**UNITED STATES DISTRICT COURT**
**DISTRICT OF MASSACHUSETTS**

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| **UNITED STATES OF AMERICA** | ) | |
| | ) | |
| **v.** | ) | **CRIMINAL NO. 08-10345-DPW** |
| | ) | |
| **DIANNE WILKERSON** | ) | |
| **and** | ) | |
| **CHARLES "CHUCK" TURNER** | ) | |

**GOVERNMENT'S SECOND SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PROTECTIVE ORDER**

The United States of America, by and through Assistant United States Attorney John T. McNeil, submits this second supplemental memorandum in support of its motion for a protective order. This memorandum responds to the core issues in Defendant Turner's Opposition to Government's Motion for Protective Order [Doc.No. 53] ("Turner Opposition") and the proposed Amicus ACLU's Memorandum.[1] To the extent that this supplemental memorandum does not address the issues raised in those pleadings, the government will respond orally at the hearing scheduled on February 25, 2009.

## I. The Applicable Standard for Reviewing a Motion for a Protective Order Restricting the Use of Discovery in a Criminal Case is "Good Cause."

Neither Turner nor the Amicus have cited a single case in which a protective order restricting the use of discovery in a criminal case has been subject to a legal standard more rigorous than the "good cause" standard set forth in Fed.R.Crim.P. 16(d)(1).[2] In fact, as the Amicus acknowledges, the First Circuit has explicitly rejected the application of either the strict

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[1] The government does not oppose the Court reviewing the Amicus brief submitted in this case. However, the government will oppose any request by the Amicus to make an oral argument at the scheduled hearing.

[2] Fed.R.Crim.P. 16(d)(1) reads in pertinent part:

> **Protective and Modifying Orders**. At any time the court may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief.

scrutiny standard or heightened scrutiny standard applicable in other First Amendment contexts. See Anderson v. Cryovac, 805 F.2d 1, 7 (1st Cir. 1986)("the 'strict and heightened' scrutiny tests no longer apply" in the wake of Seattle Times v. Rhinehart, 467 U.S. 20 (1984) ).

In the context of a protective order entered in a civil case, the Supreme Court held in Seattle Times that "an order prohibiting dissemination of discovered information before trial is not the kind of classic prior restraint that requires exacting First Amendment scrutiny." 467 U.S. at 33. Moreover, "[a] litigant has no First Amendment right of access to information made available only for purposes of trying his suit," and in the context of discovery provided in litigation, "this Court has observed that '[f]reedom of speech ... does not comprehend the right to speak on any subject at any time.' " Id. at 31-32 (citations omitted). Seattle Times outlined a three-part test for determining whether a protective order restricting the use of discovery is proper: (1) there is a showing of good cause under the applicable rule; (2) the restriction is limited to pretrial discovery; and (3) the order does not restrict the dissemination of information obtained from other sources. Id. at 37; Anderson, 805 F.2d at 7. These tests are equally applicable in the context of a protective order in a criminal case prohibiting a defendant from using discovery material for purposes other than his legal defense. See e.g. United States v. Caparros, 800 F.2d 23, 25-26 (2nd Cir. 1986)(rejecting claim that protective order in criminal case was an impermissible prior restraint and noting limits on criminal defendant's ability to disclose information given to him in discovery).

In this case there is little dispute that the second and third tests are met. The proposed protective order addresses only the use to which the defendant can put the discovery provided by the government in this case. It is narrowly aimed at matters provided by the government in pretrial discovery. Nothing in the protective order prohibits the defendant from speaking about matters which are in the public record. Nothing in the protective order prohibits the defendant from publically declaring his innocence, from speaking publicly about his own conduct and reputation, from criticizing the government's prosecution of this case, or from commenting on

facts that he learns from sources other than pretrial discovery. Simply put, the protective order is not a gag order, and despite the many citations to First Amendment cases by the defendant and the Amicus, the only issue is whether the government has met the good cause standard set forth at Fed.R.Crim.P. 16(d)(1).

The defendant's claim -- not shared by the Amicus -- that the proposed protective order is a "prior restraint" which "comes to [a court] with a heavy presumption against its constitutional validity," Turner's Opposition at fn 1, has been expressly rejected by the Supreme Court in Seattle Times and the First Circuit in Anderson. See Seattle Times, 467 U.S. at 33; Anderson, 805 F.2d at 7; see also Caparros, 800 F.2d at 25-26. Likewise, the defendant's claim that the government is required to establish that the proposed order is "narrowly tailored to promote a compelling Government interest" was also explicitly rejected in Seattle Times. 467 U.S. at 31. In rejecting the plaintiff's claim that the proponent of a protective order must show, "a compelling government interest [and] . . . must be narrowly draw and precise," the Supreme Court concluded that such standards, "would impose an unwarranted restriction on the duty and discretion of a trial court to oversee the discovery process." Id.

## II. The Government Has Established Good Cause for the Entry of the Protective Order.

The defendant and the Amicus have asserted that the government has failed to establish good cause as required by Rule 16. In its prior submission, the government proffered ample facts to justify the entry of the proposed protective order in this case. Among other things, the government proffered that: (1) this case has been the subject of intense media attention which has the potential of prejudicing potential jurors, inhibiting Ms. Wilkerson's and the government's right to a fair trial, and impeding the administration of justice in this case; (2) Mr. Turner has engaged in a series of public rallies, media events, and the issuance of press releases, and has committed to continue doing so while "acting as his own lawyer"; (3) given Turner's prior conduct and his opposition to this protective order, the Court can readily conclude that any

discovery produced by the government in this case will be used by the defendant for purposes other than the legal defense of the pending charges[3]; (4) given the highly public nature of this case, the selective release of discovery could be used to directly or indirectly intimidate, coerce, or embarrass witnesses; (5) the discovery material contains a large component of grand jury evidence and other sensitive material; (6) the discovery material contains the identities and other information regarding persons investigated but not charged in this case; (7) the discovery material contains personal privacy information of the defendants and other persons not charged in this case; (8) the discovery material contains the identities of cooperating witnesses and other witnesses, which are not part of the public record, and those witnesses could be subject to coercion, intimidation, or embarrassment; (9) the discovery material contains images of undercover agents whose exposure could place them at risk; and (10) the discovery material contains a substantial amount of inculpatory evidence against Ms. Wilkerson which has not been the subject of prior pleadings, the selective release of which could inhibit her right to a fair trial.

While the government believes that the factual proffer it made with the original filing of the motion was sufficient to support a finding of good cause, the government is filing *ex parte* and under seal an affidavit outlining in detail the bases set forth above as well as additional bases

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[3]Turner makes the unsupported claim in his brief that "he has not once commented on specific details of his case or even mentioned any witness by name." Turner Opposition at 5. This statement directly contradicts statements Turner has made to the media. For instance, on November 25, 2008, Turner gave an extended television interview on a Boston cable channel, in which he identified the person he believed to be the cooperating witness by name and in which he laid out a legal defense to the specific allegations in the complaint. Among other things, Turner stated: “See, the, really, . . . the charge is extortion. So the issue of the – if it was just the money, some, you know, if it was a thousand dollars that he did give me, the – it would be a campaign finance violation. I'd have to give $500 back, perhaps pay a small fine. The IRS would say, 'well, you had $1,000 more than you declared, so that you would have to pay a fine for, for that, or pay the amount in the fine.' But that's just a campaign finance [violation].” A copy of a partial transcript of that interview is attached as Exhibit 1. Turner also gave a separate interview to Chanel 7 News in which he was confronted with the allegation that he had taken a bribe. Turner responded, "I didn't take any money from any other developer or any other person. I don't need people's money to do my job." The government will provide the Court with a disk containing this interview at the upcoming hearing. While the government does not challenge Mr. Turner's right to make such statements to the media, the Court must reject the claim in his brief that he has not commented on the specific details of the case or named any witness.

for the entry of the protective order. Such an *ex parte* filing is in keeping with Fed.R.Crim.P. 16(d)(1) which reads in pertinent part: "The court may permit a party to show good cause by a written statement that the court will inspect *ex parte*. If relief is granted, the court must preserve the entire text of the party's statement under seal." In this case, the affidavit contains detailed references to grand jury material, ongoing grand jury matters, personal privacy information, and security-related matters which are appropriately submitted *ex parte* under seal.

Any one of the bases originally proffered -- or those in the *ex parte* submission -- is sufficient to establish good cause for the entry of the protective order in this case. For instance, in Anderson, the First Circuit upheld the protective order restricting the dissemination of discovery based on the district court's concern that, "extensive publicity . . . particularly the accounts appearing in the daily newspapers, would inhibit and perhaps prevent the selection of an impartial jury." 805 F.2d at 8. Concluding that there were "specific instances of massive and potentially harmful publicity," the First Circuit upheld the district court's finding of good cause. Id. This court can readily find, given the extensive publicity in the print and electronic media in this case, that the use of discovery material by a defendant for purposes other than defending this case would qualify as "potential harmful publicity" and which "would inhibit and perhaps prevent the selection of an impartial jury." Id.[4] While the coverage of this matter in the media has been so pervasive that the Court can take judicial notice of it, if the Court so desires, the government will submit copies of recent articles for the record.

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[4] It is also notable that this Court has adopted Local Rule 83.2B in recognition that a widely publicized case has the potential to impair the rights of the litigants to a fair trial. Importantly, the rule implicitly recognizes that the government, as a litigant, has a right to fair trial as well. Rule 83.2B reads in pertinent part:

> In a widely publicized or sensational criminal or civil case, the court, on motion of either party or on its own motion, may issue a special order governing such matters . . . likely to interfere with the rights of the accused or the litigants to a fair trial by an impartial jury . . . and any other matters which the court may deem appropriate for inclusion in such an order.

Likewise, the protective order upheld by the Supreme Court in Seattle Times was entered primarily to protect the privacy of individuals not party to the suit. 467 U.S. at 36-37. These privacy concerns, coupled with the trial court's interest in protecting parties or persons from dissemination of information which would "result in annoyance, embarrassment and even oppression," was good cause for entering the protective order. Id. In this case, the release of discovery information raises substantial privacy concerns not only for defendant Wilkerson -- whose financial information and other records could be disclosed -- but for the many other individuals as set forth in the *ex parte* affidavit. See also Gill v. Gulfstream Park Racing Ass'n, Inc., 399 F.3d 391, 402-403 (1st Cir. 2005)(need for confidentiality and privacy interests to be weighed in evaluating good cause); In re Sealed Case (Medical Records), 381 F.3d 1205, 1215 (D.C. Cir. 2004)("in exercising their discretion under [Civ.R. 26], courts have long recognized that interests in privacy may call for a measure of extra protection, even where the information sought is not privileged").

Moreover, the protection of witnesses from coercion or intimidation has long been recognized as good cause for entering a protective order. See, e.g. United States v. Fort, 472 F.3d 1106, 1130 (9th Cir. 2007)("The Rules Advisory Committee specifically designed Rule 16(d)(1) to provide a mechanism to protect witness safety, and to grant considerable discretion to the district court in drafting orders under that rule."); Fed.R.Crim.P. 16 Advisory Committee's Note (1974 Amendment). The government's concern that discovery may be used to alter witness testimony or intimidate witnesses is not speculative. Recent developments in an unrelated public corruption case in this district provide a helpful example. In United States v. Henderson, Crim.No. 09-10028-DPW, the defendant was charged by complaint in early December 2008, arrested, and released on a number of conditions including that she have no direct or indirect contact with any witness in the case.[5] After the case was charged by complaint, but before an

[5]The facts cited herein are set forth in detail in United States v. Henderson, Crim.No. 09-10028-DPW, Doc.No. 13.

indictment was returned by the grand jury, the parties entered into discussions aimed at resolving the matter by Information. As part of those discussions, the defendant requested, and the government provided, early discovery of the key reports and witness interviews. The government did not seek a protective order on this discovery -- as it often does in cases which have attracted widespread attention -- because the case appeared to be headed toward resolution.

Ultimately, no agreement was reached by the parties. When the government proceeded with the grand jury investigation, a witness revealed that the defendant had not only engaged in detailed discussions about the case with several witnesses, but had shared the reports of interviews with at least two witnesses. In addition, the defendant had spoken at length with one witness about her upcoming grand jury testimony including reviewing possible questions and answers. Moreover, one of the persons interviewed early in the case was the subject of a veiled threat by a co-worker as a result of his cooperation with the government.

The government moved to detain Henderson based on this conduct. While the Court did not detain her – largely because it was concerned that the warnings it issued during the initial appearance regarding witness contact were not sufficiently clear – the Court entered an order virtually identical to the one the government seeks here: one that prevents the defendant from disclosing or discussing any discovery material to or with any person other than her attorney.[6]

Although the Court in Henderson has now imposed terms that prevent the defendant from manipulating witness testimony, the damage to core witness testimony has already been done. As noted in the pleadings in Henderson, at least one witness's testimony was plainly affected by her interactions with Henderson leading up to her grand jury appearance. A protective order, such as that sought in this case, prevents such damage before it happens. See, e.g. Alderman v.

[6]"Defendant is not to distribute discovery documents/materials to any other person or reveal contents of the discovery materials to any other person or to discuss the contents of the discovery materials with any person other than her attorney." See Henderson, Crim.No. 09-10028-DPW, Doc.Nos.14&15. The Court also imposed more stringent terms of pretrial release regarding communications with potential witnesses. Id.

United States, 394 U.S. 165, 185 (1969)("the trial court can and should, where appropriate, place a defendant and his counsel under enforceable orders against unwarranted disclosure of the materials which they may be entitled to inspect"); In re Providence Journal Company, Inc., 293 F.3d 1, 14 (1st Cir. 2002) (approving trial court's protective order designed to safeguard rights before they were violated) .

Finally, the protection of grand jury material included in discovery has been recognized as a proper basis for imposing limits on the use of discovery. See, e.g. United States v. RMI Co., 599 F.2d 1183, 1185 (3rd Cir. 1979)(protective order entered for grand jury documents such that they are used "solely for the purposes of prosecuting or defending against the criminal charge in this action . . . (not) for any commercial advantage" and discussing the need for continued protection of grand jury material even if disclosed in criminal discovery).

Even if the Court does not find that any single basis is sufficient, collectively the bases outlined above are more than adequate to establish good cause under Rule 16(d)(1).

**III. Turner's Other Claims Should Be Readily Rejected.**

Turner makes a number of other claims in his opposition which should be readily rejected. He claims that the protective order infringes on his right to a public trial. Plainly, the protective order does not. The protective order does not seek to close any court proceeding or otherwise limit the public's access to pleadings or exhibits properly filed in the public record. The protective order also permits the defendant to use discovery materials for the legal defense of the pending charges. Nothing in the proposed order inhibits a public trial. To the contrary, the protective order seeks to ensure that the discovery is used for trial rather than for some other improper purpose.

Turner also claims that the protective order denies him the right to defend himself in public. Again, as outlined above, the protective order is not a gag order on Mr. Turner. It simply limits the use to which he can put discovery in this case. Seattle Times expressly rejected the notion that a litigant has a First Amendment right to say whatever he likes about material

produced pursuant to discovery rules in the context of litigation. 467 U.S. at 31-32.

Turner next argues that the government's filings in the criminal case "violate[] the very protective order the government wants to implement." Turner Opposition at 3. He also claims that the government "leak[ed] certain information to the media prior to him even being arraigned." Id. at 5. Turner misconstrues the record in this case as well as the protective order. The criminal complaints against Wilkerson and Turner, which attached still images of the bribe payments, were publically filed charging documents which outlined the government's evidence against the defendants. The use of complaints, with detailed affidavits and exhibits, are commonplace in criminal cases. Electronic evidence is routinely cited in complaint affidavits, frequently appended to complaint affidavits, and regularly offered into evidence early in a case at bail/detention hearings. At those early hearings, the "weight of the evidence against [the defendant]" is often a key issue, and photographs, audiotapes and videotapes are routinely introduced. See 18 U.S.C.§3142(g)(2). There has been no "selective release" of evidence by the government to the media or any other source, nor have there been "leaks" to the media of which the government is aware.[7] Rather, the government has outlined its case at the charging stage as it routinely does.

Finally Turner claims that "whether or not Mr. Turner's actions will affect Ms. Wilkerson is not of the government's concern." Turner Opposition at 6. This is plainly wrong. First, the government has a compelling interest in ensuring that any outcome in this case is fully compliant with the Constitution and applicable law. In the event that there is a conviction in this

[7]As is customary, the government held a single press conference/availability on the day of Wilkerson's arrest to address the many media inquiries in this case. There have been no other press conferences/availabilities in this case by the government. In keeping with longstanding practice, the government also issued press releases with each charging document in this case. The press releases were based on material in the public record and included general statements regarding the need to hold public servants to a high standard. The government has routinely declined to comment on the many statements made to the media by Mr. Turner. The government also declined to comment on Ms. Wilkerson's most recent statements to the *Boston Globe*.

case, the government has a keen interest in making certain that such a conviction withstands appellate scrutiny. Second, the Department of Justice is charged with upholding the Constitution, not simply prosecuting criminal matters. That obligation extends to ensuring that criminal defendants are afforded their rights under the law. Third, irrespective of the "government's concern," the Court in this case must ensure that Ms. Wilkerson's rights are fully protected. Certainly, the Court cannot rely on a defendant, whose only obligation and primary motive is to defend himself, to protect the rights of a co-defendant.

Finally, Turner takes issue with that portion of the protective order regarding the use to which a detailed summary of the recordings can be put. Turner Opposition at fn 4. That summary includes 195 pages of single space detailed typewritten notes on the recordings made in this case. The government is under no obligation at this stage of the case to disclose this summary to the defendants. The government has offered to disclose it because the defendants are likely to find it very helpful in reviewing the nearly 200 recordings made in this case. To the extent that Turner is unwilling to agree to this term of the protective order, the government will simply not produce the summary to Turner.

Respectfully Submitted,

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By: /s/ John T. McNeil
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Dated: February 13, 2009

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

February 13, 2009
Date

/s/ John T. McNeil
JOHN T. McNEIL
Assistant United States Attorney

# EXHIBIT 1

I N T E R V I E W

TALK OF THE NEIGHBORHOOD

DATE: November 25, 2008

HOST: JIM HEISLER

CHUCK TURNER

(Begin transcription at 11:19)

HOST: You talked about this a week or two ago in an interview in the Jamaica Plain Gazette. You knew that the Feds were fishing around, so to speak, and looking for something, so were you surprised nonetheless when they actually came and said, 'Chuck Turner, we're going to arrest you and charge you with bribery'?

TURNER: I was, I was very surprised, you know? Although, although in -- in some ways, they really let me know three weeks before, because the day that Diane Wilkerson was arrested, they came to my house at eight o'clock in the morning. I was at work, so my wife called and said, 'Hey, the FBI is on the way to talk to you,' and I said, 'I wonder what it's about,' and then when they came in and said that Senator Wilkerson had been arrested around the issue of the Dejavu license, I said, 'Well, I was, I had worked with Council President Feeney and Senator Wilkerson

in terms of trying to arrange a hearing, and so it seemed logical, but, see what happened was -- that really made me aware that this was something different, was they met -- they met my - two -- two, FBI Agents were talking with me in my office - I always have my door open, so I just kept it open. But I didn't hear that an FBI -- a third FBI Agent and a policeman came into the office, my assistant's office -

HOST: Right outside your door?

TURNER: Right outside my door, and took her out to another room and said, the cooperating witness, Ron Wilburn, because he's now admitted it um, has -- had filed an affidavit saying that he came to City Hall on September 12th, and in fact, tried to offer Councilor Turner some money. And both -- all of us were shocked, because we didn't -- I still don't -- when I see the picture of Ron Wilburn, there's a vague remembrance, but none of us had any remembrances of him being in the office, but given the fact that he had given them an affidavit, I said, 'Hey, they're coming for me.'

HOST: Well, sooner or later, and, of course -- well of course the Feds are alleging that, in fact, and it's no secret that you took $1,000 in cash in return for supporting or attempting to help him get a license.

TURNER: I can talk about some aspects of that.

HOST: Yeah, and I'm not going to ask you about that, but you haven't claimed you're innocent. Are you innocent?

TURNER: Yeah. When -- when - personally, my lawyer thinks I'm a little, you know, maybe naive about it. I don't think they can find probable cause. See, the, really, that - the charge is extortion. So the issue of the - if it was just the money, some, you know, if it was a thousand dollars that he did give me, the -- it would be a campaign finance violation. I'd have to give $500 back, perhaps pay a small fine. The IRS would say, 'well, you had $1,000 more than you declared, so that you would have to pay a fine for, for that, or pay the amount in the fine' But that's just a campaign finance -

HOST: Right, right. But what they're saying is that you extorted it from him. In other words, you said, allegedly, unless you support -- you know, you support this, you're not going to - your support was contingent on some kind of payment or something.

TURNER: Well, no, there -- there -- there are two problems. The only two problems they had was that the only thing I did, very seriously, if you look at the, both the complaint from -- related to Senator Wilkerson, and the complaint against me. There is no indication of my talking to any officials. I was not at the meeting. I was not at

the meeting that Diane -- Senator Wilkerson, Council President Feeney, on the Senate President -

HOST: They went up to the Senate?

TURNER: They went up to the - there was a meeting in, around August 16th, up at the State House, where the head of the beverage control -- you know, the licensing board sat down with Senator Wilkerson, sat down with Council President Feeney, sat down with the Senate President, sat down with the head of the Consumer Affairs Committee, and worked out an arrangement where they would follow home rule petition, that was brought back to the City Council by, you know, by Council - by the Council president --

HOST: But you weren't even there.

TURNER: I wasn't at that meeting. I didn't sponsor that - that home rule petition was sponsored by Council President Feeney. We all voted for it, there was no hearing. There was no hearing. We all voted for it. What's interesting is they say I extorted funds from Mr. Wilburn on August 3rd. Approximately two weeks before the meeting at the State House happened, that really seemed to, from the complaint, set up the framework for him getting a license.

So the question that everybody has to raise is why would he put any money, why would he give me any money at all, even as -- well, a contribution, because all I talked

about was a hearing. And so -

HOST: And you might have supported it anyway. But -- and again, without, you know, giving away your legal strategy, your attorney was on Greater Boston last night, and suggested, because I think what people look at, and of course this was spread all over the newspapers, on line, is the pictures, and some suggestion - they're a bit grainy and hard to -- to see, but so much so that they had to actually put a little caption in there that said "cash" with an arrow, but your attorney seemed to suggest last night that those pictures are fake.

TURNER: I think what would be appropriate is to wait until December 10th to discuss that, the issues of what those pictures are all about. But let me point out one thing; that if in fact, I had accepted money from Mr. Wilburn, there would be two issues. One was, was that money - or three issues - was that money an amount over $500. Because that's all you can accept from one person -

HOST: As a campaign contribution.

TURNER: As a campaign contribution. And so in this case, if it was $1,000 and I'm not certain - it is not - is was -- it was difficult to try and be open and honest, but that - the reality is that the picture talks about the possibility -- I can do it this way - the picture talks about the possibilities of a campaign finance irregularity.

HOST: Right.

TURNER: It doesn't - the picture doesn't talk about whether I extorted money from him.

HOST: Right.

TURNER: Because in order to extort money from him, I would have to make a call, or approach him and say, 'I'm going to do - if I'm going to do a service for you, you have to pay me this money.'

HOST: Mm-hmm.

TURNER: Now the recordings that they say they have -- didn't talk about anything except hearings.

HOST: Well clearly, he thought you were, or apparently he thought you were, and -

TURNER: He thought I was what?

HOST: -- extorting the money somehow, extorting money from him. And of course the Feds obviously do or they wouldn't have charged you - and this is a very serious charge, -

TURNER: I would suggest it up to everybody to -

HOST: Is this some entrapment here?

TURNER: Well, I'm going to talk about that. Mr. -- Mr. Wilburn did -- Mr. Wilburn on the front page of the Boston Globe, suggested he was used as a wire to entrap both of us. He said - read today's Boston Globe. He said, 'I was approached by the FBI to do them a favor,' and so he

went ahead and -- and -- and did it. That's entrapment. So, their cooperating witness is now publicly saying that, you know, he didn't approach the FBI, the FBI approached him.

HOST: He may end up being a defense witness -

TURNER: So the reality of it is that it is clear to - it should be clear to everybody now, that there was entrapment, because if the cooperating witness, Mr. Wilburn, is saying that the FBI approached him, and the Globe thinks there was enough credibility to put the story on the front page, then clearly what we're dealing with here is a case of the US Attorney's Office using somebody to entrap a public official.

HOST: Do you think this is -- was -- just so happened because he was the cooperating witness, or is there some targeting going on here. You suggested in an earlier story that, ah, you thought some of this was directed against the African/American community -

TURNER: I can't -- I can't --

HOST: -- that's kind of set off a whole other kind of controversy.

TURNER: You know, I haven't really -- I haven't raised that issue, but what's interesting is when you read Mr. Wilburn's article, he says he doesn't understand why other people haven't been arrested. Now that's very

interesting - if you have the guy who's being used by the FBI to -- to, in fact entrap people, and he says, 'there are two people who I did this with,' but essentially that there are others. And he's saying, 'I don't understand why the others haven't been -

HOST: So in fact, if they use the same standards, some others could be charged, although none have been yet. And going back to that standard, does that, in your mind, mean that Diane Wilkerson is innocent too?

TURNER: I can't speak to anybody's innocence except mine. I am innocent, but I know, because I did not extort money from Mr. Wilburn, and so, I'm innocent on that charge. They say the second charges were that I -- that I lied to FBI Agents, and what that meant was that they say that -- that because he says he's visited me, that I had to know him.

You know, Joe, what's fascinating, really fascinating for me is that - what it really showed to me was that, you know, when you deal with, you know, ten scores of people each -- each week, you do the work, but you don't remember faces, don't remember names, unless there was a particular intensity of focus. The - my interactions with Mr. Wilburn were so fleeting, and so -- not --

HOST: You -- you, you don't recall -

TURNER: I don't even remem - my assistant that

they said led him to the Council Chambers - she said, 'I don't , I don't, I've never seen him before.' That was my reaction. That was the reaction of the other staff members. So, so the reality is that while based on their, the evidence they know we must have had some interaction with him - the interaction was so fleeting that none of us, honestly, none of us even have a memory -- memory of it.

HOST: What about the reaction to it?

(End transcription at 23:40)