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Fairbanks Case Prober Puzzles, then Startles, NH Lawmakers

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CONCORD – *A muddled explanation of why the Attorney General's Office was powerless to trace telephone calls made to relatives of Newport lawyer John C. Fairbanks while he was a fugitive left legislators puzzled yesterday.*

G. Michael Bahan, chief investigator at the Attorney General's Office was asked why, given tips from an informant that Fairbanks was in touch with family, investigators were unable to determine where he may have been calling from.

Bahan told Fairbanks Study Committee he lacked "probable cause" to seek a court order to place "trap and trace" devices on the home telephone of Fairbanks' wife and four children. Bahan also claimed the attorney general's legal authority to trace incoming calls was "negated or lessened" by the fact that Fairbanks, the subject of a four-year international manhunt, had not been arrested before he fled.

The "trap and trace" equipment identifies the originating numbers of telephone calls. It does not intercept the conversation.

Bahan startled the committee when, in response to a question from Acting Chairman Nick Hart, R-Manchester, he acknowledged meeting with retired investigator Thomas H. Hannigan, who conducted the initial phase of the state's Fairbanks investigation.

"You had coffee with him this morning?" Hart said in surprise. "I've sent him requests to appear before our committee. He never answered. I thought he wasn't available. We want to talk to him."

Late yesterday, Hart said he had contacted Hannigan. The retired investigator has agreed to testify today at 1 pm, Hart said.

The attorney general's Fairbanks investigation began in Decemebr 1988 when Hannigan took a call from John H. Tweedy of Washington, who complained of Fairbanks' mismanagement of the trust fund of Tweedy's mentally disabled brother. Rather than ask Tweedy to bring his documents to Concord, Hannigan drove to Washington to talk with him.

Gov. Stephen E. Merrill, who was attorney general when the investigation began, recalled in his testimony on Tuesday that his staff was so busy it was common practice for complainants to meet with investigators at the Concord office.

"The thing that surprised me is that he drove to Washington, New Hampshire," Merrill said.

Merrill resigned as attorney general in February 1989, knowing nothing of his staff's investigation into the financial affairs of the prominent, respected Newport lawyer and district court judge.

That matter was not brought to my attention before I left," Merrill said, adding it was not unusual for him to be aware of investigations.

Among the attorney general's paper is a memo filed on March 29, 1989, that suggests Hannigan put little stock in Tweedy's complaint. Hannigan wrote to then-Assistant Attorney General Andrew W. Serell, who was heading the Fairbanks investigation, "I don't think Fairbanks is guilty of anything more than lousy management, especially failing to make annual (probate court) reports as required by law...I feel we should just interview Fairbanks and resolve the matter."

On April 21, 1989, Serell, in a handwritten note, suggested to Hannigan, "before you do too much digging, you should interview Fairbanks and see if he has answers to Tweedy's questions...If he does, that should end the matter."

Soon, other complaints surfaced and the investigation took on new life. It culminated Dec. 28, 1989, with indictments that charged Fairbanks stole \$1.8 million from elderly clients.

He disappeared the day the charges came down. After he committed suicide in March 1994 in Las Vegas, Nev., investigators found he had lived most of his fugitive years under an alias in Quebec City – while they chased dead-end leads from chilly Moose Jaw, Saskatchewan, to exotic Tortola, British Virgin Islands.

After Bahan testified yesterday, Hart and several other committee members said they may ask Attorney General Jeffery R. Howard to explain the limitations of the state's wiretap law.

The law is strict, permitting investigators to eavesdrop on conversations for no more than 10 days and only when they can convince a judge there is "probable cause" the telephone tapped is used "in connection with" a crime.

On the other hand, the law allows investigators to get a court order to "trap" incoming numbers for 60 days, requiring only they show "the information likely to be obtained is relevant to an ongoing criminal investigation."

Questioned by Rep. Alf E. Jacobsen, R-New London, and Benjamin J. DePecol, D-Keene, Bahan said he had "an indication" in August 1992 that Fairbanks was using a telephone charge card obtained from a daughter.

An analysis was done of family members' telephone toll call records, but it uncovered no questionable charge or outgoing calls. The toll records, however, provided no information on the incoming numbers of calls made to the homes of Fairbanks' relatives. That would have required a trap and trace authorization.

"This business about 'insufficient probable cause.' He was a fugitive? What was the probable cause you needed?" Jacobson asked.

Bahan replied:

"To get a trap and trace device, we would have to be looking for crimes, like avoiding prosecution, hindering apprehension or for escape. Because Mr. Fairbanks had not been arrested, it didn't allow us to use the statutory requirements the Legislature had put in (the law)...So we were limited to utilizing other investigative tools, like pulling the telephone toll records, until we could find enough probable cause..."

After Bahan had left, DePecol said, "Somebody in the Attorney General's Office blew it...It seems to me that they had all of the tools necessary to go ahead and find out if Fairbanks was giving his family a call and where it was coming from."

Said Jacobson:

"I don't know whether this is correct or not, but it seems strange that you couldn't get a trap and trace when the person has been indicted and he flees. The fact that a police officer hasn't put his hand on his shoulder seems to me to be the minimal part of it."

"Now that we've looked at the law...it doesn't seem like he gave us a plausible answer," said Rep. Evelyn S. Letendre, R-Bedford.

Law Enforcement is there to “SERVE AND PROTECT”. In this case, it is law enforcement, in the form of the local police officer, Goffstown Police Captain Kerry Steckowych, and extending deep into the NH Attorney Generals Office in the form of Chief Investigator G. Michael Bahan. This is the same Investigator that was lambasted by numerous committee members that were part of at least 2 committees set up to investigate the failed investigation of Judge John Fairbanks. Following are quotes from these committee members, all Senators, State Reps, Governors and Executive Council members. **Michael Bahan is a “liar”, “puzzling”, “mysterious”, “unbelievable”, “a failure”, “disturbing”, “suspicious”, “implausible”, “frustrating”, and “politically corrupt”.** The veracity of all of these upstanding NH citizens can not be denied. This man is a **“close personal friend of Attorney Steckowych”**. This is the man in charge of investigating Attorney Steckowych? In this particular case, if this Court takes away my right to use these tapes to defend myself, my rights against this particular branch of government will be denied. Shortly before Judge John Fairbanks absconded with millions in stolen client’s money, Chief Investigator G. Michael Bahan said that “Judge John Fairbanks had committed no crimes”. How many more innocent citizens have been abused since the early 1990s by Investigator Bahan? How many more will be allowed to be abused by these criminals masquerading as law enforcement officers before the NH Attorney Generals Office and the Courts step in and put an end to it?

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