

# EMPOWER OVERSIGHT

*Whistleblowers & Research*



August 18, 2022

VIA ELECTRONIC TRANSMISSION: FOIPA PORTAL

Federal Bureau of Investigation  
Attn: Initial Processing Operations Unit  
Record/Information Dissemination Section  
200 Constitution Drive  
Winchester, VA 22602

**RE: FOIA Request for Records Related to Information that Could Have Accelerated the Apprehension of James Joseph Bulger, Jr.**

Dear FOIA Officer:

## INTRODUCTION

Empower Oversight Whistleblowers & Research (“Empower Oversight”) is a nonpartisan, nonprofit educational organization dedicated to enhancing independent oversight of government and corporate wrongdoing. We work to help insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seek to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

## BACKGROUND

**James Joseph (“Whitey”) Bulger Jr.** was born on September 3, 1929, in Dorchester, Massachusetts.<sup>1</sup>

He grew up in a public-housing project in South Boston, and at an early age he began to associate with a street gang, steal cars, and mug people.<sup>2</sup> Later, he graduated to robbing banks in Massachusetts, Rhode Island, and Indiana, before being incarcerated for nine years.<sup>3</sup>

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<sup>1</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>2</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>3</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

Following his incarceration, he became an enforcer for an Irish gang in South Boston.<sup>4</sup> And, by 1979, he and an associate, Stephen Flemmi, effectively had taken over South Boston's infamous Winter Hill Gang.<sup>5, 6</sup>

More pertinent to this correspondence, for 15 years Mr. Bulger served as a confidential informant for the Federal Bureau of Investigation ("FBI"), and during the time of his service the FBI as an institution turned a blind eye to his crimes in exchange for his information concerning various underworld figures.<sup>7, 8</sup> At a staff level, FBI agents were corrupted by Mr. Bulger through bribery and extortion (*i.e.*, withholding compromising information regarding them).<sup>9</sup> According to the government, these arrangements with the FBI and individual special agents, among other things, helped him to conceal 19 murders, learn the identities of witnesses against him—who later turned up dead, and abscond from prosecution on racketeering charges for over 16 years.<sup>10</sup>

For more information about Whitey Bulger, his criminal history, his cooperation with the FBI, and efforts that FBI staff took to protect him from the consequences of his conduct, see the attached Appendix.

**The United States Attorney's Office in Boston opened a grand jury investigation** against Messrs. Bulger and Flemmi in about 1992.<sup>11</sup> Several agents from the Organized Crime Squad of the FBI's Boston Field Office participated in the investigation.<sup>12</sup>

In connection its grand jury investigation, the prosecutors were concerned about the implications for their investigation if Messrs. Bulger and Flemmi were, or had been, FBI confidential informants.<sup>13</sup> Among other things, they wished to address the foreseeable issues of immunity and authorization to commit criminal acts that could arise from such a circumstance.<sup>14</sup>

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<sup>4</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>5</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>6</sup> According to a March 4, 1988 memorandum to the FBI Director from the Special Agent in Charge of the FBI's Boston Field Office, available at [https://archive.org/details/WinterHillGang/0981234-000---183-HQ-8533---Section\\_35\\_633883//mode/2up](https://archive.org/details/WinterHillGang/0981234-000---183-HQ-8533---Section_35_633883//mode/2up) (last accessed on January 10, 2022), the Winter Hill Gang was not a "formal organization." Rather, it was a group of criminals who were loosely affiliated by ethnicity (predominantly Irish); geographic proximity to the Winter Hill section of Somerville, Massachusetts (an area north of Boston); and personal knowledge of each other. The group had been involved in a wide variety of crimes, including narcotics distribution, gambling, loansharking, and murder. Historically, the La Cosa Nostra "allowed [the group] to operate in certain geographic areas of the metropolitan Boston" region.

<sup>7</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>8</sup> In particular, Mr. Bulger served as a confidential informant for the Organized Crime Squad of the FBI's Boston Field Office. *U.S. v. Salemme*, 91 F. Supp. 2d at 141, 149, 157, 195 – 196, 198, 219, 243 – 244, 258 (D. Mass. September 15, 1999), which is available at <https://law.justia.com/cases/federal/district-courts/FSupp2/91/141/2510809/>. Special Agent John Connolly was his handler. *Salemme*, 91 F. Supp. 2d at 185 - 186.

<sup>9</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>10</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>11</sup> *Salemme*, 91 F. Supp. 2d at 158, 294.

<sup>12</sup> *Salemme*, 91 F. Supp. 2d at 158, 294.

<sup>13</sup> *Salemme*, 91 F. Supp. 2d at 158, 294.

<sup>14</sup> *Salemme*, 91 F. Supp. 2d 158, 294.

The FBI, however, refused a request by the United States Attorney, and his assistants, to confirm that Messrs. Bulger and Flemmi had been informants or to permit them to review their informant files.<sup>15</sup>

On about December 22, 1994, in anticipation of the indictment of Messrs. Bulger and Flemmi, the United States Attorney's Office again asked the FBI if Messrs. Bulger and Flemmi were confidential informants, emphasizing its need to know because the government would soon have to disclose exculpatory information to them and their codefendants.<sup>16</sup> Again, the FBI resisted the request.<sup>17</sup> However, the FBI's Principal Legal Adviser in Boston examined the Bulger and Flemmi informant files with a view to determining whether they contained information which would be exculpatory in the context of their forthcoming indictment.<sup>18</sup> After completing his review, the Legal Adviser concluded that Messrs. Bulger and Flemmi's informant files contained information that would be exculpatory in the context of indictments that were scheduled to be returned on January 9 or 10, 1995.<sup>19</sup> The FBI, hence, realized that the failure to tell the United States Attorney's Office that Messrs. Bulger and Flemmi had been informants, and to provide the prosecutors with relevant materials, "could wreck the proposed organized crime indictments," and, on January 9, 1995, advised the United States Attorney and two of his assistants—who were not directly involved in the investigation—that Messrs. Bulger and Flemmi had been informants.<sup>20</sup>

In the meantime, former Special Agent Connolly,<sup>21</sup> who had been Mr. Bulger's handler, had been monitoring the progress of the grand jury investigation and had learned that Messrs. Bulger and Flemmi were scheduled to be indicted on about January 10, 1995.<sup>22</sup> He shared this information with Mr. Bulger, whom, as former Special Agent Connolly expected, became a fugitive and also warned Mr. Flemmi so that he could flee.<sup>23, 24</sup> Mr. Flemmi, however,

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<sup>15</sup> Salemme, 91 F. Supp. 2d at 158, 295.

<sup>16</sup> Salemme, 91 F. Supp. 2d at 158.

<sup>17</sup> Salemme, 91 F. Supp. 2d at 158, 295.

<sup>18</sup> Salemme, 91 F. Supp. 2d at 158, 298.

<sup>19</sup> Salemme, 91 F. Supp. 2d at 158, 298 – 300.

<sup>20</sup> Salemme, 91 F. Supp. 2d at 158, 295.

<sup>21</sup> Special Agent Connolly retired in 1990, but he remained in contact with his close friends and former colleagues on the Organized Crime Squad of the FBI's Boston Field Office. Salemme, 91 F. Supp. 2d at 149.

<sup>22</sup> Salemme, 91 F. Supp. 2d at 149, 156, 295.

<sup>23</sup> Salemme, 91 F. Supp. 2d at 149, 296 – 297.

<sup>24</sup> In 2002, Special Agent Connolly was convicted of tipping off Mr. Bulger to the January 10, 1995 indictment. To the surprise of many, however, he was cleared of more serious charges, including leaking information to Mr. Bulger that resulted in the killing of three witnesses against him and of taking bribes. Helmore, Ed, *FBI's Link to Irish Crime Lord Exposed* (June 1, 2002), available at <https://www.theguardian.com/world/2002/jun/02/theobserver>.

In 2008, Special Agent Connolly was convicted of second-degree murder in connection with the 1982 slaying of John Callahan, the former president of World Jai Alai, in Florida. Special Agent Connolly was alleged to have set the stage for the murder by warning Mr. Bulger that Mr. Callahan was possibly going to be questioned by the FBI and would likely implicate Mr. Bulger in various criminal activities, including murder. Laforme, William, *Former Lynnfielder Connolly Ends Federal Sentence Next Week* (Updated June 24, 2011), available at <https://patch.com/massachusetts/lynnfield/former-lynnfielder-connolly-ends-federal-sentence-next-week>; see also, Dwinell, Joe, *Disgraced ex-FBI Agent John "Zip" Connolly Coming Back to Massachusetts, Widow Says* (Updated October 26, 2021), available at <https://www.bostonherald.com/2021/10/25/disgraced-ex-fbi-agent-john-zip-connolly-coming-back-to-massachusetts-widow-says/>.

miscalculated and, not expecting to be charged and subject to arrest so quickly, was found in Boston when a criminal complaint against him was issued on January 4, 1995.<sup>25, 26</sup>

The January 10, 1995 indictment charged Messrs. Bulger and Flemmi, as well as Francis Salemme, Francis Salemme, Jr., Robert DeLuca, George Kaufman, and James Martorano, with engaging in a conspiracy to violate, and violating the RICO Statute, and conspiracy to extort, and extorting, bookmakers from 1979 to 1994.<sup>27, 28</sup>

In 1996, Mr. Bulger and his longtime partner, Catherine Greig, settled in a small apartment at 1012 Third Street, Santa Monica, California, under the assumed names Charlie and Carol Gasko.<sup>29</sup>

Acting on a tip, Federal agents closed in and arrested the couple on June 22, 2011.<sup>30</sup> The fugitives offered no resistance.<sup>31</sup>

**According to a complaint filed with the Office of Inspector General of the Department of Justice (“DOJ-OIG”) on about October 17, 2011**, several years prior to Mr. Bulger’s arrest, on April 26, 2008, at about 11:50 AM, Gary M. Steiner, then a sergeant with the City of Santa Monica Police Department, was off-duty and unwinding at the Oaktree Gun Club, which is located at 23121 Coltrane Ave, Newhall, California.<sup>32</sup> He had just finished shooting skeet and he was standing inside the gun shop, which is adjacent to the skeet and trap shooting fields.

There were several employees and customers inside the shop, which among other services engaged in the purchase, rental, sale, transfer, and consignment of firearms. One of the shop’s

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<sup>25</sup> *Salemme*, 91 F. Supp. 2d at 149.

<sup>26</sup> More particularly, Messrs. Bulger and Flemmi fled Boston in the Summer of 1994, in the expectation that an indictment would be handed down in September of 1994. *Salemme*, 91 F. Supp. 2d at 296 – 297. They returned to Boston around Christmas, but Mr. Bulger again fled Boston a few days following his return. *Salemme*, 91 F. Supp. 2d at 297. Whereas, Mr. Flemmi remained in Boston after the New Year. *Salemme*, 91 F. Supp. 2d at 296 – 297. On January 3, 1995, Mr. Bulger told Mr. Flemmi that the indictments were scheduled to be returned on or about January 10, 1995. *Salemme*, 91 F. Supp. 2d at 297. This lulled Mr. Flemmi into wrongly believing that he did not need to flee immediately, when—in advance of the indictment, and unbeknownst to Messrs. Bulger and Flemmi—a criminal complaint was issued against he and Mr. Bulger. *Salemme*, 91 F. Supp. 2d at 297. This technique had been previously deployed because of legitimate concerns about leaks within the FBI. *Salemme*, 91 F. Supp. 2d at 297. Mr. Flemmi was arrested on the criminal complaint on January 5, 1995. *Salemme*, 91 F. Supp. 2d at 149 297.

<sup>27</sup> *Salemme*, 91 F. Supp. 2d at 159.

<sup>28</sup> On June 28, 2011, the United States moved to dismiss Mr. Bulger from all counts of the 1995 indictment, Crim. No. 94-10287-MLW, so that it could “focus her prosecutorial resources on a more serious federal case pending against” him, “specifically, *United States v. James, J. Bulger*, Crim. No. 99-10371-RGS.” United States Attorney’s Office, District of Massachusetts, *Press Releases: United States v. James J. Bulger* (Updated August 16, 2021), available at <https://www.justice.gov/usao-ma/united-states-v-james-j-bulger> (click on “Dismissal of James J. Bulger [f]rom All Counts of the Indictment” and “Third Superseding Indictment”). The latter latter/succeeding indictment of Mr. Bulger included racketeering charges and, more significantly, alleged 19 predicate acts of murder in support of the racketeering charges. *Id.*

<sup>29</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>; see also, Santa Monica Mirror, *James “Whitey” Bulger’s Santa Monica Apartment up for Rent* (June 24, 2014), available at <https://smmirror.com/2014/06/james-whitey-bulggers-santa-monica-apartment-up-for-rent/>.

<sup>30</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>31</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>32</sup> According to Google Maps, the Oaktree Gun Club is 29.1 miles from the apartment that Mr. Bulger rented at 1012 Third Street, Santa Monica, California.

employees was standing on the other side of a display counter approximately 10 – 15 feet from Sergeant Steiner.

The employee was approached by a customer, who stated that he had come into possession of several handguns and wished to place them on consignment with the store or sell them outright. He explained that the guns were not registered in his name, but rather had belonged to a member of his family who was elderly and residing in a nearby retirement home or convalescent facility. He added that the owner of the weapons had physical ailments and the customer wanted to sell the guns so that the family could offset some of the costs of the owner's medical care.

The customer handed two handguns to the shop's employee, so he could examine them and estimate their value. One of the handguns was a Beretta 9mm semi-automatic pistol and upon examination, the employee exclaimed, "Whoa! This gun has the serial number removed! I can't buy this from you and it's a felony just to possess such a gun. It might be stolen or it might have been used in a crime."

The customer told the shop's employee that he did not know much about guns, had no idea that the Beretta was missing its serial number, did not want to get into trouble, but (if possible) he would like to find out how the serial number could be restored so the gun could be legally sold. The employee explained that the only persons who could legally raise and restore a gun's altered or removed serial number were members of law enforcement. He recommended that the customer take the handgun to the local law enforcement agency, *i.e.*, the Santa Clarita Station of the Los Angeles County Sheriff's Department, explain how he had come to possess it, and inquire whether they could assist him.

The customer took both handguns from the shop's employee and responded that he did not think he could talk to anyone in law enforcement about the guns. He explained that the family member who had owned them (and was now in the retirement home) had been involved with organized crime years earlier on the East Coast. Specifically, the customer said that the Beretta's owner had been the "bodyguard" of "Whitey Bulger," and that he believed the handgun could have been used in or associated with one or more murders and, thus, contact with law enforcement might result in "problems" for his family member. The customer then concluded that he would "think about" taking the handgun to the police, and he exited the shop.

Although he was off duty, Sergeant Steiner reckoned that he had a legal and ethical responsibility to detain the customer so that the Los Angeles County Sheriff's Department could investigate the status of the Beretta with the missing serial number. He also thought that the purported owner of the handgun, *i.e.*, the alleged bodyguard of Mr. Bulger, might have information relative to the fugitive's current whereabouts, and recovering the illicit gun could provide leverage to persuade the gun owner to cooperate with ongoing efforts to apprehend Mr. Bulger.

Accordingly, Sergeant Steiner followed the customer out of the shop, identified himself as a Santa Monica police officer, and detained him. Sergeant Steiner then advised the customer that he would contact the Los Angeles County Sheriff's Santa Clarita Station and request that a deputy be deployed to the Oaktree Gun Club to investigate further. The customer was cooperative and he surrendered both guns to Sergeant Steiner.

As he had advised, Sergeant Steiner called the Santa Clarita Station, identified himself as an off-duty Santa Monica police officer, and asked the dispatcher to send a Sheriff's deputy to the Oaktree Gun Club to recover and investigate the illicit handgun.

When a deputy arrived, Sergeant Steiner identified himself, presenting his credentials and his business card. Sergeant Steiner advised the deputy—who appeared young and

inexperienced to him—what had transpired inside the shop, surrendered both guns to him, and stressed to him the importance of conducting a thorough investigation. In the latter regard, Sergeant Steiner emphasized that the customer had informed him that the owner of the guns had been the bodyguard of Mr. Bulger, who was a fugitive on the FBI’s “Ten Most Wanted” list.<sup>33</sup>

The deputy assured Sergeant Steiner that he would handle the investigation properly, and he advised that the matter would be documented as report number 008-07471-0664-444. He then excused Sergeant Steiner to depart the scene, promising that he would handle the situation.

After Sergeant Steiner reported for duty on the evening of April 26, 2008, he contacted the Watch Commander at the Santa Clarita Station.<sup>34</sup> The Watch Commander confirmed that the Sheriff’s deputy who responded to the Oaktree Gun Club had filed a report of the incident, advised that the report had been “approved,” and agreed to send a copy of it to Sergeant Steiner.

Upon review of the report, Sergeant Steiner deemed it to be inadequate in several respects. For example, it failed to include significant details (*e.g.*, the gun owner’s alleged association with Mr. Bulger) and indicated that the second handgun, a Colt .25 caliber ACP, had not even been seized for investigation.

Sergeant Steiner called back the Watch Commander, expressed his concerns about the deputy’s report, and—at the Watch Commander’s request—prepared and forwarded a detailed narrative of the incident, so that a proper follow-up could be conducted. Additionally, he recommended that the Los Angeles County Sheriff’s Department investigating officer assigned to the matter should notify the FBI’s Los Angeles Field Office because of the purported association of the Beretta’s owner with a notorious fugitive. The Watch Commander committed to Sergeant Steiner that he would either attach his narrative to the deputy’s report or “cut and paste” it into a supplemental report associated with the incident.<sup>35</sup>

After concluding his conversation with the Watch Commander, Sergeant Steiner contacted the Duty Agent for the FBI’s Los Angeles Field Office, notified him of the incident at the Oaktree Gun Club, and provided the Los Angeles County Sheriff’s Department’s report number, 008-07471-0664-444.<sup>36</sup> The Duty Agent requested that Sergeant Steiner provide him with the same information he had sent to the Santa Clarita Station Watch Commander. He complied with the Duty Agent’s request.

Approximately two months later, in June of 2008, Sergeant Steiner retired from the City of Santa Monica Police Department.

Three years later, following the apprehension of Mr. Bulger at 1012 Third Street, Santa Monica, California, former Sergeant Steiner contacted a former colleague with the City of Santa Monica Police Department and was advised that a “close associate” of Mr. Bulger was believed to have been living a few blocks away from 1012 Third Street in an assisted living facility on Ocean

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<sup>33</sup> The FBI had offered a \$2 million reward for information leading to the arrest of Mr. Bulger. Singer-Vine, Jeremy, *A \$2 Million Criminal: How Does the FBI Set Rewards for Fugitives Like Whitey Bulger?* (June 23, 2011), available at <https://slate.com/news-and-politics/2011/06/whitey-bulger-arrested-how-does-the-fbi-set-rewards-for-fugitives.html>.

<sup>34</sup> The communication occurred approximately at midnight, and so it may have been documented as having occurred on April 27, 2008, in the records of the Santa Clarita Station.

<sup>35</sup> This communication was captured as an audio recording among the systems of the City of Santa Monica’s Police Department. Additionally, email records between Sergeant Steiner and the Santa Clarita Station’s Watch Commander corroborate Sergeant Steiner’s description of the interaction.

<sup>36</sup> The call was made on a recorded line.

Avenue.<sup>37</sup>

Former Sergeant Steiner also contacted the FBI's Los Angeles Field Office and inquired about the contact he had made in April of 2008. His call was interrupted, and when he called back he was instructed that, if he had any information pertaining to Mr. Bulger, then he should send it in.

Former Sergeant Steiner also contacted the Los Angeles County Sheriff's Department to inquire about the status of the Beretta that had been seized. He was advised that:

- The investigating officer assigned to the case had not forwarded the handgun to firearms examiners at the crime lab for forensic examination, entry into the digital ballistics firearms data base, or recovery of the missing serial number;
- Neither the customer who surrendered the handgun, nor his elderly relative (*i.e.*, Mr. Bulger's alleged bodyguard) had been contacted by the investigating officer;
- The information Sergeant Steiner had provided to the Watch Commander had not been attached to or incorporated into the deputy's report;
- The investigating officer had not contacted the FBI; and
- The handgun had been "approved for destruction" by the investigating officer on September 28, 2010.

Former Sergeant Steiner then contacted the employee of the gun shop at the Oaktree Gun Club, who advised that the customer who brought in the Beretta had returned days or weeks after being detained by former Sergeant Steiner and informed the employee that no further contact had been made between him and the Los Angeles County Sheriff's Office. As a result, the employee felt comfortable serially placing on consignment 10, 15, or more handguns, which purportedly were previously owned by Mr. Bulger's alleged bodyguard.

Based upon the information he had received from his former colleague with the City of Santa Monica Police Department, the Los Angeles County Sheriff's Department, and the employee of the gun shop at the Oaktree Gun Club, former Sergeant Steiner contacted Assistant U.S. Attorney ("AUSA") Frank Wychak in Boston. It was his understanding that AUSA Wychak was one of the attorneys assigned to the prosecution of Mr. Bulger. AUSA Wychak asked whether former Sergeant Steiner would be willing to meet with FBI special agents who were scheduled to travel to the Los Angeles area to conduct an investigation relative to Mr. Bulger's apprehension. He agreed.

Subsequent to his conversation with AUSA Wychak, former Sergeant Steiner was contacted by AUSA Jack Pirozolo. He provided AUSA Pirozolo with the same information that he had provided to AUSA Wychak. AUSA Pirozolo agreed to meet with Steiner. However, Pirozolo then cancelled and instead requested that Steiner meet with the two FBI special agents. He agreed.

Accordingly, on July 7, 2011, at about 2:30 PM, former Sergeant Steiner met with Special Agents Richard Teahan and Phil Torsney at the City of Santa Monica's Police Department headquarters. The meeting occurred in a conference room provided by Lieutenant Kathy Keane, who was assigned to the Internal Affairs Division. The meeting lasted approximately one hour. As he provided Special Agents Teahan and Torsney with the same information that he had previously disclosed to AUSAs Wychak and Pirozolo, Special Agent Teahan asked for the names of the customer who he had detained at Oaktree Gun Club and the identity of the family member whom the customer had claimed was Mr. Bulger's bodyguard.

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<sup>37</sup> Ocean Avenue is two streets west of Third Street.

Former Sergeant Steiner disclosed both names, and Special Agent Teahan called someone who had access to the FBI's database pertaining to Mr. Bulger to query the names. Minutes later, Special Agent Teahan advised that the FBI had no record of either name as having been associated with Mr. Bulger's flight from justice.

Former Sergeant Steiner also told Special Agent Teahan that he had disclosed the individuals' names to the FBI's Los Angeles Field Office on the night of April 26/27, 2008, and again on the morning of June 23, 2011, following the announcement of Mr. Bulger's arrest. Special Agent Teahan responded that the FBI had no record of either of former Sergeant Steiner's contacts.

Surprised by Special Agent Teahan's assertion, former Sergeant Steiner divulged that his contact with the FBI's Los Angeles Field Office on the night of April 26<sup>th</sup> or 27<sup>th</sup> had been made on a recorded line of the City of Santa Monica Police Department and added that he had asked Lieutenant Keane to secure the audio recording of the conversation, so that the identity of the FBI Duty Agent on April 26<sup>th</sup> and 27<sup>th</sup> could be obtained if the FBI wanted it.

Shortly thereafter, Special Agents Teahan and Torsney, and former Sergeant Steiner exited the police station and walked to their cars. As they traveled to their cars, former Sergeant Steiner noted that neither special agent had made an effort to obtain from Lieutenant Keane the audio recording of his April 2008 call to the FBI's Los Angeles Field Office.

More than a month later, Lieutenant Keane confirmed to him the FBI had not attempted to obtain the audio recording.

On September 29, 2011, former Sergeant Steiner contacted Special Agent Teahan, remarked that that nearly three months had passed since their meeting, and asked about the status the FBI's investigation. Special Agent Teahan responded that no follow-up had been conducted regarding the information that former Sergeant Steiner had provided because his bosses had instructed him to focus only on locating and seizing Mr. Bulger's assets; building an "aiding and abetting" case against Mr. Bulger's girlfriend, Ms. Greig; and following up on "new" information regarding "additional murders" linked to Mr. Bulger.

Earlier, on July 21, 2011, at about 3:15 PM, former Sergeant Steiner received a call from Lieutenant Bill Weiss of the Los Angeles County Sheriff's Department. He informed former Sergeant Steiner that he had determined that the Beretta was still in the custody of department, even though it had been "approved for destruction." The handgun's barrel had been "bent," but it had not been destroyed. He responded to Lieutenant Weiss that ballistics information and the gun's serial number may still be recoverable, and Lieutenant Weiss replied that he had sent the weapon to the crime lab.

Lieutenant Weiss also disclosed that he had tracked down the FBI special agent responsible for the investigation of murders attributed to Mr. Bulger, and notified him that the Beretta had been recovered. He added that the FBI special agent responded that Mr. Bulger had claimed to have "gotten rid" of all the guns he had used in the murders, and that the special agents assigned to the investigation of Mr. Bulger believed him.<sup>38</sup> The FBI special agent then instructed Lieutenant Weiss that if the crime lab found anything of note to give him a call.

Concluding that the FBI special agent's response to Lieutenant Weiss effectively precluded any attempt by the FBI to verify whether the Beretta was involved in any crimes

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<sup>38</sup> Given that on July 6, 2011, Mr. Bulger pled "not guilty" to the 1999 indictment, Crim. No. 99-10371-RGS, which attributed 19 murders to him, it seems improbable that he would have made such an admission against interest to the FBI. See, e.g., Murphy, Shelley; Cramer, Maria, *Bulger Pleads Not Guilty Before Many Watchful Eyes* (July 7, 2011), available at [http://archive.boston.com/news/local/massachusetts/articles/2011/07/07/whitey\\_bulger\\_pleads\\_not\\_guilty\\_in\\_racketeering\\_murder\\_case/](http://archive.boston.com/news/local/massachusetts/articles/2011/07/07/whitey_bulger_pleads_not_guilty_in_racketeering_murder_case/).

attributed to Mr. Bulger, former Sergeant Steiner contacted AUSA Pirozolo. He advised him that the handgun had been recovered, its serial number could be restored, and ballistics evidence could be derived from it. Then, as he apprised AUSA Pirozolo of Lieutenant Weiss' conversation with the FBI special agent, AUSA Pirozolo requested Lieutenant Weiss' contact information, and said that he would follow-up on it.

Lieutenant Weiss told former Sergeant Steiner that Weiss had notified the FBI agent in charge of this case (believed to be Special Agent Teahan) that the Los Angeles County Sheriff's Department crime lab had restored the serial number on the Beretta and that the weapon was available for the FBI to perform for ballistics and related testing. According to Lieutenant Weiss, the FBI agent responded that the FBI was not interested in additional information about the firearm.

On October 31, 2011, the DOJ-OIG acknowledged receipt of former Sergeant Steiner's October 17, 2011, correspondence, which is excerpted from above. The DOJ-OIG went on to advise that its Investigations Division had "thoroughly reviewed the material [he had submitted] and concluded that the issues raised do not warrant an investigation by this office," and concluded that it would consider "the matter closed."

**A jury convicted Mr. Bulger of 30 counts of the 1999 indictment, Crim. No. 99-10371-RGS**—including participation in 11 murders—in August 2013.<sup>39</sup>

On November 14, 2013, Federal Judge Denise J. Casper sentenced Mr. Bulger to two life terms plus five years.<sup>40</sup> She also ordered him to pay \$19.5 million in restitution to his victims' families and to forfeit \$25.2 million to the government.<sup>41</sup>

On October 30, 2018, Mr. Bulger was beaten to death at the Hazleton Federal Penitentiary in Bruceton Mills, West Virginia.<sup>42</sup> Hazleton had a reputation for violence, recording 275 episodes of assaults on workers and fighting among inmates in 2017, according to a report by *The New York Times*.<sup>43</sup> And, at least two other inmates were reported to have been killed at the institution in 2018 prior to Mr. Bulger's murder.<sup>44</sup>

Three years later, Federal officials investigating Mr. Bulger's death still had not charged anyone with his murder.<sup>45</sup>

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<sup>39</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>40</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>41</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>42</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>43</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>44</sup> McFadden, Robert D., *Whitey Bulger Is Dead in Prison at 89; Long-Hunted Boston Mob Boss* (October 30, 2018), available at <https://www.nytimes.com/2018/10/30/obituaries/whitey-bulger-dead.html>.

<sup>45</sup> Strozewski, Zoe, *Who Killed Whitey Bulger? 3 Years After Gangster's Death, Federal Officials Remain Mum* (October 29, 2021), available at <https://www.newsweek.com/who-killed-whitey-bulger-3-years-after-gangsters-death-federal-officials-remain-mum-1644037>.

## RECORDS REQUEST

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Empower Oversight hereby requests expedited production of all records related to:

1. Gary M. Steiner.<sup>46</sup>
2. Any communications between individuals identifying themselves as Gary M. Steiner, Gary Steiner, Mr. Steiner, Sergeant Steiner, or by the “Steiner” surname and personnel of the FBI’s Los Angeles Field Office on April 26, 2008.
3. Any communications between individuals identifying themselves as Gary M. Steiner, Gary Steiner, Mr. Steiner, Sergeant Steiner, or by the “Steiner” surname and personnel of the FBI’s Los Angeles Field Office on April 27, 2008.
4. Any communications between individuals identifying themselves as Gary M. Steiner, Gary Steiner, Mr. Steiner, Sergeant Steiner, or by the “Steiner” surname and personnel of the FBI’s Los Angeles Field Office on June 23, 2008.
5. Any communication between individuals identifying themselves as Gary M. Steiner, Gary Steiner, Mr. Steiner, Sergeant Steiner, or by the “Steiner” surname and Assistant United States Attorney Frank Wychak between June 23, 2011, and July 7, 2011.
6. Any communication between individuals identifying themselves as Gary M. Steiner, Gary Steiner, Mr. Steiner, Sergeant Steiner, or by the “Steiner” surname and Assistant United States Attorney Jack Pirozolo between June 23, 2011, and July 7, 2011.
7. Any communication between individuals identifying themselves as Gary M. Steiner, Gary Steiner, Mr. Steiner, Sergeant Steiner, or by the “Steiner” surname and Special Agent Richard Teahan on July 7, 2011.
8. Any communication between individuals identifying themselves as Gary M. Steiner, Gary Steiner, Mr. Steiner, Sergeant Steiner, or by the “Steiner” surname and Special Agent Phil Torsney on July 7, 2011.
9. Any communication between individuals identifying themselves as Gary M. Steiner, Gary Steiner, Mr. Steiner, Sergeant Steiner, or by the “Steiner” surname and Assistant United States Attorney Jack Pirozolo between July 21, 2011, and September 29, 2011.
10. Any communication between Assistant United States Attorney Jack Pirozolo and Lieutenant Bill Weiss of the Los Angeles County Sheriff’s Department between July 21, 2011, and September 29, 2011.
11. Any communication between individuals identifying themselves as Gary M. Steiner, Gary Steiner, Mr. Steiner, Sergeant Steiner, or by the “Steiner” surname and Special Agent Richard Teahan on September 29, 2011.

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<sup>46</sup> A Privacy Act release executed by Mr. Steiner is attached.

12. All communications between and among FBI personnel relative to the contacts described in items 2 through 11, above.
13. Any investigative activities undertaken to follow-up on or confirm/refute information conveyed during the contacts described in items 2 through 11, above.
14. The identities (including titles and positions descriptions) of all FBI personnel who worked in the Los Angeles Field Office at any time between April 1, 2008, and October 1, 2011, who had previously served in the Boston Field Office at any time before October 1, 2011.
15. The dates of each of John Morris' assignments at the FBI.
16. Mr. Morris' performance evaluations both before and after his immunity agreement and testimony about having accepted money from Bulger.
17. Mr. Morris' transfer to the Los Angeles Field Office.

### **DEFINITIONS**

“COMMUNICATION(S)” means every manner or method of disclosure, exchange of information, statement, or discussion between or among two or more persons, including but not limited to, face-to-face and telephone conversations, correspondence, memoranda, telegrams, telexes, email messages, voice-mail messages, text messages, Slack messages, meeting minutes, discussions, releases, statements, reports, publications, and any recordings or reproductions thereof.

“DOCUMENT(S)” or “RECORD(S)” mean any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies, and information stored magnetically, electronically, photographically or otherwise. As used herein, the terms “DOCUMENT(S)” or “RECORD(S)” include, but are not limited to, studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office communications, communications to, between and among employees, contracts, financial agreements, grants, proposals, transcripts, minutes, orders, reports, recordings, or other documentation of telephone or other conversations, interviews, affidavits, slides, statement summaries, opinions, indices, analyses, publications, questionnaires, answers to questionnaires, statistical records, ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, sound recordings, data sheets, computer printouts, tapes, discs, microfilm, and all other records kept, regardless of the title, author, or origin.

“PERSON” means individuals, entities, firms, organizations, groups, committees, regulatory agencies, governmental entities, business entities, corporations, partnerships, trusts, and estates.

“REFERS,” “REFERRING TO,” “REGARDS,” “REGARDING,” “RELATES,” “RELATING TO,” “CONCERNS,” “BEARS UPON,” “RELATIVE TO,” or “PERTAINS TO” mean containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.

### **INSTRUCTIONS**

The time period of the requested records is April 1, 2008, through October 1, 2011.

The words “and” and “or” shall be construed in the conjunctive or disjunctive, whichever is most inclusive.

The singular form shall include the plural form and vice versa.

The present tense shall include the past tense and vice versa.

In producing the records described above, you shall segregate them by reference to each of the numbered items of this FOIA request.

If you have any questions about this request, please contact Bryan Saddler by e-mail at [bsaddler@empowr.us](mailto:bsaddler@empowr.us).

### **FEE WAIVER REQUEST**

Empower Oversight agrees to pay up to \$25.00 in applicable fees, but notes that it qualifies as a “representative of the news media”<sup>47</sup> and requests a waiver of any fees that may be associated with processing this request, in keeping with 5 U.S.C. § 552(a)(4)(A)(iii).

Empower Oversight is a non-profit educational organization as defined under Section 501(c)(3) of the Internal Revenue Code, which helps insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seeks to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same. Empower Oversight has no commercial interest in making this request.

Further, the information that Empower Oversight seeks is in the public interest because it is likely to contribute significantly to the public understanding of manner in which the FBI responded to information bearing upon the possible whereabouts of the fugitive Whitey Bulger.

Empower Oversight is committed to government accountability, public integrity, and transparency. In the latter regard, the information that that Empower Oversight receives that tends to explain the subject matter of this FOIA request will be disclosed publicly via its website, and copies will be shared with other news media for public dissemination.

For ease of administration and to conserve resources, we ask that documents be produced in a readily accessible electronic format. Thank you for your time and consideration. Please don't hesitate to contact me with any questions.

Cordially,

[/Jason Foster/](#)

Jason Foster  
Founder & President

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<sup>47</sup> On September 23, 2021, the Securities Exchange Commission conceded that Empower Oversight qualifies as a news media requester for purposes of fees assessed pursuant to the FOIA. “Empower Oversight Wins Appeal of Erroneous SEC Fee Decision: Must be treated as a “media requestor” in seeking ethics records of senior officials,” Empower Oversight Press Release (Sep 24, 2021), <https://empowr.us/empower-oversight-wins-appeal-of-erroneous-sec-fee-decision-must-be-treated-as-a-media-requestor-in-seeking-ethics-records-of-senior-officials/>.

## Appendix

During the tenure of Attorney General Robert F. Kennedy, *i.e.*, 1961 – 1964, the FBI metamorphosed from an institution that did not believe in the existence of a national crime syndicate, to one that claimed to have discovered La Cosa Nostra and had elevated combatting organized crime to its first priority.<sup>1</sup> This catalyzed the conversion of an otherwise unremarkable street thug, James Joseph (“Whitey”) Bulger Jr., into a “Top Echelon” informer of the Federal Bureau of Investigation (“FBI”) with a virtual license to commit any crime short of murder, as long as he continued to provide information concerning La Cosa Nostra to his FBI handlers.

### **Messrs. Bulger and Flemmi Become Confidential Informants for the FBI**

In 1974 and 1975, FBI Special Agents John Morris<sup>2</sup> and John Connolly participated in a loansharking investigation in which the alleged victim was Peter Pallotta.<sup>3</sup> Mr. Bulger was a subject of the investigation.<sup>4</sup>

During the course of the Pallotta investigation, Special Agent Connolly decided to approach Mr. Bulger and attempt to recruit him as a confidential informant.<sup>5</sup> Special Agent Connolly had known Mr. Bulger since they were children growing up in South Boston.<sup>6</sup> Mr. Bulger became a source for Special Agent Connolly and he was administratively designated as an FBI informant on September 30, 1975.<sup>7</sup>

At least seven individuals were prosecuted as a result of the Pallotta investigation, including James Martorano and Brian Halloran.<sup>8</sup> Mr. Bulger, however, was not indicted.<sup>9</sup>

In early 1975, Mr. Bulger asked an associate, Stephen Flemmi, whether he would be willing to meet with Special Agent Connolly.<sup>10</sup> Mr. Flemmi agreed, and soon thereafter he met with Special Agent Connolly at a coffee shop in Newton, Massachusetts.<sup>11, 12</sup> Following the meeting in Newton, Mr. Flemmi began passing information about the Patriarca Family branch of La Cosa Nostra through Mr. Bulger to Special Agent Connolly.<sup>13</sup>

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<sup>1</sup> U.S. v. Salemme, 91 F. Supp. 2d 141, 149, 176 (D. Mass. September 15, 1999), which is available at <https://law.justia.com/cases/federal/district-courts/FSupp2/91/141/2510809/>.

<sup>2</sup> Special Agent Morris headed the Organized Crime Squad of the FBI’s Boston Field Office, beginning in December of 1977. Salemme, 91 F. Supp. 2d at 195, 198.

<sup>3</sup> Salemme, 91 F. Supp. 2d at 185.

<sup>4</sup> Salemme, 91 F. Supp. 2d at 185.

<sup>5</sup> Salemme, 91 F. Supp. 2d at 185 – 186.

<sup>6</sup> Salemme, 91 F. Supp. 2d at 186.

<sup>7</sup> Salemme, 91 F. Supp. 2d at 149, 186.

<sup>8</sup> Salemme, 91 F. Supp. 2d at 185.

<sup>9</sup> Salemme, 91 F. Supp. 2d at 185.

<sup>10</sup> Salemme, 91 F. Supp. 2d at 187.

<sup>11</sup> Salemme, 91 F. Supp. 2d at 187.

<sup>12</sup> This was not Mr. Flemmi’s first association with the FBI; in 1965, FBI Special Agent H. Paul Rico recruited him as a confidential informant for the FBI, but his service had lapsed because of legal consequences arising from his continued illicit activities. Salemme, 91 F. Supp. 2d at 148 – 149.

<sup>13</sup> Salemme, 91 F. Supp. 2d at 187.

Messrs. Bulger and Flemmi shared an antipathy for the Patriarca Family and a desire to profit criminally from its destruction.<sup>14</sup> And, the FBI leveraged their hostility to forge a formidable, lasting partnership with Messrs. Flemmi and Bulger.<sup>15</sup>

On February 4, 1976, the FBI up-graded Mr. Bulger to “Top Echelon” status because of his “demonstrated ability to produce information regarding the highest levels of organized crime ....”<sup>16, 17</sup> The FBI’s “Top Echelon” informants were, by definition, members of an organized crime group of national significance who could furnish information on the highest levels of such groups.<sup>18</sup> Such informants are difficult to develop, and agents were thus instructed that, “[t]he success of the Top Echelon Criminal Informant Program depends on a dynamic and imaginative approach in developing quality sources who can assist the Bureau in meeting its investigative responsibilities.”<sup>19</sup>

As an example of Messrs. Bulger and Flemmi’s material assistance to a significant FBI investigation, they were instrumental in the installation of a listening device in the headquarters of Patriarca Family underboss Gennaro Angiulo.<sup>20</sup> The headquarters was located at 98 Prince Street in Boston.<sup>21</sup> Special Agent Connolly, and his supervisor in the Organized Crime Squad, Supervisory Special Agent (“SSA”) John Morris, asked Messrs. Bulger and Flemmi to visit 98 Prince Street and obtain information important to the physical feasibility of the proposed bugging (*e.g.*, the types and locations of doors, locks, security devices, etc.).<sup>22</sup> Mr. Bulger registered his fear that he and Mr. Flemmi might be killed if they went to Mr. Angiulo’s headquarters.<sup>23</sup> Additionally, Mr. Flemmi expressed his concern that the bugging of 98 Prince Street would likely result in the interception of information concerning his and Mr. Bulger’s criminal activity.<sup>24</sup> SSA Morris and Special Agent Connolly, however, assured Messrs. Bulger and Flemmi that any recordings obtained from Mr. Angiulo’s headquarters would not be a problem for them; they would be “protected” for anything intercepted.<sup>25</sup>

As a result of the promises made by SSA Morris and Special Agent Connolly, Messrs. Bulger and Flemmi went to Angiulo’s headquarters at 98 Prince Street and returned with a diagram of the premises and the other information that the FBI had requested.<sup>26</sup> Subsequently,

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<sup>14</sup> Salemme, 91 F. Supp. 2d at 149, 188.

<sup>15</sup> Salemme, 91 F. Supp. 2d at 148 – 149.

<sup>16</sup> Salemme, 91 F. Supp. 2d at 186.

<sup>17</sup> As discussed below, this assessment may have been based on Mr. Bulger’s new partnership with Mr. Flemmi, which was in meaningful measure forged by the FBI. Salemme, 91 F. Supp. 2d at 186.

<sup>18</sup> Salemme, 91 F. Supp. 2d at 187.

<sup>19</sup> Salemme, 91 F. Supp. 2d at 187.

<sup>20</sup> Salemme, 91 F. Supp. 2d at 152.

<sup>21</sup> Salemme, 91 F. Supp. 2d at 152.

<sup>22</sup> Salemme, 91 F. Supp. 2d at 152, 205.

<sup>23</sup> Salemme, 91 F. Supp. 2d at 152, 205.

<sup>24</sup> Salemme, 91 F. Supp. 2d at 152, 206.

<sup>25</sup> Salemme, 91 F. Supp. 2d at 152, 206.

<sup>26</sup> Salemme, 91 F. Supp. 2d at 152, 206.

Messrs. Bulger and Flemmi were two of the informants who were relied upon in an application for a warrant which was issued authorizing the installation of a listening device at 98 Prince Street.<sup>27</sup>

### **The FBI “Protects” Its Confidential Informants from the Consequences of their Criminal Conduct, Including Bribery and Extortion of FBI Personnel**

In late 1975, or in early 1976, Messrs. Flemmi and Bulger had the first of a long series of meetings with Special Agent Connolly at Mr. Bulger’s home.<sup>28</sup> During the meeting, Special Agent Connolly made clear to Mr. Flemmi that he wanted to reestablish the FBI’s relationship with him and regularly receive from him information about the Patriarca Family.<sup>29</sup> Mr. Flemmi inquired what he would get in return for his cooperation, and Special Agent Connolly assured him that he and Mr. Bulger would be “protected” for the criminal activity they engaged in while they furnished information to the FBI.<sup>30</sup> *On various occasions thereafter, Special Agent Connolly reiterated that the FBI would “protect” Messrs. Bulger and Flemmi.*<sup>31, 32</sup>

Thereafter, Messrs. Bulger and Flemmi periodically dined with Special Agent Connolly and his supervisors on the Organized Crime Squad, John Morris and James Ring, and others, including New York-based undercover FBI agent Joe Pistone, who is popularly known by his alias “Donnie Brasco.”<sup>33</sup> At these dinners, gifts—including cash—were often exchanged, but—in violation of FBI policy—were not recorded.<sup>34, 35</sup>

During an April 1985 dinner at SSA Morris’ home, in Special Agent Connolly’s presence, SSA Morris told Messrs. Bulger and Flemmi “you can do anything you want as long as you don’t ‘clip’ anyone.”<sup>36, 37</sup>

Based on information provided by other informants and statements made by Messrs. Bulger and Flemmi themselves, SSA Morris and Special Agent Connolly were well-aware that Messrs. Bulger and Flemmi were continuously involved in a range of criminal activity, including but not limited to illegal gambling, loansharking, and extortion.<sup>38</sup> The FBI considered their criminal conduct to be essential to maintaining the credibility necessary for them to continue to

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<sup>27</sup> Salemme, 91 F. Supp. 2d at 152, 206.

<sup>28</sup> Salemme, 91 F. Supp. 2d at 187.

<sup>29</sup> Salemme, 91 F. Supp. 2d at 187.

<sup>30</sup> Salemme, 91 F. Supp. 2d at 187.

<sup>31</sup> Salemme, 91 F. Supp. 2d at 187.

<sup>32</sup> Since, in the context of the investigation of Federal criminal offenses, the FBI generally had discretion to decide whether an informant would be targeted for investigation and possible prosecution rather than continued as a source, if an FBI agent made and honored a promise to “protect” an informant, the Attorney General and the DOJ’s prosecutors would, under then established standards and procedures, virtually never know. Salemme, 91 F. Supp. 2d at 192.

<sup>33</sup> Salemme, 91 F. Supp. 2d at 149, 243 – 244.

<sup>34</sup> Salemme, 91 F. Supp. 2d at 149 – 150, 228, 243 – 244.

<sup>35</sup> Dinners and unreported gift exchanges also occurred at the home of Special Agent Nick Gianturco. Salemme, 91 F. Supp. 2d at 202.

<sup>36</sup> Salemme, 91 F. Supp. 2d at 152, 242.

<sup>37</sup> As later events involving Mr. Halloran suggest, the prohibition against murder may not have been etched in stone. *See, infra*, at footnotes 48 – 51 and 55 – 57.

<sup>38</sup> Salemme, 91 F. Supp. 2d at 201, 221.

obtain and provide vital information on the La Cosa Nostra and others.<sup>39</sup> Hence, the FBI neither investigated such information, nor did it disclose the same to other law enforcement agencies.<sup>40</sup>

For example, in July 1979, SSA Morris received reports from informants that Messrs. Bulger and Flemmi were “shaking down” independent bookmakers.<sup>41</sup> The FBI, however, made no effort to investigate the reports.<sup>42</sup>

In 1979 and early 1980, the FBI received information from informants that Messrs. Bulger and Flemmi were involved in illegal gambling and cocaine trafficking.<sup>43</sup> This information too was not investigated.<sup>44</sup>

In 1981 and 1982, the FBI was told that Messrs. Bulger and Flemmi were involved in cocaine distribution with Mr. Halloran.<sup>45</sup> The FBI was also advised that bookmakers were required to pay Messrs. Bulger and Flemmi to operate in South Boston.<sup>46</sup> These allegations were not investigated by the FBI.<sup>47</sup>

In 1982, SSA Morris learned that Mr. Halloran was cooperating with the FBI and had implicated Messrs. Bulger and Flemmi in the murder of Roger Wheeler, the President of World Jai Lai.<sup>48</sup> SSA Morris advised the special agents who were investigating the allegations that Mr. Halloran was untrustworthy, unstable, and would not be a credible witness; he also caused Special Agent Connolly to tell Messrs. Bulger and Flemmi about Mr. Halloran’s claims.<sup>49, 50</sup> About two weeks later, Mr. Halloran was killed.<sup>51</sup>

In 1984, Special Agent Connolly received reliable information that Messrs. Bulger and Flemmi were extorting Stephen and Julie Rakes to obtain control of a liquor store that later came to be known as the South Boston Liquor Mart.<sup>52</sup> Special Agent Connolly neither recorded the information nor conducted an investigation.<sup>53</sup> He did, however, share the information that he

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<sup>39</sup> Salemme, 91 F. Supp. 2d at 221.

<sup>40</sup> Salemme, 91 F. Supp. 2d at 201.

<sup>41</sup> Salemme, 91 F. Supp. 2d at 201.

<sup>42</sup> Salemme, 91 F. Supp. 2d at 201.

<sup>43</sup> Salemme, 91 F. Supp. 2d at 201.

<sup>44</sup> Salemme, 91 F. Supp. 2d at 201.

<sup>45</sup> Salemme, 91 F. Supp. 2d at 208.

<sup>46</sup> Salemme, 91 F. Supp. 2d at 208.

<sup>47</sup> Salemme, 91 F. Supp. 2d at 208.

<sup>48</sup> Salemme, 91 F. Supp. 2d at 154, 209.

<sup>49</sup> Salemme, 91 F. Supp. 2d at 154, 209.

<sup>50</sup> In an effort to protect Messrs. Bulger and Flemmi, SSA Morris and Special Agent Connolly identified for them at least a dozen other individuals who were either FBI informants or sources for other law enforcement agencies. Salemme, 91 F. Supp. 2d at 155, 213. Typically, those disclosures were made so that Messrs. Bulger and Flemmi could avoid making any unnecessary, incriminating statements to the informants. Salemme, 91 F. Supp. 2d at 213.

<sup>51</sup> Salemme, 91 F. Supp. 2d at 154.

<sup>52</sup> Salemme, 91 F. Supp. 2d at 155, 215.

<sup>53</sup> Salemme, 91 F. Supp. 2d at 155, 215.

had received with Mr. Bulger, who used it to bring his extortionate efforts to a successful conclusion.<sup>54</sup>

In 1988, SSA Morris had Special Agent Connolly warn Messrs. Bulger and Flemmi to stay away from John Bahorian—a bookmaker who was being extorted by Mr. Flemmi—because his telephone was about to be tapped by the FBI in an effort to acquire evidence against Mr. Flemmi and others.<sup>55</sup> SSA Morris also told Special Agent Connolly to tell Messrs. Bulger and Flemmi not to do anything to Mr. Bahorian because he “did not want another Halloran.”<sup>56</sup> SSA Morris later reiterated both of these warnings directly to Messrs. Bulger and Flemmi.<sup>57</sup>

In 1988, Joseph Murray, an incarcerated drug dealer who was reputed to be closely connected with Mr. Bulger, alleged that Special Agent Connolly and FBI Special Agent John Newton were selling information about electronic surveillance to Messrs. Bulger and Flemmi.<sup>58</sup> Mr. Murray also claimed to know of a witness who saw Mr. Bulger participate in the murder of Mr. Halloran.<sup>59</sup> However, when interviewed by FBI Special Agents Edward Quinn<sup>60</sup> and Edward Clark, Mr. Murray was either not asked about his allegations concerning Special Agents Connolly and Newton or his responses were not recorded in the notes and FBI report of the interview.<sup>61</sup> However, Dennis O’Callahan, the SSA then in charge of the Organized Crime Squad, subsequently prepared a memorandum, which FBI SAC James Ahearn sent to FBI Headquarters, stating that Mr. Murray’s allegations were “unsubstantiated by specific facts” and the matter was not pursued farther.<sup>62</sup> In addition, Mr. Murray evidently was not questioned in detail about the information he indicated that he had concerning Mr. Bulger’s role in the Mr. Halloran’s murder.<sup>63</sup> Moreover, the information that Mr. Murray provided was not given to the FBI agents responsible for the investigation of the murder of Mr. Halloran nor was it indexed in a way that would permit them to find it.<sup>64</sup>

In September of 1988, *The Boston Globe* began publishing a series of articles that reported that the FBI had “for years had a special relationship with Bulger” and reviewed a series of events that supported the supposition that the FBI was protecting him from prosecution.<sup>65</sup> SSA Morris was the primary source for *The Boston Globe’s* assertion that Mr. Bulger was a confidential informant for the FBI.<sup>66</sup> After informing Messrs. Bulger and Flemmi of the

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<sup>54</sup> Salemme, 91 F. Supp. 2d at 155, 216.

<sup>55</sup> Salemme, 91 F. Supp. 2d at 155, 259.

<sup>56</sup> Salemme, 91 F. Supp. 2d at 155, 210, 259.

<sup>57</sup> Salemme, 91 F. Supp. 2d at 155, 259.

<sup>58</sup> Salemme, 91 F. Supp. 2d at 157, 256.

<sup>59</sup> Salemme, 91 F. Supp. 2d at 157, 256 – 257.

<sup>60</sup> Special Agent Quinn had served on the Organized Crime Squad in the FBI’s Boston Field Office with Special Agent Connolly for over 13 years and characterized him as a “close friend.” Salemme, 91 F. Supp. 2d at 257, 290.

<sup>61</sup> Salemme, 91 F. Supp. 2d at 157, 256 – 257.

<sup>62</sup> Salemme, 91 F. Supp. 2d at 157, 258.

<sup>63</sup> Salemme, 91 F. Supp. 2d at 157.

<sup>64</sup> Salemme, 91 F. Supp. 2d at 157, 259.

<sup>65</sup> Salemme, 91 F. Supp. 2d at 261.

<sup>66</sup> Salemme, 91 F. Supp. 2d at 260 – 261.

electronic surveillance of Mr. Bahorian's telephone, SSA Morris had become concerned that if they were prosecuted, then the nature of his problematic relationship with them would be revealed.<sup>67</sup> Disclosure of Mr. Bulger's cooperation with the FBI could have gotten him, and his close associate Mr. Flemmi, killed, which would have mitigated the risk to SSA Morris' career and freedom.<sup>68, 69</sup>

On October 13, 1995, while he was a fugitive following his indictment in January 1995, Mr. Bulger called former SSA Morris, who by then had been promoted to position of the Chief of the Training Administration Section of the FBI's Training Academy at Quantico, Virginia.<sup>70, 71</sup> In an extortionate attempt to compel Chief Morris to extricate Messrs. Bulger and Flemmi from the indictment or otherwise assist them, Mr. Bulger reminded him that he had taken approximately \$7,000 from Mr. Bulger, he added that he had witnesses to the transactions, and he concluded that if he ended up in jail he would take Chief Morris with him.<sup>72</sup> Chief Morris reported Mr. Bulger's call to the FBI's Boston Field Office and the Office of Professional Responsibility at FBI Headquarters, but prior to December 1997, when he made the proffer which persuaded the government to grant him immunity from prosecution, the FBI never asked him about Mr. Bulger's claim that he had made payments to him.<sup>73</sup>

### **The FBI Protects the Identity of Its Confidential Informants Even from DOJ Officials Who Have a Need to Know**

The FBI Manual had long instructed agents to exercise constant care to assure that a confidential informant's identity would not be disclosed to anyone, intentionally or inadvertently.<sup>74</sup> Strictly adhering to this principle, unless authorized to deviate from it by an informant, the FBI regularly refused to identify its sources even to prosecutors and other Department of Justice ("DOJ") officials with a legitimate need to know.<sup>75</sup>

On the other side of the FBI/DOJ interaction, DOJ officials historically accepted the fact that the FBI would refuse any request to confirm or deny that an individual was an informant.<sup>76</sup> For example, William F. Weld, a former United States Attorney for Massachusetts and a former Assistant Attorney General in charge of the DOJ Criminal Division, testified that he expected that if he asked the FBI to identify an informant, he would be told to "go pound sand."<sup>77</sup>

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<sup>67</sup> Salemme, 91 F. Supp. 2d at 259 – 260.

<sup>68</sup> Salemme, 91 F. Supp. 2d at 259 – 260.

<sup>69</sup> Following the series of articles published by *The Boston Globe*, Messrs. Bulger and Flemmi began to withdraw from some of their most blatant criminal activity in an effort to insulate themselves from effective investigation and prosecution. Salemme, 91 F. Supp. 2d at 262. Of course, by that point in time, the financial burden of backing away from some illegal activities was eased by the fact that they had acquired substantial legitimate businesses, including real estate. Salemme, 91 F. Supp. 2d at 262.

<sup>70</sup> Salemme, 91 F. Supp. 2d at 305 – 306.

<sup>71</sup> Mr. Bulger contacted Chief Morris at the FBI's facility at Quantico. Salemme, 91 F. Supp. 2d at 305 – 306.

<sup>72</sup> Salemme, 91 F. Supp. 2d at 306, 340 – 344.

<sup>73</sup> Salemme, 91 F. Supp. 2d at 306.

<sup>74</sup> Salemme, 91 F. Supp. 2d at 150.

<sup>75</sup> Salemme, 91 F. Supp. 2d at 150.

<sup>76</sup> Salemme, 91 F. Supp. 2d at 150.

<sup>77</sup> Salemme, 91 F. Supp. 2d at 150.

Reflecting former United States Attorney Weld's characterization, in 1976 the Attorney General issued Guidelines for the FBI to use when dealing with informants, and the Guidelines provided no role for an United States Attorney or the DOJ in authorizing an informant to engage in what would otherwise be criminal activity.<sup>78</sup> However, lest there be a mistaken impression that the DOJ did not authorize the FBI to allow informants to engage in illicit activities, the Guidelines were revised in 1981 to require the FBI to consult with an United States Attorney, but only if the FBI sought to authorize an informant to engage in criminal activity that involve a significant risk of violence.<sup>79, 80</sup>

### **The FBI's Administrative Audits Fail to Uncover Misconduct Within the Organized Crime Squad of Its Boston Field Office**

Further, although the FBI's Headquarters staff periodically audited the Boston Field Office's informant files to ensure compliance with the FBI's procedures, no deficiencies with regard to the handling of Messrs. Bulger or Flemmi were ever noted.<sup>81</sup> This omission is of note because, later circumstances revealed that the informant files of Messrs. Bulger and Flemmi were replete with information indicating that they were involved in serious criminal activity that had not been authorized in writing, investigated by the FBI, reported to other law enforcement agencies, or reported to the Assistant Attorney General for the Criminal Division as required by the DOJ's Guidelines.<sup>82</sup>

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<sup>78</sup> Salemme, 91 F. Supp. 2d at 150, 190 – 191, 193.

<sup>79</sup> Salemme, 91 F. Supp. 2d at 150, 194.

<sup>80</sup> In contrast to laws or regulations, however, the Guidelines did not impose any legally enforceable obligations on the FBI or create any rights that are legally enforceable by defendants. Salemme, 91 F. Supp. 2d at 190 -- 191. Accordingly, SSA Morris and his successor as the supervisor of the Organized Crime Squad, SSA Ring, viewed the Guidelines as inconsistent with the Top Echelon Criminal Informant Program and utterly unrealistic. Salemme, 91 F. Supp. 2d at 195 – 196, 219. Thus, they felt that the Guidelines did not apply to organized crime matters, and they ignored the Guidelines' provisions requiring authorization of criminal activity and reporting of unauthorized crimes committed by informants. Salemme, 91 F. Supp. 2d at 196, 219.

<sup>81</sup> Salemme, 91 F. Supp. 2d at 196.

<sup>82</sup> Salemme, 91 F. Supp. 2d at 196.

To: Jason Foster of Empowr Oversight and Research

As per our conversation earlier today, I am authorizing you to provide the below release to the Justice Department and/or its inspector general on my behalf for the purpose of obtaining documents detailed in the FOIA request.

**I (Gary M. Steiner) authorize the Justice Department and/or its inspector general to release documents containing personally identifiable information about me to Empower Oversight to the extent that such information is contained in documents responsive to its attached FOIA requests.**

A handwritten signature in black ink that reads "Gary M. Steiner" followed by a horizontal flourish.

Gary M. Steiner  
Scottsdale, Arizona  
August 15, 2022