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.

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 FBI[752] 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.

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[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).

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 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

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[753] *Id.* at 40.
[754] *Id.*
[755] J.M. Lawrence, *Panel Wanted Info on Bulger-extort link*, BOSTON HERALD, Dec. 10, 2002.
[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.*

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 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]

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[760] *Id.*
[761] *Id.*
[762] *Id.*
[763] *Id.*
[764] *Id.*
[765] Interview with William Nally (July 22, 2003)(Exhibit 972).
[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).

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]

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

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[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.*
[781] Dick Lehr, *FBI Ties Renew Questions on 75 State Street Scandal*, BOSTON GLOBE, June 14, 1998.
[782] *Id.*
[783] *Id.*
[784] J.M. Lawrence, *Trial: Agent Meddled in 75 State St. Case*, BOSTON HERALD, May 21, 2002.
[785] *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. 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.

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]

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

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[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.
[797] Affidavit of Harold Brown (June 16, 2003)(Exhibit 974).
[798] Peter Gelzinis, *Kin Await Vindication for Trooper who Crossed James "Whitey" Bulger*, BOSTON HERALD, June 19, 2003.
[799] *Id.*
[800] Peter Gelzinis, *James "Whitey" Bulger Leaves Surrogate Son Out of the $ $ $*, BOSTON HERALD, Dec. 14, 1999.
[801] Peter 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.*

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 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

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[808] *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. 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.
[814] Affidavit of David Davis (June 16, 2003)(Exhibit 975).
[815] *Id.*
[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.

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 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

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[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).
[831] Dick 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).
[833] Dick 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. 54 (2003) (testimony of William Bulger).
[836] *Id.* at 94.
[837] *Id* at 72, 90, 97.
[838] *Id* at 66, 73, 104-105.

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 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 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

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[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.
[847] Affidavit 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).
[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).

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]

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]

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[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.
[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.*

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.
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?

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[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.

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 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;

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[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).

(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]

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

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[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.*
[894] *Id.*

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 January 1995 phone call between William Bulger and James "Whitey" Bulger until it became public knowledge.[909]

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[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.*
[909] *Id.*

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 are false and "When I tapped John Connolly for the government affairs position, there was no intercession from William Bulger or anyone in his office."[917]

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

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 professional interaction during the electric utility restructuring.[935] In particular, Gustin remembered that Boston Edison was receiving

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[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.*
[935] *Id.*

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 inquires 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 Appropriations Bill 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

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[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).

stated, "I know of no facts which 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

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[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.*

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 investigation 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 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 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

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[967] *Id.*
[968] *Id.*
[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).

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 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 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

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[979] *Id.* (July 22, 2003).
[980] *Id.*
[981] *Id.* (Aug. 14, 2003).
[982] *Id.*
[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.*

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]

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. Buckly 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]

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[990] S. Bill S2254, (Mass. 1981).
[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.

> 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 budget line item to the 1982 Appropriations Bill. 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 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:

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[999] Journal of the House, at 1383, (Mass. 1981).
[1000] Discussion with Massachusetts Representative Brad Jones, House Minority Leader (July 22, 2003).
[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).

> 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]
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> * * *
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> 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]
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> 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 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, Mr. 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]

[1008] *Id.*
[1009] *Id.*
[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).