



United States Attorney
District of Massachusetts

1107 J.W. McCormack Post Office Courthouse
Boston, Massachusetts 02109

November 9, 1992

Francis J. O'Rourke, Esquire
101 Federal Street
Boston, MA 02110

Re: Thomas A. Shay

Dear Mr. O'Rourke:

This letter will confirm that the U.S. Attorney for the District of Massachusetts (the "U.S. Attorney") will consider an accurate, truthful and complete proffer from your client, Thomas A. Shay, in connection with an ongoing investigation being conducted by this office. Given our recent experience with Shay being untruthful with us, please stress to him the importance of this requirement of truth and candor. Unless we are satisfied that he has been completely truthful, there will be no plea discussions with him following the proffer stage.

The terms under which the contemplated proffer will be received are as follows:

1. No statements made or information provided by Shay will be used by the U.S. Attorney directly against him, except for purposes of cross-examination and impeachment should he be a witness in any proceeding and offer testimony or evidence materially different from any statements made or information provided during the proffer, or in a prosecution based on false statements made or false information provided during the proffer.

2. The government may make derivative use of or may pursue any investigative leads suggested by any statements made or other information provided by Shay in the course of the proffer. Any evidence directly or indirectly derived from statements made or other information provided by him during the proffer may be used against him and others in any criminal case or other proceeding. This provision is necessary in order to eliminate the possibility of a hearing at which the government would have to prove that the evidence it would introduce is not tainted by any statements made or other information provided during the proffer. See Kastigar v. United States, 406 U.S. 41 (1972).

3. Based on my discussions with representatives of the Suffolk County District Attorney's Office and the Boston Police Department, I can represent that in the event that federal charges are brought against Shay relating to the offense under investigation, there will be no state prosecution of Shay arising out of the facts or circumstances surrounding the death of Officer Hurley.

The foregoing is the complete agreement between the government and Shay. It is understood that the government incurs no additional obligation as a result of the proffer; specifically, the government is not hereby agreeing that Shay will not be prosecuted.

If you and your client agree that this letter accurately describes the agreement between your client and the government with regard to your client's proffer, please confirm this by signing in the appropriate spaces below.


Sincerely yours,

A. JOHN PAPPALARDO
United States Attorney

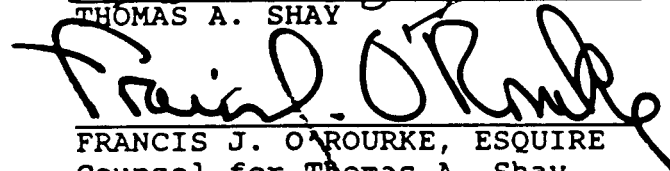
By:


PAUL V. KELLY
Assistant U.S. Attorney

Acknowledged and agreed to:


THOMAS A. SHAY

DATE: NOV-13-92


FRANCIS J. O'ROURKE, ESQUIRE
Counsel for Thomas A. Shay

11/13/92