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Tuesday, February 1, 2005 (minor typographical corrections to version of Jan. 27, 2005)

[Due to uncertainty concerning delivery on 1/28/2005, this letter is being retransmitted.]

Charles J. Hynes, District Attorney
Kings County
Renaissance Plaza
350 Jay Street
Brooklyn, NY 11201

Copy to: Attorney General Eliot Spitzer
120 Broadway
New York, NY 10271

**Re: Referral for Prosecution — Homicide of Nicholas P. Grancio
(Brooklyn, January 7, 1992)**

Dear District Attorney Hynes:

In the course of several tangentially-related inquiries, initially undertaken in my capacity as a consultant to a major national law firm, I discovered evidence of serious mal-, mis- and nonfeasance within the system of federal criminal justice, especially the Federal Bureau of Investigation but also involving offices of several U.S. Attorneys and of the U.S. Department of Justice itself.¹

A particularly egregious instance involved a joint federal-state-local organized-crime task force and eventuated, inter alia, in the Brooklyn murder, on January 7, 1992, of Nicholas P. Grancio. Because cognizant federal authorities have failed (indeed, refused) to respond, either to this crime or to the situation from which it resulted, and because the matter is clearly within the jurisdiction of your office, I hereby refer this homicide to you for investigation and prosecution.

The following provides the basic facts of the Grancio homicide.

¹ Similar findings have been made by members and committees of Congress, including the Committees on Government Reform (House) and the Judiciary (House and Senate). Hearings of the House Government Reform Committee brought to light astonishing corruption within the Boston office of the FBI which led to the lengthy imprisonment of entirely innocent persons. At least two agents of the FBI have been prosecuted, one of whom was convicted while the other, facing state homicide charges, died while being held for trial. While the Boston situation was initially viewed as an aberration, subsequently-developed evidence renders unsustainable this optimistic view. As reflected in the recent decision of the House Committee on the Judiciary to undertake a comprehensive inquiry into abuses in the FBI's practices involving informants, the problems are systemic, not idiosyncratic.

Members and senior staff of the cognizant congressional committees have expressed particular concern for the apparent failure of established systems of accountability and correction, notably offices of professional responsibility and inspectors general. However, they have also noted the failure of the decentralized system of criminal justice, involving federal, state and local prosecutors and courts, to provide corrective oversight.

The quiescence of state and local criminal-justice agencies is of particular concern in light of the proliferation of linkages between federal and state-local law enforcement. As federal, state and local agencies have become progressively more intertwined, control has generally been seized by participating federal agencies, notably the FBI. As a result, systemic problems at the federal level malignantly metastasize within the related state and local agencies.

However, a congressman (and former local prosecutor) has observed that state-local quiescence may be explained not, primarily, by inappropriate deference to federal authority but by a lack of information. Hence the present referral.

Victim:

Name: **NICHOLAS P. GRANCIO** (aka “Nicky Black”)
Date of Birth: 29 Mar 1927
Date (Time) of Death: 07 Jan 1992 (mid-afternoon)
Social Security Number:
Residence: St, Brooklyn, NY ²
Place of Death (approx.): McDonald Avenue and Avenue U, Brooklyn, New York
Manner of Death: Sitting in his vehicle, victim was hit with gunfire from passing van.

Perpetrators:

Name: **GREGORY SCARPA, SR.** (aka “The Grim Reaper”)³
Date of Birth: 08 May 1928
Date (Place) of Death: 08 or 15 Jun 1994⁴ (U.S. Bureau of Prisons, Rochester, MN)
Social Security No.: 133-18-1716
Bur. of Prisons Inmate No.: 30880-053
Residence (1/1992): Brooklyn, NY
Role in Grancio Murder: Decided that Grancio would be murdered, cruised Brooklyn with two subordinates (LAWRENCE MAZZA and JAMES DELMASTO) looking for members of the “Orena faction” of the Colombo family, located Grancio (a member of the “Orena faction”) but observed surveillance by organized-crime-task-force team, made phone call to “Delo” or “the girlfriend” demanding removal of the surveillance team, fired gun-shot from van, killing Grancio, shortly after surveillance team had been withdrawn.

Name: **ROY LINDLEY DEVECCHIO** (aka “Lin,” “Delo,” “the girlfriend”)
Date of Birth: 18 Apr 1940
Driver's License No.: D120-732-40-138-0 (Florida)
Poss. Current Residences: 8328 Canary Palm Ct, Sarasota, FL 34238-3360
5590 Swift Rd, Sarasota, FL 34231-6210, (941)925-1448
Prior Residence (1/1992): 444 Prospect Ave, Dumont. NJ 07628-1404 (1/1983 - 7/2004)
Role in Grancio Murder: As FBI Supervisory Special Agent in charge of an organized-crime task force, at the telephoned demand of Scarpa, Sr., ordered the withdrawal of the task-force surveillance team observing Grancio immediately prior to killing.

2 Mr. Grancio’s widow, Mrs. M. Grancio, continues to reside at this address. Mrs. Grancio knew virtually nothing of the circumstances of her husband’s death until informed by the present author in late 2004.

3 Scarpa, Sr., functioned as an informant to the FBI from the late 1950s or early 1960s. Commencing in the late 1970s or early 1980s Scarpa, Sr., was classified as a Top Echelon Informant [TEI], and FBI Supervisory Special Agent R. Lindley DeVecchio served as his sole contact (“handler”) within the FBI.

4 These are dates reported, respectively, by the U.S. Bureau of Prisons and the Social Security Death Index.

Other Participant-Witnesses:

Name: **LAWRENCE MAZZA** (aka “Larry”)
Approx. Age: 45
Current Residence: Cocoa Beach, FL, vicinity
Telephone:
Current Employer:
Role in Grancio Murder: Senior subordinate of Scarpa, Sr., accompanied Scarpa, Sr., on 1/7/92 search for “Orena faction” members, was a passenger in van when Scarpa, Sr., fired gunshot killing Grancio.⁵ [Mazza has given conflicting accounts of the Grancio murder. In a May 30, 2003, interview with the present author, Mazza described Scarpa, Sr., as being outraged when he observed that Grancio was under police surveillance, that he then borrowed a cell phone to call “Delo” or “the girlfriend” to demand the removal of the surveillance team, and that, on withdrawal of the surveillance team, Scarpa, Sr., killed Grancio; however, Mazza explicitly stated that, because he feared government retribution, he would testify truthfully only before a televised congressional hearing and with a grant of immunity.⁶ In subsequent federal court testimony (given via a video link from an FBI office in Orlando, Florida) Mazza denied this account and claimed not to recall police surveillance or telephone calls made by Scarpa, Sr., immediately prior to the Grancio killing.⁷]

Name: **JAMES DELMASTO** (aka, “Jimmy,” “Larry’s Jimmy”)
Approx. Age: 40-45
Role in Grancio Murder: A member of the Scarpa, Sr., “crew,” drove the van from which Scarpa, Sr., fired the gunshot which killed Grancio.

5 It is my understanding that, in exchange for his testimony in various organized-crime cases, the U.S. Attorney for the Eastern District of New York resolved possible criminal charges against Mazza by plea bargain and a grant of immunity. Mazza served a federal prison sentence of approximately ten years and remains, I believe, on supervised release.

6 This interview is memorialized in a letter of June 27, 2003, from Stephen P. Dresch to Keith Ausbrook, general counsel, House Committee on Government Reform [“Dept. of Justice/FBI Use of Informants (Caproni, DeVecchio, Scarpa, Sr., et al.)”] (attached).

7 Mazza’s testimony and the present author’s conflicting testimony are provided in the transcript of “Hearing on motion to vacate judgment pursuant to Rule 60(b),” PASQUALE AMATO and VICTOR ORENA, Petitioners, against UNITED STATES OF AMERICA, Respondent, CV-96-1461 and CV-96-1474, Hon. Jack B. Weinstein, United States District Court (Eastern District of New York), January 7, 2004.

Other Witnesses:

Name: **JOSEPH TOLINO** (aka "Joey")
Anticipated Testimony: Nephew of the victim, was in conversation with Grancio (from sidewalk) when Scarpa, Sr., fired the fatal gunshot. [In an interview with NYPD Det. Sgt. Joseph Simone later on 1/7/92, Tolino noted that he, Grancio et al. had been aware of the police surveillance, asked why the surveillance had been withdrawn, and noted that Grancio's killing came shortly after the termination of the surveillance. It is likely that Tolino identified one or more of the occupants of the Scarpa, Sr., van.]

Name: **JOSEPH SIMONE**
Address: Ave., Staten Island,, NY
Telephone:
Position (1/7/92): Detective Sergeant, OCID, NYPD
Anticipated Testimony: A member of the organized-crime-task-force surveillance team, observed Grancio prior to his murder, received "unusual" radio message from FBI SA Christopher Favo ordering surveillance team to return to Federal Plaza. Subsequent to Grancio murder conducted interviews with witnesses and others (e.g., Tolino).⁸

Name: **CHRISTOPHER FAVO**
Position (1/7/92): FBI Special Agent. Subordinate to DeVecchio, "case agent" (administrator) for organized-crime task-force targeted on Colombo family. [Favo continues to serve as an FBI SA but is no longer assigned to New York.]
Role in Grancio Case: Communicated by radio with task-force team conducting Grancio surveillance, ordered team's return to Federal Plaza, ostensibly for a "meeting." [It is believed that Favo can confirm that withdrawal of the surveillance team was ordered by DeVecchio, and it is possible that he was aware of the telephone call received by DeVecchio from Scarpa, Sr., demanding termination of the Grancio surveillance, since he was aware of other similar telephone conversations between DeVecchio and Scarpa, Sr..⁹]


8 Simone's testimony is provided in the transcript of "Hearing on motion to vacate judgment pursuant to Rule 60(b)," PASQUALE AMATO and VICTOR ORENA, Petitioners, against UNITED STATES OF AMERICA, Respondent, CV-96-1461 and CV-96-1474, Hon. Jack B. Weinstein, United States District Court (Eastern District of New York), January 7, 2004. Details of Simone's actions are corroborated by Daily Activity Reports [DARs] which he completed contemporaneously, copies of which he has retained.

9 In an affidavit filed prior to "Hearing on motion to vacate judgment pursuant to Rule 60(b)," PASQUALE AMATO and VICTOR ORENA, Petitioners, against UNITED STATES OF AMERICA, Respondent, CV-96-1461 and CV-96-1474, Hon. Jack B. Weinstein, United States District Court (Eastern District of New York), January 7, 2004, Favo denied that surveillance was routinely conducted in the period of 1/7/1992 and contradicted surveillance details which are confirmed by Simone, with corroboration from his contemporaneous DARs, suggesting that Favo's testimony may be less than forthcoming, complete and truthful.

Name: **GREGORY SCARPA, JR.**
Age (current): 53 (born 1951 or 1952)
Residence (current): Florence ADMAX (U.S. Prison), Florence, Colorado
Bur. of Prisons Inmate No.: 10099-050
Anticipated Testimony: Provides details of the long-standing criminal relationship between Scarpa, Sr., and DeVecchio.¹⁰

I am prepared to assist your office in any appropriate manner in pursuing the investigation of the Grancio homicide and the prosecution of responsible parties, anticipated to include FBI Supervisory Special Agent R. Lindley DeVecchio (retired).¹¹

Sincerely,



Stephen P. Dresch, Ph.D.

¹⁰ Many aspects of the relationship between Scarpa, Sr., and DeVecchio are recounted in testimony by Scarpa, Jr., as presented in the transcript of "Hearing on motion to vacate judgment pursuant to Rule 60(b)," PASQUALE AMATO and VICTOR ORENA, Petitioners, against UNITED STATES OF AMERICA, Respondent, CV-96-1461 and CV-96-1474, Hon. Jack B. Weinstein, United States District Court (Eastern District of New York), January 7, 2004.

¹¹ DeVecchio's retirement was claimed to justify the abrupt and premature termination of an investigation by the FBI's Office of Professional Responsibility, an investigation which had previously been impeded by EDNY AUSA (now FBI General Counsel) Valerie Caproni, who refused to permit OPR investigators to interview informants who were slated to testify in forthcoming trials. Unfortunately, a principal witness to the conduct (and termination) of the OPR investigation and to the DeVecchio-Scarpa, Sr., relationship more generally, DeVecchio's FBI superior, Donald North, died suddenly and unexpectedly on January 23, 2005.