

Received(Date): 13 MAY 2002 12:40:34

From: "Burton, Faith" <Faith.Burton@usdoj.gov> ("Burton, Faith" <Faith.Burton@usdoj.gov> [UNKNOWN])

To: "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN]), "Wray, Chris" <Chris.Wray@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Wray, Chris" <Chris.Wray@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN]), "Chertoff, Michael" <Mike.Chertoff@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Chertoff, Michael" <Mike.Chertoff@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN]), "Horowitz, Michael-CRM" <Michael.Horowitz3@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Horowitz, Michael-CRM" <Michael.Horowitz3@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN]), "Ohr, Bruce G" <Bruce.G.Ohr@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Ohr, Bruce G" <Bruce.G.Ohr@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN]), "Lowrie, Kenneth" <Kenneth.Lowrie@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Lowrie, Kenneth" <Kenneth.Lowrie@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN]), Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO]),

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(b)(7)(f) [REDACTED] (Receipt Notification Requested) (IPM Return Requested) ([REDACTED] (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])

Cc: "Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN]), "O'Brien, Pat" <Pat.O'Brien@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("O'Brien, Pat" <Pat.O'Brien@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])

Subject: : FW: Globe Article

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR:"Burton, Faith" <Faith.Burton@usdoj.gov> ("Burton, Faith" <Faith.Burton@usdoj.gov> [UNKNOWN])

CREATION DATE/TIME:13-MAY-2002 12:40:34.00

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Return Requested) [UNKNOWN])

READ:UNKNOWN

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READ:UNKNOWN

TO: [REDACTED] (Receipt Notification Requested) (IPM Return Requested) ([REDACTED] (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])

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-----Original Message-----

From: Rybicki, James E

Sent: Monday, May 13, 2002 12:15 PM

To: Burton, Faith

Subject: Globe Article

Justice Dept. is scolded for secrecy

By Ralph Ranalli, Globe Staff, 5/12/2002

Members of a congressional committee probing FBI misconduct excoriated the US Justice

Department yesterday for continuing to withhold information from their investigation on privacy and secrecy grounds, even though some incidents occurred 40 years ago and many key figures are dead.

The scathing remarks were made during a special House Government Reform Committee hearing in

Boston on the case of two men, Joseph Salvati and Peter Limone, who served about 30 years in prison for murder even as FBI officials withheld documents that proved their innocence.

Some of the congressmen called the Justice Department's actions particularly irksome given that the

hearing was held just a few blocks from where federal prosecutors have put former FBI special agent John Connolly on trial for racketeering and obstruction of justice.

Lawmakers and a federal

judge have blamed excessive government secrecy in the use of informants for both the wrongful

convictions and Connolly's alleged collusion with Boston gangsters James "Whitey" Bulger and

Stephen Flemmi.

"It's absurd. It's absolutely unconscionable," said US Representative William D. Delahunt, a Quincy Democrat. "Forty years later, they are exactly as intransigent as they were then. The Department of Justice has learned nothing."

Some of the remarks were made after chief counsel James Wilson disclosed that the committee had received a document showing that top FBI officials knew that Flemmi's brother, Vincent J. "Jimmy the Bear" Flemmi had killed seven men, including Edward "Teddy" Deegan.

Salvati and Limone's convictions in the 1965 Deegan murder were overturned last year when a state judge found that they had probably been framed by Flemmi's friend and the FBI's key witness in the case, legendary underworld assassin Joseph Barboza.

The names of the other six Flemmi victims, however, were blacked out from a copy of the document given to the committee, even though the record was 37 years old.

"There is no apparent reason for this," said US Representative John F. Tierney, a Salem Democrat. "Why there continues to be a building in Washington, D.C., named after J. Edgar Hoover is entirely beyond my comprehension."

The committee briefly closed the hearing to the public to discuss a memorandum that members said shows that not only the FBI, but federal prosecutors in New England and Justice Department officials in Washington, knew about the evidence that cleared Salvati and Limone and withheld it from state prosecutors and the men's defense attorneys.

Wilson said the committee was forced to make a deal with the Justice Department in order to move forward with the hearings. In the past, President Bush has attempted to invoke executive privilege in order to keep the committee from seeing some FBI and Justice Department documents relating to informants.

"We did it so we could ask some questions today," Wilson said. "Otherwise we would have been able to do nothing."

The memo was briefly described by the committee but not released. Members discussed it behind closed doors with the key witness at the hearing, former Suffolk assistant district attorney Jack Zalkind, for about 15 minutes.

Zalkind, who prosecuted the Deegan murder case in 1968, apologized yesterday to Salvati and

Limone, who attended the hearings with their wives, but he also described himself as "a victim" of the FBI.

"I have lived with this for a long time," said Zalkind, now a well-known Boston defense lawyer. "I feel terrible."

Zalkind testified that he "never liked and never trusted" Barboza, the key witness in the case, but that he was also never given any evidence that contradicted Barboza's version of the killing of Deegan, a small-time hoodlum, in an alley behind a finance company in Chelsea.

He said he only found out later that Barboza had told the FBI two days before the murder who was really going to participate.

"I was outraged. I would never have allowed myself to prosecute the case with this information," Zalkind said. "It's horrible. That trial should never have gone forward."

Both Limone and Salvati's lawyers said yesterday that they accepted Zalkind's version of events and his apology.

"The FBI not only withheld information from the defense, they also withheld information from the prosecution, meaning that they knew the state would not prosecute if given this evidence," said Victor Garo, Salvati's lawyer.

"Instead, innocent men went to prison and their informants were free to kill again."

This story ran on page B1 of the Boston Globe on 5/12/2002.
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