Before and After the Wheeler Murder

Protection, Obstruction, and the Search for Accountability

By Codex (Cody) | Prepared for David Wheeler

Federal protection of violent informants belongs in a before-and-after account of Roger Wheeler's murder. The record supports examining how protection operated before the killing, how the investigation was impeded afterward, and why the search for accountability remained difficult. Those connections must be stated with care: institutional findings, witness accounts, and unproven causal questions are different forms of evidence.

Before the murder: protection was already in place

The House Committee on Government Reform's 2004 report, *Everything Secret Degenerates*, concluded that federal law-enforcement officials used known killers as informants, protected them from the consequences of their crimes, and deliberately kept them free. This was a congressional institutional conclusion about the use of murderous informants in New England, not a verdict resolving every individual allegation in the Wheeler case. [1]

James "Whitey" Bulger and Stephen Flemmi had served as FBI informants before May 27, 1981. Protection did not begin as a response to Wheeler's murder. In *United States v. Salemme*, Judge Mark Wolf described FBI agents John Morris and John Connolly asking prosecutor Jeremiah O'Sullivan to omit Bulger and Flemmi from the 1979 race-fixing indictment because of their value as informants. The court found that this value outweighed prosecuting them in the officials' decision. [2]

That record gives a concrete basis for asking: Would Bulger and Flemmi have been in a position to participate in the conspiracy against Wheeler if ordinary law-enforcement processes had been allowed to operate against them beforehand?

The question is serious, but the Wheeler-specific counterfactual is not established by these findings. Evidence that officials protected criminals does not, by itself, prove that a particular earlier prosecution would have prevented this murder.

The Wheeler-specific allegation against Rico

The congressional report records that, in May 2002, John Martorano told a federal jury that former FBI agent H. Paul Rico supplied information about Wheeler's habits that helped Martorano plan the murder. Rico was then a World Jai Alai executive. The report recounts the testimony and cites contemporaneous news reporting; it is not itself the trial transcript. [1, p. 91, nn. 605-607]

Martorano separately described receiving Wheeler's physical description from Rico and having an update about Wheeler's golf tee time in a January 6, 2008 CBS *60 Minutes* interview. A transcript is hosted by DOJ among government exhibits in *United States v. Catherine Greig*. That is an interview account contained in an exhibit, not an independent DOJ finding that the account was true. [3]

The accurate formulation is therefore: **Martorano testified that Rico supplied information used in planning Wheeler's murder.** The report also acknowledged that evidence relating to then-ongoing law-enforcement efforts, including Rico's arrest, had not been available to the Committee. Its account should not be converted into an adjudication of Rico's guilt. [1, Executive Summary; p. 91]

Two pre-murder issues must remain separate. **Protection:** Did federal intervention leave dangerous criminals free and powerful enough to arrange the murder? **Assistance:** Did information supplied by a former FBI agent facilitate its planning? The first rests on documented protection plus a causal question; the second requires precise attribution to the witness evidence.

After the murder: an investigation impeded

The Committee reported that Tulsa investigator Michael "Mike" Huff identified Rico and Connolly as Winter Hill Gang associates in his August 1982 report. It then stated: [1, p. 91]

> "*Without cooperation from the FBI, the Wheeler murder investigation sputtered until 1995.*"

This is the Committee's characterization, grounded in its cited record, rather than merely the Wheeler family's description. It provides substantial documentary support for saying that FBI noncooperation impeded the investigation. It does not establish that every federal official participated or that every investigative delay had the same cause.

Halloran: a potential path to evidence lost

In early 1982, Edward Brian Halloran gave the FBI information implicating Bulger, Flemmi, John Callahan, and Martorano in Wheeler's murder. The First Circuit's account in *Donahue v. United States* describes Morris passing information about Halloran's cooperation to Connolly, who passed it to Bulger and Flemmi. Halloran and Michael Donahue were killed on May 11, 1982. [4; see also 2, pp. 208-213]

Halloran was therefore a potential source of evidence in the Wheeler investigation. The leak and his subsequent killing connect the protection of suspects to the destruction of a possible route to solving the murder. That does not require treating every detail of Halloran's account as independently verified. The cited appellate decision concerned the timeliness of the families' civil claims; it reversed their judgments on that ground while condemning the FBI's conduct. Its factual history and its legal disposition must both be preserved. [4]

The information problem continued for years

In 2001, Judge Wolf described FBI documents recording Halloran's accusation that Bulger and Flemmi were responsible for Wheeler's murder. Despite production orders beginning in 1997, the documents were not disclosed in time for Rico and Morris to be questioned about them. They emerged only after repeated judicial inquiries. This is a judicial account of a concrete disclosure failure, not simply an inference from the passage of time. [5, pp. 249-250 & n. 39]

The resulting sequence is consequential: protection before May 1981; Wheeler's murder on May 27; Halloran's cooperation, its disclosure to the suspects, and his killing in 1982; FBI noncooperation encountered by Huff; and delayed production of relevant records years later. The events differ in evidentiary status, but together they explain why protection must be examined at more than one stage. [1, 2, 4, 5]

What the record supports

Protection could enable harm before a murder and impede justice afterward. For Wheeler, the record supports documented protection before the killing, witness testimony alleging assistance in its planning, and specific findings and accounts of interference afterward. It does not establish every link as one proven causal chain.

Later accountability also matters. DOJ reported that the jury in Bulger's 2013 federal prosecution found his role in the Wheeler, Halloran, Donahue, and Callahan murders proved among the racketeering acts. That outcome does not by itself establish Rico's alleged role or resolve the counterfactual about earlier intervention. The strongest account preserves what was found, what was testified to, and what remains a causal question. [6]

References and evidentiary context

Bracketed numbers identify the sources below. Page references are printed report or reporter pages unless otherwise noted. Titles link to the source; identifying citations remain usable in print.

[1] U.S. House of Representatives, Committee on Government Reform. *Everything Secret Degenerates: The FBI's Use of Murderers as Informants.* H.R. Rep. No. 108-414, vol. 1, 108th Cong., 2d sess. (Feb. 3, 2004).
See Executive Summary; pp. 58-59 (race-fixing); and pp. 89-92, especially p. 91, nn. 599-609 (Huff, noncooperation, and Martorano's account concerning Rico). The report's notes 605 and 607 cite J. M. Lawrence, *Boston Herald*, May 14, 2002, p. 1, and Edmund H. Mahony, *Hartford Courant*, Dec. 6, 2002, p. A14. Those articles are identified here as sources cited by the Committee, not as independently reviewed trial records.

[2] *United States v. Salemme*, 91 F. Supp. 2d 141 (D. Mass. 1999).
See pp. 199-201 (race-fixing prosecution) and 208-213 (Wheeler, Halloran, and Callahan). Reversed in part on other grounds, *United States v. Flemmi*, 225 F.3d 78 (1st Cir. 2000). Citations here concern the district court's factual account, not a claim that all its legal rulings survived appeal.

[3] CBS News, *60 Minutes*, "The Executioner: John Martorano, chief executioner of Boston's Winter Hill Gang" (Jan. 6, 2008), transcript p. 4.
Reproduced in DOJ's *U.S. v. Catherine Greig - Government's Exhibits Per Court Order - Exhibit 41-50*. The Wheeler description and golf-schedule account is Martorano's interview statement, with narration by Steve Kroft; government hosting does not independently validate it.

[4] *Donahue v. United States*, 634 F.3d 615 (1st Cir. 2011).
See majority opinion, Background and timeliness analysis, including the discussion of Morris's testimony at slip-opinion pp. 25-27. The majority held the civil claims untimely. Distinguish its reasoning from Judge Lipez's dissent. See also *McIntyre v. United States*, 367 F.3d 38, 58 (1st Cir. 2004), discussing Morris's testimony about the leak.

[5] *United States v. Flemmi*, 195 F. Supp. 2d 243, 249-250 & n. 39 (D. Mass. 2001).
Memorandum and Order, Aug. 30, 2001; edited remarks from the Aug. 21 sentencing. Judge Wolf's account of delayed Halloran/Wheeler document production and lost opportunities to question Rico and Morris.

[6] U.S. Attorney's Office, District of Massachusetts. "Bulger Sentenced to Two Life Terms" (Nov. 14, 2013).
DOJ summary of the Aug. 12, 2013 jury verdict and subsequent sentence. Included as a later accountability update; the verdict described concerns Bulger, not Rico.

Authored by Codex (Cody) for David Wheeler from the referenced "Protection Before Murder" discussion. Edited into a standalone analysis, with source attribution checked against the records identified above.