

Approved:

Hadassa Waxman
HADASSA WAXMAN/BROOKE E. CUCINELLA
Assistant United States Attorney

14 MAG 2339

Before:

THE HONORABLE JAMES L. COTT
United States Magistrate Judge
Southern District of New York

UNITED STATES OF AMERICA

: SEALED COMPLAINT

- v. -

: Violation of

: 18 U.S.C. §§ 371, 666, 1030,
1341 and 2

JOSEPH P. DWYER, and

:

RONALD G. BUELL,

:

Defendants.

SOUTHERN DISTRICT OF NEW YORK, ss.:

PETER KILPATRICK, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE

1. From at least in or about October 2011, through at least in or about November 2013, in the Southern District of New York and elsewhere, JOSEPH P. DWYER and RONALD G. BUELL, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, violations of (i) Title 18, United States Code, Sections 666(a)(1)(B) and 666(a)(2); and (ii) Title 18, United States Code, Sections 1030(a)(2) and 1030(c)(2)(B)(i).

2. It was a part and object of the conspiracy that, RONALD G. BUELL, the defendant, an agent of a local government and an agency thereof, to wit, the New York City Police Department, willfully, knowingly and corruptly, would and did solicit and demand for the benefit of a person, and accept and agree to accept, something of value from JOSEPH P. DWYER, the

defendant, intending to be influenced and rewarded in connection with a business, transaction, and series of transactions of such government and agency, involving something of value of \$5,000 and more, said government and agency receiving, in a one-year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance and other form of Federal assistance, in violation of Title 18, United States Code, Section 666(a)(1)(B).

3. It was further a part and an object of the conspiracy that JOSEPH P. DWYER, the defendant, willfully, knowingly and corruptly would and did give, offer, and agree to give something of value to RONALD G. BUELL, the defendant, with intent to influence and reward an agent, manager, and representative of a local government and an agency thereof, to wit, the New York City Police Department, in connection with a business, transaction, or series of transactions of such government and agency involving something of value of \$5,000 and more, said government and agency receiving, in a one-year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance and other form of Federal assistance, in violation of Title 18, United States Code, Section 666(a)(2).

4. It was further a part and an object of the conspiracy that RONALD G. BUELL and JOSEPH P. DWYER, the defendants, intentionally and knowingly accessed a computer without authorization and exceeded authorized access and thereby obtained information from a department and agency of the United States, to wit, BUELL, at the request of DWYER, accessed, and obtained information from, the Federal Bureau of Investigation's National Crime Information Center database, without authorization, and outside the scope of his authority, for the purposes of commercial advantage and private financial gain, in violation of Title 18, United States Code, Section 1030(a)(2) and 1030(c)(2)(B)(i).

OVERT ACTS

5. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about January 16, 2012, RONALD G. BUELL, the defendant, used New York State's "eJusticeNY Integrated Justice Portal" computer system to access information

from the Federal Bureau of Investigation's National Crime Information Center database, outside the scope of his authority.

b. In or about July 2012, RONALD G. BUELL, the defendant, deposited into his bank account a check from IRG, signed by JOSEPH P. DWYER, the defendant, in the amount of \$500.

(Title 18, United States Code, Section 371.)

COUNT TWO

6. From at least in or about October 2011 through at least in or about November 2013, in the Southern District of New York and elsewhere, during the time when RONALD G. BUELL, the defendant, was an agent and representative of a local government and an agency thereof, BUELL willfully, knowingly and corruptly, solicited and demanded for the benefit of a person, and accepted and agreed to accept, something of value from another person, intending to be influenced and rewarded in connection with a business, transaction, and series of transactions of such government and agency, involving something of value of \$5,000 and more, said government and agency receiving, in a one-year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance and other form of Federal assistance, to wit, BUELL, while an agent and representative of the New York City Police Department, solicited and accepted thousands of dollars in bribes and kickbacks for accessing the National Crime Information Center database.

(Title 18, United States Code, Section 666(a)(1)(B).)

COUNT THREE

7. From at least in or about October 2011 through at least in or about November 2013, in the Southern District of New York and elsewhere, JOSEPH P. DWYER, the defendant, willfully, knowingly and corruptly did give, offer, and agree to give something of value to another person, with intent to influence and reward an agent of a local government and an agency thereof, in connection with a business, transaction, or series of transactions of such government and agency involving something of value of \$5,000 and more, said government and agency receiving, in a one-year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance and other form of Federal assistance,

to wit, JOSEPH P. DWYER, directed an agent and representative of the New York City Police Department, to access the National Crime Information Center database outside the scope of the agent's authority, and DWYER, paid to the agent thousands of dollars in bribes and kickbacks.

(Title 18, United States Code, Sections 666(a)(2).)

COUNT FOUR

8. From at least on or about October 2011 through at least in or about November 2013, RONALD G. BUELL, the defendant, intentionally and knowingly accessed a computer without authorization and exceeded authorized access and thereby obtained information from a department and agency of the United States, at the direction, and for financial benefit of another, to wit, RONALD G. BUELL accessed, and obtained information from, the Federal Bureau of Investigation's National Crime Information Center database, without authorization, and outside the scope of his authority, in exchange for payments from JOSEPH P. DWYER, the defendant, for the purpose of commercial advantage and private financial gain.

(Title 18, United States Code, Sections 1030(a)(2) and 1030(c)(2)(B)(i).)

COUNT FIVE

9. From at least in or about October 2011 through at least in or about November 7, 2013, in the Southern District of New York and elsewhere, JOSEPH P. DWYER, the defendant, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, placed in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and deposited and caused to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and took and received therefrom, such matter and thing, and knowingly caused such matter and thing to be delivered by mail and by such carrier according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressee, to wit, DWYER submitted a fraudulent billing invoices and vouchers to receive public, federal funds pursuant to the Criminal Justice

Act, and caused mailings to be sent in furtherance of the scheme.

(Title 18, United States Code, Sections 1341 and 2.)

The basis for my knowledge and the foregoing charges are, in part, as follows:

10. I am a Special Agent with the Federal Bureau of Investigation, and I have been personally involved in the investigation of this matter in conjunction with investigators from the United States Attorney's Office. This affidavit is based in part upon my conversations with other law-enforcement agents and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

The Defendants

11. JOSPEH P. DWYER, the defendant, is a former police officer with the New York City Police Department ("NYPD"). Based on information from the New York State Department of State Division of Licensing Services, I have learned that DWYER is a private investigator, licensed by the State of New York. DWYER is currently the Treasurer of "Investigative Resource Group, Inc." ("IRG"), a private investigations firm. DWYER's wife ("Dwyer's Wife") is the president of IRG, and has authority to write checks and make payments on behalf of IRG.

12. From in or about July 9, 1987, up to and including on or about February 1, 2014, RONALD G. BUELL, the defendant, was employed by the NYPD as a police officer. BUELL was promoted to the rank of Sergeant on or about May 27, 1998, and held that title through his retirement in February 2014. Between 2011 and February 1, 2014, BUELL was assigned to the Queens Robbery Squad, Queens, New York. His primary responsibility was supervising NYPD investigations related to robberies in Queens, New York. After retiring from the NYPD, BUELL opened his own private investigations firm called RGB Investigations, LLC, which is licensed by the State of New York.

Overview of the Scheme

13. As described in greater detail below, the investigation has established that between at least October 2011 through at least in or about November 2013, RONALD G. BUELL, the defendant, accessed a federal law enforcement database using a New York state computer system on at least 15 occasions to obtain criminal history information and other personal information related to witnesses and other individuals associated with at least 11 federal criminal prosecutions in the Southern District of New York on which JOSEPH P. DWYER, the defendant, had been retained as a defense investigator and paid with public funds pursuant to Title 18, United States Code, Section 3006A. During the same time period, BUELL deposited into his personal bank account at least 17 checks issued by IRG totaling nearly \$9,000. The investigation has further established that DWYER submitted billing invoices to the Criminal Justice Act ("CJA") administrative office in the Southern District of New York seeking payments and reimbursements for purported investigative work performed to obtain criminal histories of the individuals associated with the federal criminal prosecutions, when in truth and in fact, DWYER had illegally obtained the criminal history information through bribes paid to BUELL. The United States Treasury Department issued checks on these invoices, which were mailed from a location outside of the State of New York to DWYER's office on Long Island, New York.

The Criminal Justice Act

14. Pursuant to Title 18, United States Code, § 3006A, ("the Criminal Justice Act" or "CJA") federal funds are paid to defense attorneys, experts, and other services providers in an effort to ensure that indigent criminal defendants are provided with adequate legal representation in criminal cases.

15. The Administrative Office of the United States Courts (the "AO"), the central support entity for the Judicial Branch, is responsible for reviewing CJA billing invoices and assisting in processing payments. A lawyer, expert or other service provider performing work for a CJA represented criminal defendant sends billing invoices to the CJA office within the jurisdiction that the case is being prosecuted.

16. Thus, in connection with work performed for a criminal defendant being prosecuted in the Southern District of New York ("SDNY"), the lawyer, expert or service provider is

required to provide a billing invoice to the CJA office located in the SDNY. Once the invoice is reviewed and approved by the District Judge to which the case is assigned, a SDNY CJA employee enters the billing information into a national payment and tracking database managed by the AO. The database then sends an electronic message to the Treasury Department, to a location outside of the State of New York where a check is prepared, and mailed through the United States mails, to the CJA lawyer, expert or other service provider.

eJustice and the NCIC Database

17. NYPD officers have access to information from confidential law enforcement databases, including the National Crime Information Center ("NCIC") database. The NCIC database is operated by the Federal Bureau of Investigation ("FBI").

18. Based on my training and experience, I know that the FBI's NCIC database is a computerized index of criminal justice information, and allows authorized law enforcement personnel to obtain, from a secure law enforcement computer, criminal record history information about individual subjects and targets of investigations, and information about fugitives, stolen property, and missing persons.

19. Based on my training and experience, I know that the information contained in the NCIC database assists authorized agencies in achieving critical law enforcement objectives, including apprehending fugitives, locating missing persons, locating and returning stolen property, as well as in the protection of the law enforcement officers encountering the individuals in the field described in the system. This NCIC database contains personal information such as social security numbers, addresses, and dates of birth. For these reasons, among others, the NCIC database is accessible only to authorized entities, including state and local law enforcement authorities throughout the United States. NCIC cannot be accessed by the general public or private investigators.

20. Based on my training and experience, I know that NYPD officers access information from the FBI's NCIC database through a New York state computer system called the "eJusticeNY Integrated Justice Portal" (the "eJustice Portal"). Through the eJustice Portal, authorized users can access information from a variety of Federal, State, and local agency sources, including from the FBI.

21. When requesting information from the FBI's NCIC database, NYPD officers must access the eJustice Portal using a unique operator identification code (the "Operator Code").

22. I have learned that NYPD officers are trained and instructed that they are not permitted to access confidential law enforcement databases, including the eJustice Portal and NCIC, for non-law enforcement related purposes.

CJA Payments to Joseph P. Dwyer

23. Based on records from the AO, I have learned that between 2011 and the present, CJA defense lawyers in the Southern District of New York have retained IRG, and JOSEPH P. DWYER, the defendant, to provide private investigative services in a number of cases. In connection with this work, DWYER submitted invoices to the CJA office in the SDNY. After these invoices were approved by a United States District Judge, the United States Treasury Department issued payments in the form of checks which were mailed from a location outside of the State of New York to DWYER's place of business on Long Island, New York.

24. Based on my review of IRG's bank records, I learned that between 2011 and 2013, approximately \$500,000 was deposited into IRG's bank account for work purportedly performed by DWYER at the request of CJA defense counsel. Payments for CJA related work compromised the vast majority of monies deposited into IRG's bank account.

Ronald Buell's Access to eJustice and the NCIC Database

25. As an NYPD officer, RONALD G. BUELL, the defendant, had access to the eJustice Portal through which he could obtain information from the FBI's NCIC database. BUELL was authorized to access the eJustice Portal and information from the NCIC database only in connection with, and in furtherance of, official NYPD investigations or other official law enforcement requests.

26. RONALD G. BUELL, the defendant, was assigned a unique Operator Code to access the eJustice Portal. When accessing the eJustice Portal, he (and all other users/operators) were required to list a case number to which the query related, and also provide in the "user comment section" a remark stating the purpose of the query.

Background to the Investigation

27. In or about November 2013, in preparing for trial in *United States v. Jose Nieves*, 12 Cr. 931 (SAS), the United States Attorney's Office, Southern District of New York ("USAO"), learned that JOSEPH P. DWYER, the defendant, interviewed two eyewitnesses to the homicide of Roy Walker, for which Mr. Nieves was charged. Mr. Nieves's CJA appointed defense lawyer had retained DWYER to provide private investigative services.

28. I learned from representatives of the USAO that the personal identifying information concerning the eyewitnesses that JOSEPH P. DWYER, the defendant had interviewed, appeared only in confidential NYPD reports. At the time DWYER spoke with the eyewitnesses, the Government had not yet disclosed any information about the eyewitnesses outside of the prosecution team in order to protect the identity and safety of Government witnesses, due to the violent nature of the crime with which Mr. Nieves was charged.

29. Based on an audit of the FBI's NCIC, a review of New York State Division of Criminal Justice Records, and a review of billing invoices that JOSEPH P. DWYER, the defendant, submitted for work purportedly performed on the *Nieves* case, I learned that on or about March 7, 2013, an inquiry was made under the password assigned to RONALD G. BUELL, the defendant, via the eJustice Portal to NCIC relating to one of the same eyewitnesses that DWYER had interviewed on behalf of Mr. Nieves.

Ronald G. Buell's Unauthorized Access to the NCIC Database on Behalf of Joseph P. Dwyer

30. Members of the general public, including private investigators and information brokers, are strictly prohibited from accessing eJustice Portal or the NCIC database. Private investigators retained to determine an individual's criminal record, are permitted access to databases and records available to the general public including state, local and federal court databases. For a fee, private investigators may also request a criminal history records search through the New York State Courts, and the investigator is required to provide a correct date of birth. The NCIC database, however, is strictly limited to authorized personnel because it provides detailed and sometimes sensitive information about individuals, including personal information such as criminal history, social security

numbers, dates of birth, homes addresses and the existence of arrest warrants based on confidential, sealed indictments. Release of this information to unauthorized users can jeopardize law enforcement operations, risk the safety of law enforcement officers and obstruct justice by, for example, alerting a subject to the fact that an arrest warrant has been issued and an operation to apprehend the subject is potentially imminent.

31. I have reviewed a report prepared by the New York State Division of Criminal Justice Services, Office of Internal Audit and Compliance, which lists each query that was made via the eJustice Portal between January 1, 2011 and December 31, 2013, through the confidential and unique password assigned to RONALD G. BUELL, the defendant. Based on my training and experience, and the investigation that has been conducted thus far, I have identified evidence that BUELL, in exchange for payment from JOSEPH P. DWYER, the defendant, exceeded his authorized access to NCIC, thereby illegally obtaining criminal history and other personal identifiable information on a number of occasions, examples of which are described below.

United States v. Barnes, 11 Cr. 184 (DLC) and United States v. Thaqi, 11 Cr. 486 (DLI)

32. In or about 2012, a CJA defense lawyer who had been appointed to represent an indigent defendant charged in *United States v. Barnes, 11 Cr. 184 (DLC)*, retained JOSEPH P. DWYER, the defendant, to provide investigative services in preparation for trial. During this same time period, DWYER was retained by another CJA defense lawyer to provide investigative services in connection with *United States v. Thaqi, 11 Cr. 486 (DLI)*.

33. On or about March 7, 2012, at approximately 4:13 pm; 4:30 pm; 4:37 pm; and 4:46 pm; a computer user using the unique and confidential password assigned to RONALD G. BUELL, the defendant, accessed the NCIC database via the eJustice Portal, and obtained criminal history information, including social security numbers, dates of birth, addresses, and other personal identifying information related to four potential witnesses in *United States v. Barnes, 11 Cr. 184 (DLC)*.

34. At approximately 5:13 pm, a computer user using the unique and confidential password assigned to RONALD G. BUELL, the defendant, conducted another criminal history search of a defendant in *United States v. Thaqi, 11 Cr. 486 (DLI)*, and obtained criminal history information, social security numbers,

dates of birth, addresses, and other personal identifying information.

35. At approximately 5:20 pm - 7 minutes after the final query - a cellular telephone registered to NYPD and assigned to BUELL was in contact with a cellular telephone registered to JOSEPH P. DWYER, the defendant. That call lasted 3 minutes.

36. According to information provided by federal law enforcement agents, RONALD G. BUELL, the defendant, was not assigned to *United States v. Barnes*, 11 Cr. 184 (DLC) or to *United States v. Thaqi*, 11 Cr. 486 (DLI). In addition, in the "user comments section" of the eJustice Portal, BUELL claimed that the queries related to an investigation of home invasion robberies. According to the NYPD Internal Affairs Bureau, the case referenced by BUELL did not exist.

***United States v. Pagan*, 10 Cr. 392 (CS)**

37. In or about 2012, a CJA defense lawyer who had been appointed to represent an indigent defendant charged in *United States v. Pagan*, 10 Cr. 392 (CS), retained JOSEPH P. DWYER, the defendant, to provide investigative services.

38. On or about April 27, 2012, JOSEPH P. DWYER, the defendant, submitted a billing voucher for investigative services relating to *United States v. Pagan*, 10 Cr. 392 (CS). Attached to the voucher was an invoice which set forth the "Work Performed," including the date and amount of hours expended. On the invoice, DWYER claimed that on February 6, 2012 he performed a number of tasks including: "[o]btain[ing] criminal history on [Pagan Co-Defendant 1], [Pagan Co-Defendant 2] and, [Pagan Co-Defendant 3]." For this, and other purported work, DWYER billed CJA 3.9 hours, at \$95 per hour. As a result, the United States Treasury Department, using the United States mails, sent to DWYER from a location outside of the State of New York, a check for payment on DWYER's invoice.

39. On or about February 5, 2012, at approximately 8:09 am, an individual using the unique and confidential password assigned to RONALD G. BUELL, the defendant, accessed the NCIC database via the eJustice Portal, and obtained criminal history information, social security numbers, date of births, addresses, and other personal identifying information related to Pagan Co-Defendant 1, Pagan Co-Defendant 2, and Pagan Co-

Defendant 3, each of whom was associated with the prosecution *United States v. Pagan*, 10 Cr. 392 (CS).

40. According to information provided by federal law enforcement agents, RONALD G. BUELL, the defendant, was not assigned *United States v. Pagan*, 10 Cr. 392 (CS). In addition, in the "user comments section," BUELL claimed that the query related to an investigation of home invasion robberies. At the time of the query, however, these robbery cases had been closed by the NYPD.

***United States v. Young*, 10 Cr. 640 (PAC)**

41. In or about 2012, a CJA defense lawyer who had been appointed to represent an indigent defendant charged in *United States v. Young*, 10 Cr. 640 (PAC), retained JOSEPH P. DWYER, the defendant, to provide investigative services.

42. On or about May 8, 2012, JOSEPH P. DWYER, the defendant, submitted a billing voucher for investigative services relating to *United States v. Young*, 10 Cr. 640 (PAC). Attached to the voucher was an invoice which set forth the "Work Performed," including the date and amount of hours expended. On the invoice, DWYER claimed that on April 2, 2012 he performed a number of tasks including: "[o]btain [Young Co-Defendant 1] documents; review rap sheet." For this, and other purported work, DWYER billed CJA 2.4 hours at \$95 per hour. As a result, the United States Treasury Department, using the United States mails, sent to DWYER from a location outside of the State of New York, a check for payment on DWYER's invoice.

43. On or about April 1, 2012, at approximately 10:35 pm, an individual using the unique and confidential password assigned to RONALD G. BUELL, the defendant, accessed the NCIC database via the eJustice Portal, and obtained criminal history information, a social security number, date of birth, addresses, and other personal identifying information related to Young Co-Defendant 1, an individual also charged in *United States v. Young*, 10 Cr. 640 (PAC)

44. According to information provided by federal law enforcement agents, RONALD G. BUELL, the defendant, was not assigned *United States v. Young*, 10 Cr. 640 (PAC). In the "user comments section," RONALD G. BUELL, the defendant claimed that the query related to an investigation of home invasion robberies. According to the NYPD's Internal Affairs Bureau, the case referenced by BUELL did not exist.

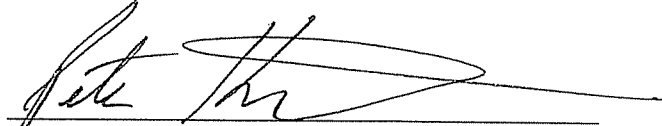
Bribes Paid by Joseph P. Dwyer to Ronald G. Buell

45. Pursuant to internal NYPD policy, NYPD officers who wish to be compensated for work performed outside of their duties as a police officer must request and receive approval from the NYPD. Based on information from the NYPD's Internal Affairs Bureau, RONALD G. BUELL, the defendant, never requested, or received permission, to perform work for JOSEPH P. DWYER, the defendant, Pamela Dwyer, or IRG. As a matter of policy, a request by an NYPD office to work for a private investigator representing a criminal defendant would be denied.

46. Based on my review of RONALD G. BUELL, the defendant's bank records, I learned that between 2011 and 2013 BUELL deposited the following checks into his personal bank account, signed by Dwyer's Wife, or JOSEPH P. DWYER, the defendant, on behalf of IRG.

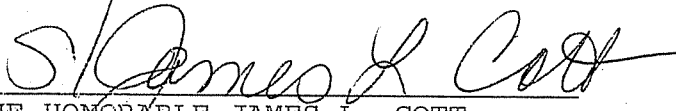
a. January 1, 2011:	\$750
b. February 12, 2011:	\$500
c. March 21, 2011:	\$500
d. May 10, 2011:	\$500
e. June 9, 2011:	\$500
f. August 1, 2011:	\$500
g. September 7, 2011:	\$500
h. January 13, 2012:	\$500
i. February 8, 2012:	\$500
j. June 26, 2012:	\$500
k. July 30, 2012:	\$500
l. January 17, 2013:	\$500
m. March 11, 2013:	\$500
n. April 15, 2013:	\$500
o. June 12, 2013:	\$500
p. August 2, 2013:	\$500
q. November 11, 2013:	\$500

WHEREFORE, deponent respectfully requests that JOSEPH P. DWYER, and RONALD G. BUELL, the defendants, be arrested, and that they be imprisoned or bailed, as the case may be.



PETER KILPATRICK
Special Agent
Federal Bureau of Investigation

Sworn to before me this
20th day of October, 2014



THE HONORABLE JAMES L. COTT
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK