

MINORITY VIEWS OF HON. HENRY A. WAXMAN, HON. TOM LANTOS, HON. MAJOR R. OWENS, HON. BERNARD SANDERS, HON. ELIJAH E. CUMMINGS, HON. DENNIS J. KUCINICH, HON. DIANE E. WATSON, HON. STEPHEN F. LYNCH, AND HON. ELEANOR HOLMES NORTON

With the reservations set forth below, the minority concurs with the report's findings of serious misconduct by agents of the Federal Bureau of Investigation. The report concludes, among other things, that FBI agents tolerated or encouraged false testimony in a Massachusetts death penalty prosecution, protected informants and cooperating witnesses known to have committed murders and other violent crimes, and hindered state law enforcement investigations of organized crime. The report also justifiably criticizes the Bush Administration's Justice Department for actions such as the unwarranted assertion of executive privilege that made it difficult for the Committee to conduct its investigation.

A. THE COMMITTEE'S REPORT CONTRIBUTES TO A GROWING RECORD OF FBI MISCONDUCT IN NEW ENGLAND

This report adds to a vast public record of FBI misconduct in New England. Evidence of this wrongdoing first surfaced in 1995 as part of a federal racketeering prosecution against Francis P. Salemme and others. One of the defendants in that criminal case, Stephen J. Flemmi, filed pretrial motions disclosing that he and alleged organized crime leader James Bulger had been long-time FBI informants and alleging that the FBI had promised them protection from prosecution in exchange for their continued assistance.

Mr. Flemmi's pretrial motions led to a year of highly publicized evidentiary hearings in 1998 before United States District Judge Mark L. Wolf. Judge Wolf later issued a 661-page opinion concluding that FBI agents had engaged in serious criminal misconduct.<sup>1</sup> He found that Boston FBI agents protected organized crime figures who committed murders and other violent crimes; leaked information that resulted in the murders of witnesses cooperating with law enforcement agencies; intimidated citizens from pursuing criminal complaints; warned suspected criminals of investigations and electronic surveillance, impeding the efforts of other law enforcement agencies; warned suspected criminals of impending indictments, enabling them to flee; placed false information in the file of an informant to divert attention from possible crimes; solicited and accepted illegal gifts from informants; and lied under oath.

In January 1999, Attorney General Janet Reno established the Justice Task Force (JTF) to investigate the interaction of organized crime informants with current and former FBI employees from 1960 through 1991. In December 1999, JTF obtained racketeering

<sup>1</sup> *United States v. Salemme*, 91 F.Supp.2d 141 (D. Mass. 1999).

indictments against James Bulger, Mr. Flemmi, and former FBI Special Agent John Connolly. In May 2002, Special Agent Connolly was convicted of racketeering and obstruction of justice charges and later sentenced to ten years imprisonment. In October 2003, Mr. Flemmi pleaded guilty to racketeering charges involving ten murders. As part of a plea agreement, he implicated another FBI agent, H. Paul Rico, in the murder of Oklahoma businessman Roger Wheeler. Mr. Rico is currently facing state murder and murder conspiracy charges in Oklahoma.

#### B. RESERVATIONS CONCERNING UNILATERAL MAJORITY INTERVIEWS

The Committee's investigation was largely nonpartisan, and this report reflects the involvement of minority and majority members of the Committee. Rep. John F. Tierney, Rep. Stephen F. Lynch, and minority members who are not on this Committee played a leading role throughout the process. Minority members gave necessary votes for grants of immunity and actively participated in every hearing and field hearing.

Despite the consistent support of the investigation by minority members, the staff of the previous chairman conducted dozens of interviews without notice to the minority or an opportunity to participate. This practice was unnecessary and unfortunately prevents the minority from supporting significant portions of the final report.

In particular, the following sections rely extensively on unilateral majority interviews, which the minority cannot verify as accurate: (1) section III(A)(4)(iv) entitled "Anthony Stathopoulos and the Deegan Murder Prosecution,"<sup>2</sup> (2) section III(A)(7)(ii) entitled "Peter Limone,"<sup>3</sup> (3) section III(B)(2) entitled "Nevada,"<sup>4</sup> (4) section III(B)(4) entitled "Florida,"<sup>5</sup> (5) section III(B)(5) entitled "Massachusetts,"<sup>6</sup> and (6) section III(B)(7) entitled "Rhode Island."<sup>7</sup> Section III(A)(8) entitled "Efforts to Protect Stephen Flemmi After the Deegan Murder Trial" relies primarily on public records, but it also cites several interviews that the minority cannot verify as accurate.<sup>8</sup> The remaining sections of the report are supported by

<sup>2</sup>The minority did not participate in the February 21, 2003, interview with Anthony Stathopoulos, on which this section is based.

<sup>3</sup>The minority did not participate in the following interviews on which this section is based: Interview with Richard Luccio, Member, Massachusetts Parole Board (Sept. 23, 2002); Interview with James W. Greenleaf, Special Agent in Charge, Boston FBI Field Office (Sept. 25, 2002); Interview with Kevin Burke, Member, Massachusetts Parole Board (May 30, 2001); Interview with Brian Callery, former Chairman, Massachusetts Parole Board (June 26, 2001); Interview with Michael Albano, former Member, Massachusetts Parole Board (Sept. 23, 2002); Interview with Jack Curran, former Chairman, Massachusetts Parole Board (June 28, 2001).

<sup>4</sup>The minority did not participate in the following interviews on which this section is based: Interview with Robert Daddico (Oct. 17-18, 2001); Interview with Charles Lee, former Detective, Las Vegas Metropolitan Police Dept. (Apr. 4, 2002); Interview with David Hatch, Detective, Las Vegas Metro Police Dept., Cold Case Review, Homicide Section (Apr. 4, 2002).

<sup>5</sup>The minority did not participate in the following interviews on which this section is based: Telephone Interview with Shelton Merritt, former Detective, Metro Dade Police Dept. (Dec. 2, 2002); Telephone Interview with Lewis Wilson, former Special Agent, Florida Department of Law Enforcement (Dec. 2, 2002).

<sup>6</sup>The minority did not participate in the interview with Bob Long, former Sergeant, Massachusetts State Police (Apr. 17, 2001).

<sup>7</sup>The minority did not participate in the following interviews: Interview with Richard Israel, former Assistant Attorney General for Rhode Island (Sept. 26, 2001); Interview with David Leach, former Assistant Attorney General for Rhode Island (Sept. 25, 2001).

<sup>8</sup>The minority did not participate in the following interviews: Interview with Robert Daddico (Oct. 17-18, 2001); Interview with Charles Lee, former Detective, Las Vegas Metropolitan Police

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hearing testimony, Committee records, or public documents, though many also include citations to unilateral majority interviews.<sup>9</sup>

#### C. NEED FOR ADDITIONAL INVESTIGATION

During the course of the Committee's investigation, federal and state prosecutors requested that the Committee refrain from compelling the testimony of certain witnesses that would complicate pending criminal prosecutions. Out of deference to these prosecutors, and because important witnesses such as James Bulger remain fugitives, the Committee's fact finding focused mainly on the Deegan murder trial and other early events of the 1960s and 1970s.

As the report acknowledges, many questions remain about the FBI's handling of confidential informants and cooperating witnesses after this time period, and the inquiry remains substantially incomplete. At the earliest opportunity, the Justice Department should make a public accounting of its investigation into the allegedly corrupt relationship between Mr. Connolly and James Bulger. Finally, the committees of jurisdiction should continue to review the FBI's human source program and ensure that appropriate systems are in place to prevent similar abuses in the future.

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Dept. (Apr. 4, 2002); Interview with Anthony Ciulla (Dec. 5, 2002); Interview with Bob Long, Sergeant, Massachusetts State Police (Apr. 17, 2001); Interview with Shelton Merritt, former Detective, Metro Dade Police Dept. (Dec. 2, 2001).

<sup>9</sup>The minority did not participate in the following interviews: Interview of Joseph Williams, former Supervisor of the Warrant & Investigation Unit, Massachusetts Parole Board June 29, 2001; Interview with Joseph Salvati (Mar. 27, 2001); Interview with Chester Paris, attorney for Joseph Salvati during the Deegan trial (Aug. 6, 2002); Interview with Edward Harrington, former Attorney in Charge, Organized Crime & Racketeering Section, Boston U.S. Dep't of Justice Field Office (Dec. 20, 2001); Interview with Dan Rea, investigative reporter (May 1, 2001); Interview with Joseph Williams, former Supervisor of the Warrant & Investigation Unit, Massachusetts Parole Board (June 29, 2001); Interview of Victor Garo, Attorney for Joseph Salvati (Mar. 26, 2001); Interview with James A. Ring, Supervisory Special Agent, Boston FBI Field Office (Sept. 25, 2002); Interview with Chuck Hiner, former Special Agent in Charge, San Francisco FBI Field Office (Sept. 25, 2001); Interview with Doug Ahlstrom, former Special Agent, Santa Rosa FBI field Office (Aug. 28, 2001); Interview with Bill Baseman, former Special Agent, Santa Rosa FBI Field Office (Sept. 25, 2001); Interview with James Southwood, former reporter, Boston Herald Traveler (Sept. 28, 2001); Interview with Tom Brown, former Detective Sergeant, Sonoma County Sheriff's Office (Aug. 30, 2001); Interview with Ron Fahey, former Chief Deputy District Attorney, Sonoma County (July 9, 2001); Interview of Marteen Miller, former Public Defender, Sonoma County (July 9, 2001); Interview of Bony Saludes, former reporter, Press Democrat (July 9, 2001); Interview of Ed Cameron, former Investigator, Sonoma County District Attorney's Office (July 10, 2001); Interview of Gary Bricker, former U.S. Marshal (July 9, 2001); Interview of Judge Joseph P. Murphy, Jr. (Aug. 29, 2001); and Interview of John Partington, former U.S. Marshal (Sept. 24, 2001).