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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Letter	[Draft Letter] [2 PAGES RELEASED IN WHOLE ON PRA RE-REVIEW 05/20/2025 JLS] - To: Dan Burton - From: Daniel Bryant	2	02/13/2002	
002	Letter	[Letter] [3 PAGES RELEASED IN WHOLE ON PRA RE-REVIEW 05/20/2025 JLS] - To: Daniel Bryant - From: Dan Burton	3	01/29/2002	
003	Letter	[Letter with attachment] [6 PAGES RELEASED IN WHOLE ON PRA RE-REVIEW 05/20/2025 JLS] - To: POTUS - From: John Ashcroft	6	12/10/2001	

COLLECTION TITLE:
Counsel's Office, White House
SERIES:
Kavanaugh, Brett - Subject Files
FOLDER TITLE:
Burton, Dan
FRC ID:
9695

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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b(1) National security classified information [(b)(1) of the FOIA]
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b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Letter	[Draft Letter] - To: Dan Burton - From: Daniel Bryant	2	02/13/2002	P5;
002	Letter	[Letter] - To: Daniel Bryant - From: Dan Burton	3	01/29/2002	P5; P6/b6;
003	Letter	[Letter with attachment] - To: POTUS - From: John Ashcroft	6	12/10/2001	P5;

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BERNARD SANDERS, VERMONT,
INDEPENDENT

February 20, 2002

The Honorable John Ashcroft
Attorney General
United States Department of Justice
Washington, D.C. 20530

Dear General Ashcroft:

I am writing to request that the Justice Department provide the Committee with a copy of the June 1967 prosecution memorandum drafted by Edward Harrington. My staff made an oral request for this document earlier today, and it was refused.

This document and a number of others were subpoenaed by the Committee in September 2001. Last week, the Justice Department allowed Committee staff to review the memorandum. The Committee's investigative needs require the Committee to have possession of a copy of the Harrington memorandum. Tomorrow and Friday, Committee staff will be in Boston interviewing Dennis Condon, a former FBI agent who is a central figure in the Committee's investigation. It is necessary for Committee staff to show the memorandum to Mr. Condon and ask him questions about it. I also expect that Committee staff will be interviewing other witnesses in the coming weeks who will be questioned about the Harrington memorandum.

The Committee's need for possession of the Harrington memorandum cannot be seriously questioned. As you may know, your own investigators showed the Harrington memorandum to Judge Harrington while interviewing him recently. I believe that Committee staff should have the same opportunity to question witnesses about relevant documents, and that witnesses should have the right to review those documents about which they are questioned.

As my staff will be conducting the interview on February 21 and 22, 2002, I request that you provide a copy of the memorandum to the Committee by 10:00 a.m. on February 21, 2002.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 13, 2002

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This responds to your letter, dated February 12, 2002, regarding the Committee's hearing on February 14, 2002, which will include testimony from Judge Edward Harrington. Judge Harrington was an Assistant United States Attorney in 1967 when he prepared a memorandum that we have identified as one of those responsive to the Committee's subpoena of September 6, 2001.

The Committee has subpoenaed four categories of Department of Justice prosecutorial documents: those relating to (i) the potential appointment of a special counsel for the campaign financing investigation; (ii) the investigation of Mark Middleton; (iii) the investigation of Ernest Howard; and, (iv) the investigation of certain individuals investigated and prosecuted by the Boston United States Attorney's Office (i.e. the Boston matter). In light of the particular facts and circumstances that existed at the time of the Committee's hearing on December 13, including the Committee's articulation of its informational needs and the information already provided by the Department to the Committee, and consistent with long-standing constitutional principles applicable to these extraordinarily sensitive Executive Branch documents, the President on December 12 asserted executive privilege as to those four categories of documents. The President also directed that the Department work with the Committee to continue to accommodate the Committee's informational needs to the extent appropriate and consistent with the constitutional separation of powers.

Since the President's assertion of privilege, the Committee has challenged the privilege assertion only with respect to the fourth category, the ten Boston documents. As Judge Gonzales indicated in his January 10 letter, the Boston documents should be assessed in light of the unusual circumstances present here, where the Executive Branch has filed criminal charges alleging corruption in the FBI investigative process. Further, we appreciate the Committee's interest, as articulated in your letter, in learning what information Judge Harrington knew about the Deegan matter, including the evidence and the reliability of witnesses.

Based upon your February 12 letter, other Committee correspondence, and additional information provided by the Committee, the Committee has now demonstrated a particular and critical need for access to the one Harrington memorandum sufficient to satisfy constitutional standards and we are prepared to meet with you and make it available for your review in advance of the hearing. Please note that much of the relevant underlying factual information contained in this memorandum has already been provided to the Committee pursuant to other document requests. I am advised that there are legally mandated redactions in the Harrington memorandum relating to Rule 6(e) of the Federal Rules of Criminal Procedure.

In addition, we have previously offered to meet with the Committee to discuss all of the Boston documents, and we reiterate that offer here. We will contact Committee staff to discuss a convenient time for your review of this document.

It is our hope that we could work with the Committee to meet its informational needs consistent with your interests and ours.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

cc: The Honorable Henry Waxman
Ranking Minority Member

Members of the Committee

Brett,

you have to decide of this works. Under the circumstances, we need to underscore our sincerity w/ Burton.

Nick

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INDEPENDENT

January 29, 2002

- broader difference
- legitimacy of hearing

The Honorable Daniel J. Bryant
Assistant Attorney General
U.S. Department of Justice
Tenth and Constitution Avenue, N.W.
Washington, DC 20530

Dear Assistant Attorney General Bryant:

Pursuant to Rules X and XI of the of the House of Representatives, the Committee on Government Reform is holding a hearing entitled, "The History of Congressional Access to Deliberative Justice Department Documents." The hearing is scheduled for 10:00 a.m., February 6, 2002, in Room 2154 of the Rayburn House Office Building. I request that you testify at this hearing.

In the course of its investigations of several matters, the Committee made requests for deliberative Justice Department memoranda. The Justice Department and the White House informed the Committee that Congress would no longer be provided with access to any deliberative Justice Department memoranda. Justice Department staff indicated that it was attempting to return to the "policy" of the Justice Department prior to Attorney General Reno, which was, purportedly, that the Justice Department did not provide Congress with deliberative documents.

(b)(6)

In response to what was clearly intended to be an inflexible policy, and after considerable negotiation, the Committee issued a subpoena for the earlier requested documents.[1] The inflexible position of the Justice Department and the White House was modified when a Justice Department witness testified on December 13, 2001, that a case-by-case analysis would be conducted in order to respond to congressional subpoenas for deliberative documents. Unfortunately, the witness was not able to explain what specific factors led the President to claim executive privilege over subpoenaed documents that relate to the Committee's investigation of Justice Department corruption in Boston.

[1] One subpoena had already been issued in response to a Justice Department staff suggestion that a "friendly" subpoena would help to break the logjam in what were, as the time, ongoing negotiations.

01/29/02 TUE 17:24 FAX
003

Assistant Attorney General Daniel J. Bryant
January 29, 2002
Page 2 of 3

I request that you provide the Committee with testimony regarding:

1) All prior occasions when Congress has been permitted access to Justice Department deliberative documents. This includes, but is not limited to, all situations where Congress – either Members or staff – has been permitted to review documents without taking possession of them.

2) How your research was conducted and with whom you or your staff spoke in order to prepare for your testimony. The Committee would like to ensure that you have made a diligent effort to learn about previous examples in order to provide the Committee with comprehensive testimony regarding relevant precedent.

3) What specific factors led to the decision to recommend that President Bush invoke executive privilege over the documents subpoenaed pursuant to the Committee's investigation of Justice Department corruption in Boston. The Justice Department claims that it conducts a case-by-case analysis to determine whether to provide deliberative Justice Department records to Congress. Yet, at the December 13, 2001, hearing, Mr. Horowitz was unable to articulate what specific factors led the Justice Department to recommend that the Boston documents be withheld from the Committee.

4) Please provide answers to the questions I posed to Attorney General Ashcroft in my letter of September 7, 2001.

The Committee understands that there has been opposition within the Department to providing deliberative documents to Congress in the past. However, I believe that access to such documents has been permitted on numerous occasions, including prior to the Clinton Administration. Your testimony will assist the committee in developing a fuller understanding of the history of congressional access to deliberative Justice Department records.

If you wish to make an opening statement, it is requested that you provide 100 copies of your written testimony to the Committee no later than 24 hours prior to the time of the hearing. To facilitate printing of the hearing record, you should also provide a computer disk containing a copy of your written testimony. At the hearing, we will ask you to summarize your testimony in five minutes to allow the maximum time for discussion and questions.

Assistant Attorney General Daniel J. Bryant
January 29, 2002

Under the Congressional Accountability Act, the House of Representatives complies with the Americans with Disabilities Act. Persons requiring special accommodations should contact Robert Briggs at (202) 225-5074 at least four days prior to the hearing.

Please contact the Committee's Chief Counsel, James C. Wilson, at (202) 225-5074 if you have any questions or need additional information about this hearing.

Sincerely,

Dan Burton
Chairman

U.S. Department of Justice

Criminal Division

Assistant Attorney General

Washington, D.C. 20530

January 25, 2002

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is to respond to requests articulated at the Committee's hearing on December 13, 2001 for a log of the documents relating to the Boston FBI matter that were subject to the President's claim of executive privilege.

Enclosed for your review is a log of those documents. I was going to provide this log to you at the meeting that was scheduled for January 10, 2002. Our expectation was that we would describe the documents to Committee staff and hear the staff's explanation of how the Committee's investigative needs relate to particular documents. We hope that this meeting will be rescheduled in the near future.

Sincerely,

Michael Chertoff
Assistant Attorney General

Enclosure

cc: The Honorable Henry Waxman
Ranking Minority Member

01/29/02 TUE 12:40 FAX 003

Boston Documents Subject to Executive Privilege Claim

1. Memorandum Re: Whether to Prosecute Raymond Patriarca, December 2, 1965.

2. Memorandum Re: Whether to Prosecute Raymond Patriarca and Two Additional Named Individuals, June 6, 1967.

3. Memorandum Re: Whether to Prosecute Raymond Patriarca and Six Additional Named Individuals, August 11, 1969.

4. Memorandum Re: Whether to Prosecute Howard Winter and Twenty Additional Named Individuals, January 29, 1979.

5. Memorandum Re: Whether to Prosecute Gennaro Angiulo and Six Additional Named Individuals, August 25, 1983.

6. Memorandum Re: Whether to Prosecute the First National Bank of Boston and One Additional Named Individual, December 11, 1984.

7. Memorandum Re: Whether to Prosecute the First National Bank of Boston, December 20, 1984.

8. Memorandum Re: Whether to Prosecute the First National Bank of Boston, January 8, 1985.

9. Memorandum Re: Whether to Prosecute Robert Carrozza and Six Additional Named Individuals, September 18, 1989.

10. Memorandum Re: Whether to Prosecute Raymond Patriarca and Seven Additional Named Individuals, March 7, 1990.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 25, 2002

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is to confirm and further the conversation between the Committee's Chief Counsel Jim Wilson and FBI Special Counsel Beth Beers on January 9, 2002 regarding the status of our responses to your requests for documents relating to the oversight of the Bureau's handling of informants in Boston.

As a preliminary matter, Mr. Wilson confirmed that the Department has complied with the Committee's document requests dated March 30, May 10, and May 23, 2001. With regard to items requested in your letter dated June 5, 2001, our production of documents responsive to items 1 (Messrs. Rico, Condon, Connolly and Morris awards and similar documents) and 7 (records about DOJ involvement in State prosecution of Joseph Barboza) are complete.

We have not processed records responsive to item 2 of the June 5th letter because they relate to matters under investigation by the Justice Task Force. In addition, we have not produced material responsive to items 5 (FBI/OPR report on FBI's relationship with James Bulger, Stephen Flemmi and other Boston informants) or 9(b) (Stephen Flemmi, 1960-1971) because we believe that they are covered by the Protective Order entered by Judge Wolf in *United States v. Francis P. Salemme, et al.* (D. Mass. 1997). The FBI/OPR report also contains information relating to pending law enforcement matters.

We have completed our production of records responsive to item 3 (Patriarca wiretaps and overhears, January 1, 1962 to December 31, 1968) and item 12 (Top Hoodlum Program) and appreciated Mr. Wilson's clarification that, regarding item 12, you are not seeking AG Informant Guidelines. We also have completed our production of FBI records responsive to item 4 (Gennaro Angiulo wiretaps and overhears, January 1, 1962 to December 31, 1968) and item 6 (Mr. Rico's recall from retirement and subsequent involvement in investigation of former U.S. District Judge Alcee Hastings). We have not identified any documents responsive to item 8 (post-retirement contacts with Messrs. Rico, Condon, and Connolly) beyond those identified in response to items 1 and 6. We have not searched files pertaining to pending civil actions in which these individuals may be named as defendants.

We have also produced records responsive to item 9(c) (Joseph Barboza) and are continuing to review and process responsive records. As we advised Mr. Wilson, our search for and release of records responsive to items 10 and 11, regarding Mr. Barboza's contacts with listed individuals and contacts between listed individuals concerning Mr. Barboza, was conducted in conjunction with our processing of records responsive to item 9(c). Efforts to locate records responsive to 9(a) (Vincent Flemmi) have recently identified potentially responsive records maintained by the FBI's Boston office. Those records are being reviewed and responsive material will be processed and released. Mr. Wilson advised that he would provide additional information regarding item 9(d) (John S. Kelley) to assist the FBI in searching for records.

Please be advised, in responding to your request, we have not disclosed information which would reveal the identity of an FBI informant. In some instances, this has required the redaction of material contained in released documents and, in others, we have not produced entire informant files. The FBI advises that more specific information concerning the withheld material cannot be provided without jeopardizing the very information we are trying to protect. This issue was discussed with Mr. Wilson during his review of material responsive to item 13 (redacted text) in two visits to the FBI in August 2001. We are continuing to consider alternatives for accommodating the Committee's needs regarding this matter.

With regard to your letter dated December 18, 2001, I am advised that the FBI believes, based on a preliminary search for responsive material, that disclosure of documents responsive to items 1 and 2, regarding contacts between Frank Oreto and Joseph Salvati and Marie Salvati, respectively, if they exist, would be prohibited by Title III. We are conferring with Department attorneys about that question and will supplement this response as soon as possible. Mr. Wilson instructed that the Committee does not currently wish to receive documents responsive to items 3 (SA Rico's handling of John "Red" Kelley); 4 (SA Sheehan's handling of John "Red" Kelley); 5 (Strike Force Chief Edward Harrington's handling of John "Red" Kelley); 6 (re Rhode Island Supreme Court finding on subornation of perjury by SA Rico during 1970 trial of Maurice Lerner); and 7 (re Rhode Island Supreme Court finding of perjury by SA Rico during 1970 trial of Maurice Lerner). Lastly, the FBI advised that they have identified material concerning item 8 (Victor Garo), but it is not investigative in nature. Mr. Wilson said he is not interested in those records.

The Department is continuing to search for documents responsive to your requests and we will supplement this response when additional documents become available. I hope that this information is helpful. Please do not hesitate to contact me if you would like additional assistance regarding this or any other matter.

Sincerely,

Daniel J. Bryant

Daniel J. Bryant
Assistant Attorney General

cc: The Honorable Henry Waxman

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BERNARD SANDERS, VERMONT,
INDEPENDENT

January 11, 2002

Alberto R. Gonzales
Counsel to the President
The White House
Washington, D.C. 20500

Dear Judge Gonzales:

Thank you for your letter of yesterday. I appreciate your offer to have Justice Department attorneys provide the Committee staff with a briefing regarding the prosecution and declination memoranda relating to the Committee's Boston investigation which were the subject of the Committee's September 6, 2001, subpoena. This is certainly a step in the right direction. I would be pleased to accept the offer of a briefing, but only as long as the briefing is provided in conjunction with a review of the relevant documents by Committee staff.

The Committee subpoenaed these documents on September 6, 2001, and was engaged in frequent discussions with Justice Department staff about the documents after that point. Rather than engage in a process of accommodation with the Committee, the Justice Department advised the President to make a broad claim of executive privilege. The President's claim of privilege has saddled Congress with a potentially crippling precedent. If the President's claim of privilege remains unchallenged, Congress may be barred from receiving a wide variety of Executive Branch deliberative documents in the future. Such a precedent would effectively eliminate meaningful oversight of the Executive Branch in cases of corruption, mismanagement, or other abuse. My colleagues in the Congress, including committee chairmen, find this unacceptable.

I believe that Justice Department staff may be able to provide the Committee with useful information in a briefing regarding the subpoenaed documents. However, I also believe that it is important for both the Committee and the Justice Department that Committee staff be permitted to review the documents. From the Committee's perspective, a review of the documents is essential because in the Boston case, the Committee is investigating serious allegations of misconduct by Justice Department personnel. The Committee cannot rely entirely on a briefing by Department personnel to provide it with satisfaction as to the contents of the documents. Similarly, to provide a briefing without a contemporaneous review of the documents needlessly exposes the Department personnel conducting the briefing to potential claims that the briefing was not complete and truthful. The safest course of conduct, for both the Committee and the Department, therefore, is to conduct the briefing in conjunction with a review of the documents by Committee staff. After such a briefing and review has taken place, the Committee will be in a better position to assess whether it needs to have possession of the relevant documents.

I also want to take the opportunity to respond to several of the other points made in your letter. While I appreciate your arguments regarding the sensitivity of prosecution and declination memoranda, I believe that there have been a number of cases in the past where Congress has received access to these types of memoranda and other deliberative Justice Department memoranda. Therefore, I dispute your characterization that the "Executive Branch has traditionally protected those highly sensitive deliberative documents against public or congressional disclosure."

In your letter, you also emphasize that the Executive Branch cannot provide Congress with information covered by Rule 6(e) of the Federal Rules of Criminal Procedure. I am aware of that restriction, and have frequently noted that the Committee has no desire to receive information that the Executive Branch cannot legally disclose.

I am hopeful that you will agree to my proposal to provide the Committee with a briefing regarding the Boston documents in conjunction with a review of the documents. Such an agreement will hopefully allow the Committee to proceed with its important investigation of Justice Department misconduct in organized crime investigations in New England.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: Members, Committee on Government Reform

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ONE HUNDRED SEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

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BERNARD SANDERS, VERMONT,
INDEPENDENT

To: Alberto Gonzales, Counsel

Fax: 202.456.6279

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Pages: 3(including cover sheet)

From: Dan Burton, Chairman

Fax: (202) 225-5127

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Date: January 11, 2002

- **Comments:**

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BERNARD SANDERS, VERMONT,
INDEPENDENT

January 3, 2002

The Honorable John Ashcroft
Attorney General
United States Department of Justice
Washington, D.C. 20530

Dear General Ashcroft:

I write in response to the December 19, 2001, letter from Assistant Attorney General Dan Bryant. I appreciate Mr. Bryant's effort to follow up on matters relating to the Committee's December 13, 2001, hearing. However, his letter did little to diminish the concerns that I and a number of the Committee's members have about the Justice Department's refusal to provide the Committee with access to subpoenaed records.

It appears that Mr. Bryant's letter was an attempt to explain the efforts the Justice Department has made to accommodate the Committee's interests. Mr. Bryant also stated that the Department "will be prepared to make a proposal as to how further to accommodate the Committee's needs as soon as you inform us in writing of the specific needs the Committee has for additional information." This is encouraging, but as I will explain, I have a number of concerns about your offer.

As you know, since Spring of 2001, this Committee has been negotiating with the Justice Department to obtain access to a number of Justice Department memoranda. In an effort to obtain access to those records, my staff and I have met with you, Deputy Attorney General Larry Thompson, White House Counsel Alberto Gonzales, Assistant Attorney General Michael Chertoff, Assistant Attorney General Dan Bryant, and a number of other Justice Department and White House staff. In the course of those discussions, my staff and I offered a number of compromises that would satisfy our needs as well as the Justice Department's interests. These offers were never even entertained by the Department. Indeed, before you even learned why the Committee was interested in reviewing the subpoenaed documents, you announced a blanket policy that Congress would never again have access to deliberative documents. While the statements you and Judge Gonzales made to me were modified by Mr. Horowitz during the December 13, 2001, hearing when he referred to a case-by-case analysis, it was quite clear that in no case would deliberative Justice Department documents be provided to Congress. Put simply, if you were prepared to advise the President to invoke executive privilege over the

Boston documents, there is little likelihood that you would ever permit Congress to receive deliberative memoranda.

Given the fact that you rebuffed any offers of compromise for the past eight months, you can see how I find the Department's current offers to accommodate the Committee curious. In fact, during a meeting with senior Justice Department and White House staff in September 2001, my staff noted that the Justice Department had never asked why the Committee was seeking the disputed deliberative memoranda. Your staff indicated that the Committee's articulation of its need was irrelevant to the Department's analysis. It appears that you continued to consider our need for the documents irrelevant, and even advised President Bush to claim executive privilege over the subpoenaed documents without a clear understanding of why the Committee needed them. I am unable to understand why you would do this, unless, of course, the needs of Congress are not relevant to your decisionmaking. I am surprised, and more than a little dismayed, that you would advise the President to claim executive privilege for the first time in his administration without even understanding why the Committee was seeking the records.

Given that you and your staff informed me earlier that the Justice Department was implementing a new blanket policy that Congress would no longer be provided with deliberative documents, I also find it strange that you are now asking for an articulation of the Committee's need for the Boston-related documents. If indeed there is a blanket policy in place, the Committee's needs for the documents are irrelevant to the Department. Of course, your prior articulation of a blanket policy was undermined at the December 13, 2001, hearing by Mr. Horowitz's representation that the Department conducted a case-by-case analysis of requests for deliberative documents. However, there is no indication that the Justice Department conducted any serious "case-by-case" analysis in this instance, as the Department did not even seek input from the Committee prior to recommending that the President invoke executive privilege. Therefore, you can understand why I might conclude that the Justice Department is not truly interested in the Committee's needs for the subpoenaed documents, and has asked for an articulation of the Committee's needs only to make it appear as if the Department was engaged in negotiations with the Committee.

At any rate, in the interest of continuing my efforts to work with the Justice Department – efforts which have been underway since Spring 2001 – I will provide you with a brief summary of the Committee's needs for the subpoenaed documents. It is my hope that once you fully understand the Committee's needs for the documents, you will advise the President to withdraw his claim of executive privilege. In a general sense, in order to understand whether the Justice Department served the ends of justice, Congress must understand in certain situations why prosecutorial decisions are made. This requires a review of documents for two reasons: first, Congress cannot rely on a verbal briefing because the briefing may leave out material, intentionally or unintentionally, that is germane to the needs of Congress; and second, Congress cannot rely on a verbal briefing because there are times when the person providing the briefing will have a less developed sense of factual predicates than the individuals receiving the briefing. More specifically, the Committee subpoenaed documents pertaining to Justice Department misconduct in handling of informants because it is concerned that: (1) the Justice Department, including the FBI, was using its powers in a corrupt manner, and that this abuse led to the imprisonment of Joseph Salvati for thirty years for a crime he did not commit, as well as a number of other equally horrific episodes, including murders; (2) Justice Department personnel may have covered up corrupt conduct over a course of many years; (3) until Judge Mark Wolf compelled the Justice Department to take this matter seriously, it did not appear eager to conduct, or capable of conducting, a review of its own past misdeeds; and (4) the fact that the Justice Department has constituted a task force to conduct a criminal investigation does not relieve Congress of its obligation to investigate the matter, and determine whether new legislation is needed to address the problems within the Justice Department.[1]

In his December 12, 2001, memorandum, President Bush stated that "I believe that congressional access to these documents would be contrary to the national interest[.]" It eludes me how it is in the national interest to cloak this dark chapter of the Justice Department's history in secrecy. Rather, I believe that once you understand the scope of Justice Department malfeasance in its handling of organized crime investigations in New England, it will become clear that Congress should receive access to these documents so that it can fully understand what mistakes were made, and enact appropriate remedies so that it never happens again.

With this in mind, I have a few observations about Mr. Bryant's letter. The letter makes it appear that some in the Department are more interested in a press strategy than serious negotiations with the Committee.

First, Mr. Bryant noted that "[w]e have not objected to the Committee's undertaking its own investigation[.]" It appears that Mr. Bryant made this statement to show how reasonable and accommodating the Department has been. However, it speaks volumes about the Justice Department's attitude regarding Congressional oversight that it believes that it has the right to "object" to the Committee undertaking an investigation. This is particularly puzzling when you will not permit Committee staff to speak with your task force supervisor. As you, of all people should know, Congress is an equal branch of government, with a power of inquiry the Supreme Court has described as "broad," and which "comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste." *Watkins v. United States*, 354 U.S. 178, 187 (1957). I am unaware of any objections raised by you when deliberative documents were sought during Senate investigations. Indeed, I can only speculate how you might have reacted if, when you served in the Senate, the Reno Justice Department had informed you or your former colleagues that it would not "object" to an oversight investigation of pressing national importance.

Second, Mr. Bryant wrote that the Department has provided "[m]ore than 3800 pages" in response to our request. In his hearing testimony on December 13, 2001, Criminal Division Chief of Staff Michael Horowitz also repeatedly invoked the number of pages provided to the Committee. The fixation of Justice Department staff on the number of pages provided in response to Committee requests is troubling. Of course, the Committee does not subpoena

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[1] A detailed explanation of why the Committee is seeking the specific documents under subpoena can be found on the Committee's website, where it has been posted since September 2001. See http://www.house.gov/reform/newindex/subpoena_items.htm. Further explanation of the Committee's needs for the documents will be made at public hearings.

documents by the pound, and the number of documents provided by the Justice Department is irrelevant. It is my hope that your prosecutors and investigators do not accept similar representations from defendants and their lawyers who may seek to withhold documents from the Justice Department during criminal investigations. The fact is that the Committee is seeking a small universe of deliberative Department documents, and you are refusing to provide them.

Mr. Bryant's characterizations of past efforts to accommodate the Committee are also misleading. He indicates that the Committee's need for the Conrad memorandum was accommodated by the Committee's interview of Attorney General Reno on October 5, 2000. Neither you nor Mr. Bryant were present for the interview with Attorney General Reno, so you may not understand how her interview was less-than-satisfying for the Committee.[2] The fact that your staff holds up the Reno interview as an example of the fulsome accommodation provided by the Justice Department shows why the Committee is skeptical of your offers.

Mr. Bryant or Mr. Horowitz could have assisted the Committee by following up on questions which were posed at the Committee's December 13, hearing, which were not answered. For example, Mr. Horowitz stated that he would inform the Committee "promptly" as to whether we would be receiving a privilege log for the records the Justice Department is withholding on the basis of privilege. Mr. Horowitz also informed Congressman Tierney that he would determine whether he could inform the Committee about who participated in the decision to advise President Bush to claim executive privilege in this matter. In addition, in a September 7, 2001, letter, I asked you a number of questions regarding the precedent for withholding this type of information from Congress. Those questions have not been answered. It is interesting that Mr. Bryant sent a four-page letter regarding the Department's efforts to accommodate the Committee without answering one single outstanding question from the Committee's hearing.

Unfortunately, Mr. Bryant's letter does little to further the process of accommodation. Rather, it distracts from the key issues. Therefore, let me list the key issues facing us over the coming months.

- The Committee is conducting an important investigation relating to serious allegations of wrongdoing in the FBI. This investigation is being negatively impacted by the Justice Department's new policy of secrecy regarding deliberative documents. It has also been negatively impacted by liberal redactions in key documents and an absolute refusal to even entertain a meeting to discuss sensitive matters involving informants. Both Department and Committee investigations have been made more complex by the refusal of the Justice

[2] Ms. Reno explained that she had refused to appoint a campaign fundraising special counsel because she had concluded that "there is no reasonable possibility that further investigation could develop evidence that would support the filing of charges for making a willful false statement." She provided virtually no information beyond that statement to explain why she rejected Robert Conrad's recommendation to appoint a special counsel. When asked why she was refusing to provide the Conrad memorandum, she stated that it was "part of a pending investigation." Yet, when she was squarely asked "are the issues raised in [Conrad's] memo still under investigation," Attorney General Reno answered "I can't tell you that." So, not only did Attorney General Reno fail to provide any explanation of her decisionmaking, she refused to even state whether the Conrad memo dealt with open or closed cases.

Department to allow Task Force Supervisor John Durham even to have a conversation with Committee lawyers.

- The new Justice Department policy would effectively eliminate real Congressional oversight of the Department. There are times when Congress should be permitted access to all of the facts, not just some of the facts. The Department's focus on the number of pages provided to the Committee belies a belief that it is appropriate for Congress to learn some facts, but not all of the facts. It is impossible for the Congress to investigate wrongdoing in the Justice Department without access to the types of documents sought by the Committee. Yet, rather than engage the Committee in an process of compromise and accommodation, you have created a blanket policy of secrecy that will forever bar Congress from receiving deliberative Justice Department memoranda, regardless of how serious the allegations of wrongdoing.

- The Justice Department has lowered this iron veil of secrecy at the very time that it has received broad new powers to combat terrorism. While I am supportive of the new powers granted to the Justice Department, I believe that they must be subject to careful review by Congress. The policy you have created will make such oversight virtually impossible.

- The President's claim of executive privilege is surprisingly broad in its scope. Moreover, it is not supported by relevant caselaw.

- As you saw at the Committee's December 13, 2001, hearing, this Committee is united across party lines in opposition to the Justice Department's new policy. Moreover, this Committee is not the only concerned party:

  "Dan Burton, a Republican and chairman of the Government Reform Committee, and Henry Waxman, its ranking Democrat, do not agree on much. But both men feel strongly, as do we, that Mr. Bush should defuse the present constitutional clash by withdrawing his unwarranted privilege claim." "Misusing Executive Privilege," *The New York Times*, December 15, 2001.

  "President Bush sought to hoodwink the House Government Reform Committee and the American public last week when he invoked executive privilege to thwart a congressional investigation of abuses in the Boston FBI office. . . . The President is forcing a constitutional confrontation with Congress. Republicans and Democrats should join in the defense of accountable and transparent government, whether on the floors of Congress or in America's courtrooms." "Blinded Justice," *The Boston Globe*, December 18, 2001.

  "In a range of recent situations, the White House has had a choice between opening government to scrutiny or keeping the public in the dark. In each instance – from an investigation of the mob to the release of presidential papers, to secret military tribunals and secretive detention for terror suspects – George W. Bush has opted for the dark. That's unhealthy for any democracy." "Too Many Secrets Being Kept in Bush White House," *Newsday*, December 18, 2001.

> "[T]he President said release of documents sought by the committee would 'inhibit the candor' prosecutors need in discussions about actual and prospective cases. It's a mystery why he thinks so. No previous President has sought to withhold such records . . . Protection of institutional prerogatives can trump party loyalty. Cooperation with the committee is not only the right thing to do, it may avoid an unwinnable fight." "Privilege Shouldn't Cover Up This Mess," *Boston Herald*, December 17, 2001.

Given these facts, the Committee has no alternative but to hold further public hearings regarding this matter. Our next hearing will focus on precedent, or the lack thereof, for the Department's new policy, and will be held on January 24, 2002 at 10:00 a.m. I request that Assistant Attorney General Dan Bryant testify at this hearing. Mr. Bryant will be asked to testify regarding all previous times that the Justice Department has made deliberative documents available to Congress. Mr. Bryant will also be asked to answer the questions originally posed in my letter to you of September 7, 2001.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: Members, Committee on Government Reform

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 19, 2001

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing to follow up regarding the Committee's subpoenas seeking prosecutorial decisonmaking memoranda in connection with the Committee's investigations of campaign finance matters, alleged false statements by an individual (Ernest Howard) in a separate investigation, and the FBI's handling of informants in Boston. The Department stands ready to work with the Committee to seek to accommodate the legitimate needs that the Committee may have for information regarding these matters.

The Department has a strong confidentiality interest in the extremely sensitive prosecutorial decisionmaking documents called for by the subpoenas. The Attorney General and other Department decisionmakers must have the benefit of candid and confidential advice and recommendations in making investigative and prosecutorial decisions. Consistent with the longstanding position of the executive branch with respect to these kinds of highly sensitive memoranda, the President has therefore asserted executive privilege with respect to the subpoenaed documents. At the same time, he has requested that the Department remain willing to work with the Committee to provide such information as the Department can, consistent with his instructions and without violating the constitutional doctrine of separation of powers.

Pursuant to longstanding executive branch policy, in responding to congressional requests for confidential information, the Department seeks in all cases to engage in an accommodation process in an effort to satisfy legitimate congressional needs while protecting executive branch confidentiality interests. The Department has already accommodated the Committee's information needs with respect to the prosecutorial memoranda relating to campaign finance and the Howard matter. We have provided briefings on the reasons for the decisions to decline prosecutions for Ernest Howard and Mark Middleton, which your August 30, 2001, letter indicated were very helpful. With regard to the Conrad collection of memoranda, on August 23, 2000, then Attorney General Reno publicly stated the reasons for her decision not to appoint a Special Counsel and, on October 5, 2000, you questioned her about that decision in an interview on the record. Prior to these explanations, the Department had provided the underlying factual records relating to each matter, to the extent permissible under the grand jury secrecy requirements of Rule 6(e) of the Federal Rules of Criminal Procedure. In the October 2000 meeting, some information also could not be provided because of its relevance to then pending investigations.

As to the Boston matter, we believe that the Department and the Committee can work together to provide the Committee additional information without compromising the principles maintained by the executive branch. We will be prepared to make a proposal as to how further to accommodate the Committee's needs as soon as you inform us in writing of the specific needs the Committee has for additional information. See United States v. American Tel. & Tel. Co., 567 F.2d 121, 127 (D.C. Cir. 1977); Senate Select Committee on Presidential Campaign Activities v. Nixon, 498 F.2d 725, 731 (D.C. Cir. 1974) (en banc).

The Department has been providing an extensive body of other materials to the Committee since April 27, 2001, when we provided approximately 1178 pages in response to your request of March 30, 2001 for documents about the murder of Mr. Edward Deegan, for which Mr. Joseph Salvati and six others were convicted. Since the crime was not prosecuted federally, the FBI does not have a discrete file on the subject. Hence, the responsive documents were found in other files and some information was redacted because it pertained to other matters outside the scope of the Committee's request. In August 2001, Committee counsel reviewed unredacted copies of these documents and some pages were re-processed to restore information that was responsive to your June 5 request for documents on other Boston matters. More than 3800 pages have been produced in response to that request and the FBI is still processing responsive documents regarding the FBI's handling of informants in Boston. We expect to provide documents regarding the FBI's Top Hoodlum Program this week and to produce additional documents after the Holiday recess.

The document production process for the Boston matters has thus been proceeding since March of this year. We note, moreover, that the Committee's March and June requests did not indicate any interest in the prosecutorial decision-making memoranda and the Committee did not even request them until it subpoenaed them on September 6. The Committee then immediately scheduled for September 13 a hearing regarding its demand for these documents. When that hearing was postponed due to the events of September 11, the Department was advised that the matter would be deferred until a later time. We first learned that the Committee was renewing the matter during the week following Thanksgiving when the hearing was re-scheduled for December 6. It was postponed to December 13 at the Department's request so that Assistant Attorney General Michael Chertoff could testify, but his obligations relating to the September 11 investigation made that appearance impossible and the Chairman refused the Attorney General's request that the hearing be postponed to the week of December 17.

The Department fully respects the Committee's interest in reviewing allegations of misconduct by government employees, and we have provided, and will continue to provide, investigative records, judicial filings, and other records responsive to your requests, consistent with the accommodation process. Of course, we cannot provide grand jury information covered by Rule 6(e), electronic surveillance information subject to Title III, or information that would identify confidential informants.

Finally, as the Committee is aware, the Department is fully committed to addressing corruption in the handling of informants by the FBI in Boston and has dedicated extensive resources to that purpose. In 1999, the Justice Task Force was established to investigate law enforcement corruption relating to Messrs. James Bulger and Stephen Flemmi. The Task Force has expanded the scope of the inquiry to include allegations that FBI agents and prosecutors allowed a witness to frame Mr. Salvati and others for the Deegan murder while permitting that witness to protect another individual, who was central to the murder conspiracy. It was the Task Force that located exculpatory documents, which led to the release of Peter Limone and the dismissal of charges against Mr. Salvati and Mr. Limone. The Task Force also has obtained the indictment of former FBI Special Agent John Connolly, which is expected to go to trial early in 2002. Additionally, the United States Attorney's Office in Boston obtained indictments against Messrs. Bulger and Flemmi in 1995 and in 2000, charging them with 19 and 10 murders, respectively. The ongoing work of the Task Force and the United States Attorney's Office is dedicated to investigating and prosecuting corruption by FBI agents and prosecutors relating to the handling of informants, as well as any underlying crimes that may have been committed by those individuals. As these efforts proceed, it will be important to ensure that they are based only on the evidence and the law, free from any political influence or coercion.

We have not objected to the Committee's undertaking its own investigation and we understand that Committee staff have conducted interviews and may have undertaken other investigative steps in Boston and elsewhere. We ask that the Committee provide us with information that it believes may be relevant to potential violations of federal criminal law. We understand the Committee's interest in not deferring its own inquiry while our criminal investigations continue, and we trust that the two can continue independently, as has often happened historically.

The Department looks forward to a continued dialogue with the Committee so we can accommodate your legitimate oversight needs for information in a manner that is consistent with our law enforcement responsibilities. We would like to resume such a constructive conversation as soon as possible.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

cc: The Honorable Henry Waxman
Ranking Minority Member

Members of Committee on Government Reform

Office of the Attorney General
Washington, D.C. 20530

December 10, 2001

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I am writing to request that you assert executive privilege with respect to memoranda from the Chief of the Campaign Financing Task Force to former Attorney General Janet Reno recommending that a Special Counsel be appointed to investigate a matter under review by the Task Force, memoranda written in response to those memoranda, and deliberative memoranda from other investigations containing advice and recommendations concerning whether or not particular criminal prosecutions should be brought. The Committee on Government Reform of the House of Representatives has issued subpoenas to me demanding these documents.

The Department has gone to great lengths, consistent with the constitutional and statutory obligations of the Executive Branch, to accommodate the Committee's needs concerning the prosecutorial decisions that are the subject of these documents. The Department has provided briefings that included explanations of the reasons for the decisions, and we are willing to provide further briefings. The Committee has been unsatisfied with these accommodations, however, and has pressed for access to the documents themselves.

I strongly believe that releasing or otherwise making these extremely sensitive prosecutorial decisionmaking documents available to Congress would compromise the ability of the Department of Justice to assist you in discharging your constitutional law enforcement responsibilities. The authority to investigate and prosecute criminal suspects is one of the core executive powers vested in the President by the Executive Power and Take Care Clauses of Article II of the Constitution. In order to assist the President in fulfilling his constitutional duty, the Attorney General and other Department decisionmakers must have the benefit of candid and confidential advice and recommendations in making investigative and prosecutorial decisions.

The need for confidentiality is particularly compelling in regard to the highly sensitive prosecutorial decision of whether to bring criminal charges. The Department's attorneys are asked to render unbiased, professional advice about the merits of potential criminal cases. The formal mechanism by which this process occurs is the preparation of prosecution and declination memoranda. In short, these documents review the strength of the evidence, substantive legal issues, policy considerations and overall likelihood of success if the case were to proceed. If these deliberative documents are subject to congressional scrutiny, we will face the grave danger that prosecutors will be chilled from providing the candid and independent analysis essential to the sound exercise of prosecutorial discretion and to the fairness and integrity of federal law enforcement. As the Supreme Court described its concern about a chilling effect: "Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process." United States v. Nixon, 418 U.S. 683, 705 (1974). The Court observed that "the importance of this confidentiality is too plain to require further discussion." Id.

Just as troubling, the prospect of congressional review might force prosecutors to err on the side of investigation or prosecution simply to avoid public second-guessing. This would undermine public and judicial confidence in our law enforcement processes. It is for all of these reasons that the Supreme Court has unanimously recognized the "valid need for protection of communications between high Government officials and those who advise and assist them in the performance of their manifold duties." Id.

Disclosure of declination memoranda would also implicate significant individual privacy interests. Such documents discuss the possibility of bringing charges against individuals who are investigated but not prosecuted, and often contain unflattering personal information as well as assessments of witness credibility and legal positions. The disclosure of the contents of these documents could be devastating to the individuals they discuss.

The Department respects and cooperates with the legitimate exercise of Congress's oversight authority. Congressional committees need to gather information about how statutes are applied and funds are spent so that they can assess whether additional legislation is necessary. We have significant concerns, however, about oversight requests for prosecution and declination memoranda. The nexus between such inquiries and the purpose of oversight is questionable, and this kind of demand threatens to politicize the criminal justice process. Legislative branch pressure on prosecutorial decisionmaking is inconsistent with the separation of powers and thereby threatens individual liberty.

The memoranda to former Attorney General Reno and the prosecutorial decisionmaking documents addressed to other Department officials clearly fall within the scope of executive privilege. The Constitution clearly gives the President the power to protect the confidentiality of executive branch deliberations. Under controlling case law, a congressional committee is required to demonstrate that the information sought is "demonstrably critical to the responsible fulfillment of the Committee's functions." Senate Select Committee on Presidential Campaign Activities v. Nixon, 498 F.2d 725, 731 (D.C. Cir. 1974) (en banc). And those functions must be in furtherance of legitimate legislative responsibilities of Congress. See McGrain v. Daugherty, 273 U.S. 135, 160 (1927) (Congress has oversight authority to enable it efficiently to exercise a legislative function belonging to it under the Constitution").

We believe that the Committee has failed to provide a sufficient reason to disclose these sensitive prosecutorial documents. Congress cannot justify a demand for a decisionmaking document based on its disagreement with a prosecutorial decision. See Memorandum for the Attorney General from Charles J. Cooper, Assistant Attorney General, Office of Legal Counsel, Re: Response to Congressional Requests for Information Regarding Decisions Made Under the Independent Counsel Act, 10 Op. O.L.C. 68 (1986). In any event, even if the Committee has a legitimate oversight interest in these documents, its oversight needs cannot outweigh the Executive Branch's interest in the confidentiality of prosecutorial decisionmaking and our concerns about congressional influence on such decisionmaking in individual cases. I do not believe that access to these prosecutorial decisionmaking documents are "demonstrably critical to the responsible fulfillment of the Committee's functions." Senate Select Committee, 498 F.2d at 731.

It is my legal judgment that executive privilege may properly be asserted in these circumstances. I request and advise that you do so.

Sincerely,

John Ashcroft

John Ashcroft
Attorney General

DOCUMENTS SUBJECT TO EXECUTIVE PRIVILEGE CLAIM

1. Memorandum to James K. Robinson, Assistant Attorney General, Criminal Division, Michael Horowitz, Chief of Staff, Criminal Division, and Alan Gershel, Deputy Assistant Attorney General, Criminal Division, from Robert J. Conrad, Jr., Chief, Campaign Financing Task Force, Re: Investigative Plan and Recommendation to Appoint a Special Counsel, May 1, 2000.

2. Memorandum to Alan Gershel, Deputy Assistant Attorney General, Criminal Division, Michael Horowitz, Chief of Staff, Criminal Division, and Robert J. Conrad, Jr., Chief, Campaign Financing Task Force, from James K. Robinson, Assistant Attorney General, Criminal Division, Re: Investigative Plan and Recommendation to Appoint a Special Counsel, May 12, 2000.

3. Memorandum to James K. Robinson, Assistant Attorney General, Criminal Division, Alan Gershel, Deputy Assistant Attorney General, Criminal Division, and Michael Horowitz, Chief of Staff, Criminal Division, from Robert J. Conrad, Jr., Chief, Campaign Financing Task Force, Re: Investigative Plan and Recommendation to Appoint a Special Counsel, May 18, 2000.

4. Memorandum to James K. Robinson, Assistant Attorney General, Criminal Division, from Alan Gershel, Deputy Assistant Attorney General, Criminal Division, Re: Investigative Plan, June 20, 2000.

5. Memorandum to the Attorney General from Robert J. Conrad, Jr., Chief, Campaign Financing Task Force, Re: Recommendation to Appoint a Special Counsel, July 11, 2000.

6. Memorandum to James K. Robinson, Assistant Attorney General, Criminal Division, from Lee J. Radek, Chief, Public Integrity Section, Criminal Division, Re: Evaluation of Recommendation by Robert Conrad to Appoint a Special Counsel, July 18, 2000.

7. Memorandum to the Attorney General from James K. Robinson, Assistant Attorney General, Criminal Division, Re: Whether to Appoint a Special Counsel, July 28, 2000.

8. Memorandum to the Attorney General from Louis J. Freeh, Director, Federal Bureau of Investigation, Re: Whether to Appoint a Special Counsel, July 28, 2000.

9. Memorandum to Lee J. Radek, Chief, Public Integrity Section, Criminal Division, from Trial Attorney, Public Integrity Section, Criminal Division, Re: Whether to Prosecute Ernest Howard, Special Agent in Charge of Houston Field Division of the Drug Enforcement Administration, March 6, 2001.

10. Federal Bureau of Investigation Memorandum submitted to Robert J. Conrad, Jr., Chief, Campaign Financing Task Force, Re: Whether to Prosecute Mark E. Middleton, Special Assistant to the White House Chief of Staff, August 22, 2000.

11. Memorandum to David Margolis, Chief, Organized Crime and Racketeering Section, Criminal Division, from Diane M. Kottmyer, Chief, Organized Crime Strike Force Division of the United States Attorney's Office for the District of Massachusetts, Re: Whether to Prosecute Eight Named Individuals, March 7, 1990.

12. Memorandum to David Margolis, Chief, Organized Crime and Racketeering Section, Criminal Division, from Diane M. Kottmyer, Chief, Organized Crime Strike Force Division of the United States Attorney's Office for the District of Massachusetts, Re: Whether to Prosecute Seven Named Individuals, September 18, 1989.

13. Memorandum to David Margolis, Chief, Organized Crime and Racketeering Section, Criminal Division, from Jeremiah T. O'Sullivan, Chief Attorney, Organized Crime Strike Force Division of the United States Attorney's Office for the District of Massachusetts, Re: Whether to Prosecute the First National Bank of Boston, January 8, 1985.

14. Memorandum to David Margolis, Chief, Organized Crime and Racketeering Section, Criminal Division, from Jeremiah T. O'Sullivan, Chief Attorney, Organized Crime Strike Force Division of the United States Attorney's Office for the District of Massachusetts, Re: Whether to Prosecute the First National Bank of Boston, December 20, 1984.

15. Memorandum to Marvin Loewy, Deputy Chief, Organized Crime and Racketeering Section, Criminal Division, from Jeremiah T. O'Sullivan, Chief Attorney, Organized Crime Strike Force Division of the United States Attorney's Office for the District of Massachusetts, Re: Whether to Prosecute the First National Bank of Boston and One Named Individual, December 11, 1984.

16. Memorandum to David Margolis, Chief, Organized Crime and Racketeering Section, Criminal Division, from Jeremiah T. O'Sullivan, Chief Attorney, Organized Crime Strike Force Division of the United States Attorney's Office for the District of Massachusetts, Re: Whether to Prosecute Seven Named Individuals, August 25, 1983.

17. Memorandum to Gerald T. McGuire, Deputy Chief, Organized Crime and Racketeering Section, Criminal Division, from Gerald E. McDowell, Attorney in Charge, Organized Crime Strike Force Division of the United States Attorney's Office for the District of Massachusetts, Re: Whether to Prosecute Twenty-One Named Individuals, January 29, 1979.

18. Memorandum to Thomas Kennelly, Deputy Chief, Organized Crime and Racketeering Section, Criminal Division, from Gerald E. McDowell, Attorney in Charge, Organized Crime Strike Force Division of the United States Attorney's Office for the District of Massachusetts, Re: Whether to Prosecute Seven Named Individuals, August 11, 1969.

19. Memorandum to Henry Peterson, Chief, Organized Crime and Racketeering Section, Criminal Division, from Walter T. Barnes, United States Attorney, District of Massachusetts, Re: Whether to Prosecute Three Named Individuals, June 6, 1967.

20. Memorandum to William G. Hundley, Chief, Organized Crime and Racketeering Section, Criminal Division, from Walter T. Barnes, United States Attorney, District of Massachusetts, Re: Whether to Prosecute One Named Individual, December 2, 1965.