

RICO

How Politicians, Prosecutors and the Mob Destroyed
One of the FBI's
Finest Special Agents

by

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with Jerry Seper



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Dramatis Personae

Joseph “The Animal” Barboza: A feared serial murderer considered by his colleagues to be crazy, but who has the greatest potential to provide information to the FBI about Raymond L.S. Patriarca Sr., leader of the New England La Cosa Nostra crime family. Reputed to have killed more than 23 people, he later became a top FBI informant.

James J. “Whitey” Bulger Jr: The clever, ruthless and murderous leader of the Winter Hill Gang in South Boston, who fled to avoid a pending indictment in 1994 and remained an FBI “Top Ten Most Wanted” fugitive until his June 2011 capture in Santa Monica, Calif. He is a loan shark, robber, extortionist and serial murderer. His brother, William “Billy” Bulger, was the former leader of the Massachusetts Senate. Whitey Bulger was recruited as an informant by his boyhood neighbor, FBI Agent John J. Connolly, Jr.

John B. Callahan: Brilliant certified public accountant who attended Yale University and was a former Arthur Anderson and Co. partner, he liked “hanging out” with mobsters. A muscle builder and Olympic weightlifter, Callahan was regarded as a financial genius and he served as president of World Jai Alai Inc. until he apparently lost interest and his performance deteriorated. When he was discovered to have mob associates, he was forced to resign. He was the victim of a mob hit, his body left in the trunk of a car at Miami International Airport.

Dennis M. Condon: An FBI agent regarded by his fellow agents as incorruptible and as a person of the highest integrity. He was a partner with FBI Agent H. Paul Rico on several big cases. After retirement from the FBI, he served as head of the Massachusetts State Police and Secretary for Public Safety. He was described by his then-boss, Massachusetts Gov. Michael Dukakis, “as fine a public servant” as he had ever known.

John J. Connolly Jr: FBI agent assigned to the Boston field office from 1973 until he retired in 1990. He operated Bulger and other top mobsters as informants. Later corrupted by his informants, his case set off a firestorm of negative news coverage and speculation about widespread corruption in the FBI’s Boston office. Convicted in 2002 on charges of racketeering and obstruction of justice, he was sentenced to 10 years in prison.

Stephen “The Rifleman” Flemmi: The co-leader of the Winter Hill Gang in Boston who murdered over 20 people and was described by several who observed him in court to “reek evil.”

Invited to join La Cosa Nostra, he declined and retained his independence in the Winter Hill Gang. He worked as an informant for Rico until he was indicted for a car bombing, for which he was acquitted. He later became an informant for Connolly. He pleaded guilty in 1981 in the murder of Tulsa, Okla., businessman Roger Wheeler.

District Attorney Timothy Harris: The prosecutor in the Wheeler murder case, who signed off on charges against Rico after first demanding more evidence from investigators. He opposed a request by attorneys for the seriously ill Rico to be moved from jail to a hospital. Rico died in custody, still shackled to his gurney.

Sgt. Mike Huff: The Tulsa Police Department detective who arrived first at the scene of the Wheeler murder at an exclusive golf club. He stayed with the case for more than 20 years. Although liked by many of his fellow officers, Huff appeared to be naive and to believe many of the uncorroborated allegations he was told regarding the Wheeler killing. When testifying in Congress, he blamed the breakup of his marriage on his involvement in the Wheeler case.

John V. Martorano: A murderous thug known to his colleagues as “The Executioner.” He provided muscle for the Winter Hill Gang and murdered over 20 people. He was the killer of both Wheeler and Callahan. He also was one of the accusers of Rico in the Wheeler murder conspiracy. In return for confessing his murders, he received a reduced prison sentence of 14 years. In 2007, he was released from prison and given \$20,000 to start a new life.

Austin McGuigan: Connecticut lawyer who served as the Connecticut Chief State’s Attorney. He was described by his colleagues in law enforcement as a “barracuda for publicity.” For 30 years, he had been cited as an expert on organized crime’s penetration of gambling. In spite of never convicting or even charging anyone at World Jai Alai Inc. with any crime relating to the gambling business, he repeatedly provides quotes to newspapers about the penetration of the business by “organized crime.”

H. Paul Rico: A legendary FBI agent assigned to the Boston field office in the 1950s and 1960s. He was eccentric and Runyonesque in his manner and appearance and had a talent for persuading people, including hardened criminals, to provide information. He may be the most successful FBI agent of his time. In the 1960s, his informants and cooperating witnesses devastated the leadership of the New England Mafia. Following his retirement from the FBI, he became head of security and then general manager at World Jai Alai Inc.

Roger Wheeler: The chairman and chief executive officer at Telex Inc. A multimillionaire businessman regarded as hard-driven and tough with a reputation for being difficult, he was the classic entrepreneur—tenacious and aggressive—who drove himself and others to the limit. Even

though he was religious and opposed legalized gambling, even saying once he would vote against it if it came up in an election, he explored other gambling opportunities and he bought World Jai Alai Inc. with financing arranged by Callahan. He was killed by Martorano in Tulsa in 1981.

Fred Wyshak: An assistant U.S. attorney assigned to Boston who relentlessly pursued cases against Rico and Connolly. He was regarded as zealous, driven and a competent prosecutor, who often was overbearing, obnoxious and insulting for no apparent purpose. He and his top assistant, Brian T. Kelly, were characterized in the courtroom by Boston Magazine as “Batman and Robin”—the physically imposing Wyshak considered by many who worked with him as a prickly and brash Batman.

Chapter 1: The Murder

Wednesday was always Roger Wheeler's day to play golf at Tulsa's exclusive Southern Hills Country Club and this May 27, 1981, spring day was no exception. A 12-handicapper, the free-wheeling Tulsa-based businessman and multimillionaire felt at home on the Perry Maxwell-designed championship course, the site of three U.S. opens and an unprecedented four PGA championships.

The sun had filled the clear-blue sky. The chilly spring morning had warmed up considerably. A light breeze had begun to push its way through the course's natural twists, tiered greens and man-made doglegs, rustling the leaves of its massive maple and pine trees. Southern Hills, with its 67,000 square foot clubhouse at the top of a tree-lined drive, its fully equipped fitness center, two swimming pools, and four indoor and eight outdoor tennis courts fit a man like Wheeler like a custom-tailored suit.

After what Bob Allen, Wheeler's golfing partner that May 1981 day, said was "an exceptionally good day of golf," Wheeler—as was his custom—showered, dressed and shared a scotch with friends before leaving the clubhouse's rear exit to return to his office at Tulsa's Telex Corp. Inc., a highly successful software company where he was both chairman and chief executive officer.

The 55-year-old entrepreneur, who just three years earlier had acquired the Miami-based World Jai Alai Inc. (WJA) for \$50 million, carried his heavy golf bag with its expensive clubs to the parking lot, where he loaded it into the trunk of his black Cadillac—as he had done numerous times before. It was about 4:30 in the afternoon. Children innocently played in the nearby swimming pool.

The two men who sat in the golf club's busy west parking lot in their late model brown sedan next to the swimming pool seemed out of place but went unnoticed. Parking near Wheeler's Cadillac, the men waited for him to emerge from the clubhouse. They knew he'd be there. They had his description, his tee time and knew how long it would take him to finish 18 holes of golf, get dressed and have a quick drink with friends.

They were there to kill him and Wheeler—described by his friends and associates as very cautious, almost paranoid—never saw it coming. As he sat down in the driver's seat of his car, Wheeler was approached by one of the waiting hired assassins, a heavysset, black-bearded man with dark sunglasses—who, without warning, shot him once in the face with a .38 caliber revolver. The shooter then quietly returned to the waiting sedan, jumped in on the passenger side and the vehicle sped out of the Southern Hills parking lot, passing through the ultra-private

club's 61st Street entrance entry gate without notice. Those in and near the parking lot told police only that they had heard what sounded like a firecracker.

Married and the father of five children, Wheeler was dead at the scene. He had been slain with a single gunshot to the head, in broad daylight, at a prestigious private country club, with no witnesses to the actual encounter—an extraordinary event for Tulsa and its police department. In a city of less than 400,000 with an annual homicide rate of about 50, the assassination of a prominent citizen just doesn't happen and Wheeler was, indeed, a prominent, well-connected citizen.

Tulsa homicide detectives said Wheeler's body was found lying across the front seat of his Cadillac with several live rounds on both the seat and the ground. There were flash burns on his left arm, indicating he had tried unsuccessfully to shield himself from the shooter. This led almost immediately to speculation by police that an armed robbery had been attempted and Wheeler, trying to defend himself, might have dislodged the cylinder of the murder weapon, allowing the bullets to fall.

But the "armed robbery gone bad" theory quickly fell out of favor when police discovered more than \$900 in Wheeler's wallet. Nothing else had been taken.

As chairman and CEO of Telex, which made computer terminals, tape decks and other electronic equipment, Wheeler commanded a corporate empire worth millions of dollars. Telex was described in a 1973 lawsuit brought by IBM as having experienced "a phenomenal growth in revenues." Under Wheeler's 15-year leadership role, the company's annual income rose from \$5 million in 1965 to \$165 million by 1980. He also owned seven other companies that dealt in resources ranging from oil to magnesium.

Tulsa Police Department Major Stanley Glanz, chief of detectives at the time of the Wheeler killing, and his team of investigators were suddenly confronted with a capital crime that was not at all typical of the routine homicides that occurred in Tulsa. The team proceeded cautiously to develop a theory and, as customary forensics examinations were being conducted and concluded, it began to discuss possible motives for such an execution-style slaying.

After only a single day on the case, Glanz—who eventually would spend 23 years with the Tulsa Police Department before being elected sheriff of Tulsa County—told reporters that the 11-member task force he created to investigate the death had not discounted any theory of why Wheeler had been shot, but the "speculation now is that it was an assassination, and even a paid assassination."

Adding weight to that theory was the fact that police could not locate the getaway car, despite having a partial listing of its six-digit Oklahoma license plate from a witness and having been able to compile a detailed description of the vehicle from others who had been in the Southern Hills parking lot the day of the killing.

Two days after the murder, a Tulsa police spokesman told reporters the task force investigation had focused on three possible motives: an armed robbery attempt by assailants who

may or may not have known their victim; an attempt to abduct Wheeler that went bad; and that Wheeler had been the victim of paid assassins.

At the time, no one knew, of course, that more than 20 years later, the Wheeler family would still be looking for justice in the case or what role World Jai Alai's supposed nefarious underbelly had played in the killing. Wheeler had sought a cash cow in his purchase of the jai alai operation and what he got was much more: revengeful mob bosses, contract killers, allegations of skimming, organized crime and, eventually, charges of corruption and conspiracy involving one of the FBI's most successful and respected agents.

It was Wheeler who died that May 1981 day but more than 20 years later, the fallout from that killing would claim yet another victim, H. Paul Rico, an FBI agent whose investigation and cultivation of organized crime figures in the Boston area as informants and cooperating witnesses had become legendary in the 1960s and 1970s.

One of the Tulsa task force members was a young police corporal, Mike Huff, who had responded to the original call of the country club shooting and was first to arrive on the scene. And while others left the task force, went on to other jobs or retired, Huff eventually would become the officer responsible for the investigation—his dogged pursuit of the case extending over the next 20 years. He was on the case of his career.

World Jai Alai was known as a cash-producing proposition. Wheeler told Florida gaming officials that when he was negotiating to buy the operation, the previous owners said “Jai Alai is a real money-making machine.” Wheeler told friends he knew there were “shady characters” inside the organization but his business-savvy and hard-driven management style would prevail.

Glanz also was aware that World Jai Alai had its dark side; a longstanding public reputation of being a corrupt gambling enterprise with longtime ties to organized crime. He summed up the popular wisdom regarding the business when he said, “There's no doubt that organized crime is involved with jai alai.”

The Tulsa media quickly came to the conclusion that Wheeler's holdings in World Jai Alai was a possible explanation for the brazen daylight killing. But while task force investigators also were focusing on the possible ties between World Jai Alai, organized crime and the Wheeler murder, Glanz was quick to note that gambling authorities in Connecticut—where jai alai had an established foothold—reported that Wheeler had no known connection to organized crime.

A week after the ruthless killing, Tulsa police also acknowledged that they had been unable to find the getaway vehicle, which had been a prime objective. Leads had dried up. The case was going nowhere. But Glanz sought to keep the investigation open and based on fact rather than newspaper-driven speculation. He characterized as erroneous claims by a Tulsa television station that police had begun to concentrate on a theory that Wheeler had been killed by organized crime.

Wheeler, whose life ended as part of a systemic and well-timed killing conspiracy, was born in Reading, Mass., the son of a Boston newspaper proofreader. Described as energetic and business-oriented from an early age, he published a neighborhood newspaper at 14, ran a

vegetable stand and organized a stamp-collecting service. At 16, he started a second business—hauling wood from Vermont—using a truck he bought on credit.

He served in the U.S. Navy during World War II and attended Rice University on the G.I. Bill, graduating with a bachelor's degree in engineering. He met his wife, Patricia, at an ROTC dance and impressed her when he repaired the jukebox so they could dance.

Wheeler rarely granted interviews, once explaining to a reporter that the stories could draw the attention of kidnappers. He said he felt comfortable surrounded by “FBI types” and employed six former agents at World Jai Alai. He considered himself a religious man, a good Presbyterian, and went to church every Sunday. “It’s good self-discipline,” he said. Baptized into the church with his wife as adults, he was active in many charities. He once gave a party at his home for the patients of the local Children’s Medical Center.

But Wheeler had a tough side as well. He was viewed as a hard-driving businessman with a reputation for being difficult. Many said he could be unpredictable and abrasive. While friends conceded that he stepped on toes, they also said he had a genuine Midas touch with regard to business.

The New York Times described Wheeler as a classic entrepreneur—tenacious and aggressive—who drove himself and others to the limit in building an eclectic business empire. Although his name was associated with gambling after he purchased the jai alai operations, The Times noted he bought the operation purely for its investment value.

He rarely visited the jai alai companies he owned and had little interest in the sport, which at the time operated four frontons, or arenas, in Florida and one in Hartford, Conn. In a June 1981 article, Sports Illustrated referred to Wheeler as “the largely absentee owner of Miami-based World Jai-Alai Inc.” The magazine also noted that friends described Wheeler as a “churchgoing man who found gambling personally abhorrent,” but that he nevertheless had become attracted to legalized gambling for investment purposes.

Tulsa detectives had sought the help of the FBI in the Wheeler investigation. The New York Times reported that the bureau had been asked to check on Wheeler’s far-flung business activities, adding ominously “including the jai alai holdings.” A Tulsa police spokesman acknowledged at the time that while the FBI didn’t have jurisdiction to investigate a local murder, it could assist by following up on state leads.

Just four days after the Wheeler killing, The New York Times asked in a news story if his purchase of World Jai-Alai had “anything to do with his death at the hands of a stocky, bearded gunman, wearing sunglasses, who left him sprawled, dying, across the front seat of his parked car?” The newspaper said jai alai had frequently been the target of corruption investigations and had been suspected of having ties to organized crime. It said a professional “hit” did not seem out of the question.

The jai-alai connection, The Times said, had led Connecticut authorities to reopen a dormant grand jury investigation into suspected underworld involvement in that state’s three jai alai frontons. The newspaper said Chief State’s Attorney Austin McGuigan confirmed that he had

been assured by Gov. William O'Neill that he would be given the resources needed to revive the investigation.

“There are other theories, too, and the Tulsa police say that they are treating all as equal possibilities,” The Times reported. “Mr. Wheeler may have been killed, they say, when a robbery or kidnapping attempt went awry. Wealthy people always live with those potential dangers. Still, it is the jai-alai connection that continues to arouse the most speculation.”

Lest anyone think Wheeler would have backed down from a challenge by external threats to his jai alai investments, they should have been forewarned. In fact, the difficulty of doing business with him was demonstrated in 1979 when a prominent San Francisco lawyer asked a federal appeals court to enforce a contingent fee arrangement that Wheeler found to be, after the fact, too generous.

In 1973, according to court records, Wheeler and Telex won a \$259.5 million antitrust judgment against IBM, but two years later, the 10th Circuit U.S. Court of Appeals reversed this decision, deciding in favor of IBM. The court awarded the computer company \$18.5 million damages, prompting Wheeler to hire one of the best appellate lawyers in the country to take the case to the U.S. Supreme Court.

In hiring Moses Lasky, senior managing partner at the well-known San Francisco law firm of Brobeck, Phleger & Harrison, Wheeler insisted on a contingent fee arrangement, resisting Lasky's normal hourly fee agreement. After some negotiation, Lasky reluctantly agreed with the stipulation that if he actually filed the case with the Supreme Court, a minimum \$1 million dollar fee was due. After some substantial preliminary work, Lasky filed the case.

Meanwhile, Wheeler and his in-house counsel worked behind the scenes and obtained a “wash settlement” with IBM, in which each side walked away with nothing. Wheeler promptly reneged on his agreement to pay the \$1 million dollar fee and Lasky took him to court—a dispute that resulted in a protracted legal fight and a loss for Wheeler, but a case that is now studied in law schools around the country.

Brobeck, Phleger & Harrison v. Telex Corp. often is cited in rulings showing that the courts have consistently upheld “creative fee agreements when they are not unconscionable, irrespective of the novelty of the payment scheme, or the absence of risk.”

It is, of course, not difficult to imagine the outcome of that dispute if it had been with organized crime figures—who would not have used the courts to settle their differences but employed a more vigorous means.