

Memorandum



Subject 39 Eastborne (telephone conversation with James Gallagher, Atty for James Harding)	Date February ¹⁹ 20, 1992
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To File	From Frank A. Libby 
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I spoke this afternoon at approximately 5:30 p.m. with James Hardings attorney, Mr. James Gallagher (office telephone 731-5550; car phone 680-3050) regarding Mr. Hardings scheduled appearance tomorrow, Thursday, February 20, 1992, before the Grand Jury in this matter. In essence, I advise Mr. Gallagher that this office believed that his client was in the possession of a tape recording of a conversation had between and among Harding, Donna Shea and Alfred Trenkler sometime in the last few months, a portion of which relates to this investigation. I advised Mr. Gallagher that although his client was scheduled to appear before the Grand Jury on Thursday, February 20, that appearance could be postponed until the following week (Thursday, February 27, 1992) so long as Mr. Harding intended to cooperate. Specifically, I told Mr. Gallagher if there was such a tape and Mr. Harding was in possession of it or knew of its whereabouts, and was prepared to produce that tape to the Grand Jury and testify as to the circumstances surrounding the conversation, then this office together with the Suffolk County District Attorney's Office, would provide Mr. Harding letter immunity from any prosecution for electronic eaves by the same token, I advised Mr. Gallagher that if Mr. Harding intended to testify that there was no such tape but was prepared to restate the substance of the conversation at issue, then Mr. Hardings appearance could be rescheduled for Thursday, February 27.

Alternatively, I advised Mr. Gallagher that if Mr. Harding had no intention of cooperating at all, but rather intended to claim the fifth amendment at questioning before the Grand Jury, then Mr. Harding would be required to appear tomorrow.

Mr. Gallagher indicated that he has discussed this issue with Harding but has yet to receive a clear answer as to the existence of any tape. Nonetheless, Mr. Gallagher advised me that, if letter immunity on both state and federal grounds was ultimately to be provided, then his client would indeed cooperate and that there would be no need for Hardings appearance tomorrow,

February 20, Mr. Gallagher advised that his client would appear on February 27, and, having been given letter immunity, would testify without claiming any fifth amendment privilege on this issue.

On the basis of our conversation, I agreed to reschedule Harding appearance before the Grand Jury for Thursday, February 27. Attorney Gallagher went on to tell me that he would give me a "head up" as to his clients expected testimony in this regard sometime next Monday or Tuesday (Monday, February 24 or Tuesday, February 25).