or instigator of the budget line item.⁹⁸⁴

6. *Contact with Peter Agnes*

During the Committee hearing, William Bulger submitted an affidavit signed by retired Massachusetts State Police Lt. Col. Peter Agnes, who would have been affected by the FY82 Massachusetts State budget line item.⁹⁸⁵ Agnes’s affidavit stated: “I am aware of the news stories and columns written some time later attributing the outside section which would have affected me to former Senate President William Bulger and suggesting that its insertion in the state budget was some form of retribution for the work of the state police in a surveillance effort related to his brother James ‘Whitey’ Bulger that focused on a Lancaster Street garage. I believe that this is inaccurate.”⁹⁸⁶

On July 15, 2003, Committee staff contacted Agnes who referred them to Eileen Agnes, his attorney and daughter-in-law.⁹⁸⁷ On July 16, 2003, Committee staff spoke with Ms. Agnes, who stated that she assisted Agnes in preparing his affidavit that was submitted to the Committee.⁹⁸⁸ She stated that Agnes was assigned to the Massachusetts State Police’s Homicide and Auto Theft Divisions and never investigated James “Whitey” Bulger.⁹⁸⁹

7. *Research at Massachusetts State House and Library*

In July 2003, Committee staff also visited the Massachusetts State House and Library. The purpose was to determine if William Bulger, as the Senate President, participated in the introduction of a budget line item to the 1982 Appropriations Bill that would have required Massachusetts civil service detectives, over 50 years of age, to take a demotion in grade or early retirement. The budget line item was identified as Section 99 in the House Bill(s) and as Section 108 in the Senate Bill(s). Both sections contained the following language:

Section 6 of chapter 639 of the act of 1974, added by section 3 of chapter 389 of the acts of 1976, is hereby amended by inserting after the word “rights”, in line 6, the words:- “provided, that no such person shall serve in a grade above detective lieutenant inspector in the office of investigation and intelligence or the bureau of investigative services upon attaining the age of fifty years.”⁹⁹⁰

⁹⁸³ *Id.*

⁹⁸⁴ *Id.*

⁹⁸⁵ “The Next Step in the Investigation of the Use of Informants by the Department of Justice: The Testimony of William Bulger,” *Hearing Before the Comm. on Govt. Reform*, 108th Cong. 48 (June 19, 2003) (testimony of William Bulger).

⁹⁸⁶ Affidavit of Peter W. Agnes (June 14, 2003) (Exhibit 973).

⁹⁸⁷ Telephone call with Peter Agnes, retired Massachusetts State Police Lt. Col. (July 16, 2003).

⁹⁸⁸ Telephone call with Eileen Agnes, counsel to Peter Agnes (July 16, 2003).

⁹⁸⁹ *Id.*

⁹⁹⁰ S. Bill S2254, (Mass. 1981).

A search of the legislative history on the budget line item provided the following chronology:

June 4 and 5, 1981—Earliest record of the language as Section 99 was found in House Bill H6969 from the House Ways and Means Committee.⁹⁹¹ The record did not indicate when or who introduced the language, section and bill.

June 17, 1981—Earliest record of the language as Section 108 was found in Senate Bill S2222 from the Senate Ways and Means Committee.⁹⁹² The record did not indicate when or who introduced the language, section and bill.

June 17, 1981—The text of House Bill H6969 was inserted in place of Senate Bill S2222 upon recommendation by Mr. Atkin and Ms. Buckley from the Senate Ways and Means Committee.⁹⁹³

June 17, 1981—On motion of William Bulger, House Bill H6969 was ordered to be printed as amended.⁹⁹⁴

June 20, 1981—House Bill H6969 was enacted as Senate Bill S2254 by the Senate and House of Representatives in General Court assembled.⁹⁹⁵ Senate Bill S2254 incorporated the language in House Section 99 as Senate Section 108.⁹⁹⁶ The record did not indicate who voted on the enactment.

July 21, 1981—Governor King disapproved certain unidentified sections in the Appropriation Bill.⁹⁹⁷ Subsequent House records indicated that House Section 99 was vetoed by the Governor.⁹⁹⁸

September 15, 1981—The House Journal indicated that “Section 99, which had been vetoed by the Governor, was considered as follows: . . . notwithstanding the objections of His Excellency the Governor, was determined by yeas and nays; and the roll call 0 members voted in the affirmative and 149 in the negative.”⁹⁹⁹

Committee staff also contacted Massachusetts Representative Brad Jones, House Minority Leader, and his legal counsel Fred Van Magness, for their assistance in locating any information that would indicate who introduced the FY82 Massachusetts State budget line item. Representative Jones explained that the House Ways and Means Committee usually introduced the Appropriations Bill as House Bill No.1, sometimes in the month of May.¹⁰⁰⁰ The Committee staff and Representative Jones then reviewed the 1981 Bulletin of Committee Work and concluded that the original House Bill already contained Section 99 when it came out of the House

⁹⁹¹ H.R. Bill H6929, (Mass. 1981).

⁹⁹² S. Bill S2222, (Mass. 1981).

⁹⁹³ Journal of the Senate, at 59, (Mass. 1981).

⁹⁹⁴ *Id.* at 801.

⁹⁹⁵ 1981 Mass. Acts 351.

⁹⁹⁶ S. Bill S2254, (Mass. 1981).

⁹⁹⁷ Journal of the House, at 2968, (Mass. 1981).

⁹⁹⁸ *Id.* at 2970.

⁹⁹⁹ Journal of the House, at 1383, (Mass. 1981).

¹⁰⁰⁰ Discussion with Massachusetts Representative Brad Jones, House Minority Leader (July 22, 2003).

Means and Ways Committee.¹⁰⁰¹ Representatives Jones explained that any legislator could introduce the provision, even verbally, anywhere along the bill's progression with no recordation of who made the introduction.¹⁰⁰²

On July 29, 2003, Van Magness said that after thorough research, the legislative history confirmed for him that the budget line item first appeared from House Bill H6969 in June 1981.¹⁰⁰³ He explained that a line item, unlike a bill, did not require a sponsor and any member could introduce the amendment without leaving a documented trail.¹⁰⁰⁴ He said the then leadership of the House Ways and Means Committee should have personal knowledge of who inserted the language into the bill.¹⁰⁰⁵ However, he doubted if after 20 years, anyone would recall the circumstances surrounding its introduction.¹⁰⁰⁶

Committee staff contacted the Massachusetts House Clerk's office. The receptionist stated that the Clerk's office does not maintain any historical logs or journals and referred the Committee staff to the State Archive office. Similar responses were received from the Senate and House Ways and Means Committees.

After the Committee hearing, Thomas Kiley, counsel to William Bulger, provided an affidavit that was signed by him on July 18, 2003.¹⁰⁰⁷ The Committee reviewed the affidavit and found no inconsistencies regarding the subject matter. The affidavit in part contained the following statements:

* * *

I have since researched the matter and concluded . . . the budget rider was inserted while the budget was in the Massachusetts House of Representatives in June of 1981.¹⁰⁰⁸

* * *

When the House engrossed House 6969 and sent the measure to the Senate, House Journal pp. 1060–1061 (1981), the supposedly offensive rider was clearly already part of the bill.¹⁰⁰⁹

* * *

When then Governor King signed the FY'82 budget into law on July 21, 1981, and it became Chapter 351 of the Acts of 1981, he vetoed section 99 . . . Section 99 was one of seventy seven sections in the general appropriation act disapproved by the Governor, prompting the House of Representatives, where most of the sections originated, to ask the Supreme Judicial Court of Massachusetts whether the

¹⁰⁰¹ *Id.*

¹⁰⁰² *Id.*

¹⁰⁰³ Telephone call with Fred Van Magness, legal counsel to Massachusetts House Minority Leader (July 29, 2003).

¹⁰⁰⁴ *Id.*

¹⁰⁰⁵ *Id.*

¹⁰⁰⁶ *Id.*

¹⁰⁰⁷ Affidavit of Thomas R. Kiley (July 18, 2003) (Exhibit 980).

¹⁰⁰⁸ *Id.*

¹⁰⁰⁹ *Id.*

Governor had the constitutional power to disapprove such items. Opinion of the Justices, 384 Mass. 820, 820 (1981) . . . The Court's affirmative answer was issued on September 2, 1981. On September 15, 1981, the House voted 149 to 0 to sustain the Governor's disapproval of Section 99, Supplement, No. 409 (1981). No Senate vote occurred concerning the veto. The story ends, or so it ought to.¹⁰¹⁰

V. INSTITUTIONAL RELUCTANCE TO ACCEPT OVERSIGHT

A. CONGRESSIONAL OVERSIGHT

It is hard to understand why it was so difficult to conduct a thorough investigation of the FBI's use of informants in New England. In hindsight, a statement made by a senior FBI official provides a glimpse of what may have been happening. In early 2001, just as the Committee was beginning to focus on the FBI's use of informants in New England, Charles Prouty—then the Special Agent in Charge of the Boston office—made the following statements about the Deegan case: “The FBI was forthcoming. We didn't conceal the information. We didn't attempt to frame anyone.”¹⁰¹¹ In retrospect, Prouty's assertion appears ill-considered. Indeed, its contrast with a statement made by FBI Director Louis Freeh just a few months later is stark. Freeh stated that the case is “obviously a great travesty, a great failure, disgraceful to the extent that my agency or any other law enforcement agency contributed to that.”¹⁰¹²

In support of his statement, Prouty cited a document created just after the Deegan murder was committed. A memorandum from the Director of the FBI to the Special Agent in Charge, dated just four days after the Deegan murder, states: “You should advise appropriate authorities of the identities of the possible perpetrators of the murders of Sacrimone and Deegan.”¹⁰¹³ A handwritten annotation on one copy of this document indicates that information regarding the Deegan murder was provided to “Renfrew Chelsea PD” on March 15, 1965.¹⁰¹⁴

The Committee has searched for other indications that the FBI provided exculpatory evidence to the Deegan prosecutors. Thus far, none has been located. Suffice it to say, however, that local prosecutors were never made aware of significant exculpatory information. For example:

- Local prosecutors were not aware that Joseph Barboza and Jimmy Flemmi went to Patriarca to request permission to murder Deegan just days before the crime occurred. Furthermore, they were not aware that the source of this information was microphone surveillance, a form of information more reliable than most informant information.

¹⁰¹⁰ *Id.*

¹⁰¹¹ Shelley Murphy, *FBI Says Documents Clear It of Wrongdoing in '65 Case*, BOSTON GLOBE, Feb. 15, 2001.

¹⁰¹² *Hearing Before the House Appropriations Subcommittee on Commerce, Justice, State and Judiciary*, 107th Cong. 47 (testimony of Louis Freeh) (2001 WL 518397).

¹⁰¹³ Airtel from J. Edgar Hoover, Director, FBI, to Special Agent in Charge, Boston FBI Field Office (Mar. 16, 1965) (Exhibit 83).

¹⁰¹⁴ *Id.*; FBI Boston Gangland Murders Report by John F. Kehoe, Jr., Special Agent, Boston FBI Field Office (Jan. 14, 1966) (Exhibit 116); Memorandum from H. Paul Rico, Special Agent, to Special Agent in Charge, [Redacted] (Mar. 15, 1965) (Exhibit 82).