

# THE CHILLING EFFECT

By Peter Lance

[www.peterlance.com](http://www.peterlance.com)

In 2002 I drove away from a dangerous town in the Northern Philippines with a packet of classified intelligence proving that the al Qaeda bomb maker who exploded a 1,500- pound urea-nitrate device below the World Trade Center in 1993 was the same terrorist who'd set the 9/11 plot in motion two years later in Manila.

Four years to the month after I'd left my clandestine meeting with an official of the Philippines National Police, I stood among a group of reporters outside Supreme Court in Brooklyn as a phalanx of angry ex-FBI agents surrounded the man once known in The Bureau as Mr. Organized Crime. Swatting back the press like a mob of angry soccer hooligans after a losing match, they were protecting R. Lindley DeVecchio, an ex-supervisory special agent who'd just been indicted on four counts of murder.

I had covered DeVecchio in my book *Cover Up*, which the Brooklyn D.A. had referred to as "the springboard" for their investigation. As the perp walk moved down Jay Street, the defendant -- just released on \$1 million bail -- shot me a predatory look.

At that point, I was writing a new book connecting the dots on the tangled story of how al Qaeda met the mob and it soon put me in the crosshairs of the ex-agent's defense team. Not only did I get subpoenaed and faced jail if I didn't cough up my confidential sources, but after the book was published, the most powerful Federal prosecutor in the country demanded that it be killed.

I'd become the latest target of Patrick Fitzgerald, the Chicago U.S. Attorney the *Washington Post* had called a "relentless prosecutor." Somehow I'd peeled back the layers on some dark spots in his otherwise stellar resumé and Fitzgerald, described by a former colleague at Justice as "Elliot Ness with a Harvard degree and a sense of humor" was not amused.

The man who jailed billionaire Conrad Black and indicted Gov. Rod Blagojevich has enjoyed an almost unblemished reputation for honesty and integrity, but he's also used his power to intimidate the media in ways not seen since the McCarthy era. The story of how he came gunning for me, sheds new light on his position as uber prosecutor and rips the covers off a series of mistakes he made in the years leading up to 9/11.

The evidence I unearthed stems from Fitzgerald's tenure in the mid 1990's as co-head of the Organized Crime-Terrorism Unit in the Southern District, the flagship U.S. Attorney's Office in New York that turned out stars like Rudolph Giuliani and ex-FBI Director Louis Freeh. In 1995 after President Clinton issued Decision Directive 39, a secret order targeting Islamic terrorism, Fitzgerald was tasked to direct I-49, the elite "bin Laden" squad in the FBI's New York Office. It would be a career-making position for Fitzgerald, the son of an Irish immigrant doorman.

In years to come he emerged as the Department of Justice's leading bin Laden authority. In a February 2006 *Vanity Fair* profile he was described as a "crusader," with "scary smart intelligence," and "a mainframe computer brain."

The lead prosecutor in *United States v. bin Laden*, the African Embassy bombing case in 2001, Fitzgerald was rewarded for his indictment of the Saudi billionaire with an appointment as U.S. attorney in Chicago, a city infamous for political corruption. In short order Fitzie, as his friends call him, amassed what a local reporter called “a remarkable string of courtroom victories,” convicting a host of dirty pols and white collar criminals from Democratic Gov. George Ryan to Tony Rezko, an early benefactor of Barack Obama.

If that wasn't enough to keep him busy, in December 2003 Fitzgerald was tapped to become Special Counsel in the Valerie Plame CIA leak investigation. It would be his job to determine whether presidential aide Karl Rove or Vice President Dick Cheney had outed former CIA operative Valerie Plame in an effort to punish her husband, for alleging that the Bush White House had used false intelligence to justify the invasion of Iraq.

Suddenly, Fitzgerald had become a hero for the left, with Bush critics certain that the dogged prosecutor with the altar boy image would take the leak probe all the way to the V.P. *People* magazine even tabbed him as one of the “Sexiest Men Alive.” Then, after 27 months and a multi-million dollar investigation, Fitzgerald succeeded in convicting only a second-tier player of perjury and obstruction.

Lewis “Scooter” Libby, Cheney's chief of staff, got a thirty-month sentence. But it was later commuted by President Bush, allowing Libby to escape jail. In fact, the only person who got locked up, was Judith Miller, the *New York Times* reporter who served 85 days for contempt after Fitzgerald demanded she turn over her confidential sources.

“Despite his reputation as a tough-minded prosecutor, Fitzgerald failed to go after the big fish,” said Jason Leopold, the ex-Dow Jones L.A. Bureau Chief who covered Plamegate. *Washington Post* columnist Richard Cohen termed it “a train wreck - mile after mile of shame, infamy, embarrassment and occasional farce.” The jailing of Miller seemed particularly draconian when it was later discovered that virtually from the start, Fitzgerald had known the I.D. of the actual leaker: Richard Armitage, a Bush Deputy Secretary of State.

The *Wall Street Journal* called Fitzie “a loose cannon.” Even progressive columnists worried about his invasive tactics. “Let's remember that you and I still don't know exactly why Miller was ordered by the court to go to jail,” wrote Carol Marin of *Chicago Sun-Times*. “That's because the written opinion of the U.S. Court of Appeals... contains six blank pages... the information redacted at the request of U.S. Attorney Fitzgerald... That level of secrecy in a court ruling has stunned constitutional lawyers.”

In December 2008 Fitzgerald came under fire for telling a media circus that the charges against Blagojevich “would make Lincoln roll over in his grave.” All incoming administrations have the right to replace any of the 93 U.S. Attorneys nationwide but who in the Obama administration would risk removing him after Blago subpoenaed White House Chief of Staff Rahm Emanuel and Senior Advisor Valerie Jarrett? Like his Chicago predecessor Elliot Ness, Patrick Fitzgerald had established himself as almost untouchable.

Given that kind of power, you can imagine how I felt in October of 2007 when I got a call from Mark Jackson, general counsel for my publisher HarperCollins. He read me a letter he'd just received from Patrick Fitzgerald himself:

“I write to demand that Harper Collins cease publication, distribution and sale of the current version of (*Triple Cross*); issue and publish a clear and unequivocal statement acknowledging that the book contains false statements about me; refrain from publication of any updated version [and] take no steps to transfer the rights to any other person or entity to publish the book in any form.”

In the letter, Fitzgerald included an attachment requesting that HarperCollins “preserve” 12 separate categories of records including all “book drafts,” correspondence between me and the publisher, even “all records of profits attributable to *Triple Cross*.”

*Black's Law Dictionary* defines “a chilling effect” as a “situation where speech or conduct is suppressed by fear of penalization at the interests of an individual.” Naturally the level of fear depends on whom the threat comes from. And when I first got that call, even though I knew that my research in the book was bulletproof and Fitzgerald didn't have a case, my internal temperature dropped to sub-zero.

After all, he'd not only jailed a reporter for the most powerful newspaper in the country, but he'd succeeded in getting her cell phone records in *another* case. He had 161 lawyers under his command and although he'd framed this as a personal complaint, my charges against him related directly to his work for the U.S. Department of Justice. Apparently, I'd struck a nerve.

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*Triple Cross* was the first work by any mainstream journalist to audit the two bin Laden offices of origin: the SDNY, where Fitzgerald had supervised terrorism and mob cases and the FBI's New York Office (NYO), where he ran the bin Laden Squad (I-49). My book documented how Fitzgerald had been outmaneuvered for years by al Qaeda's top spy, Ali Mohamed, and that in an effort to save a series of Mafia prosecutions, impacted, strangely, by a terror investigation, he'd buried a treasure trove of evidence that might have alerted other agencies to the looming al Qaeda threat years before 9/11.

The key to that discovery was a sworn 1999 Fitzgerald Affirmation I'd gotten unsealed. It was a declaration that, if properly vetted, might have subjected Fitzie himself to charges of perjury and obstruction of justice – the same counts on which he'd nailed Libby.

“This is a tough prosecutor who holds politicians and corporate leaders to the highest ethical standards,” said James Whalen, a retired FBI special agent. “But when it comes to criticism of his own record, he seems pretty thin-skinned.”

In response to Fitzgerald's letter, HarperCollins' attorney Jackson wrote back, “We stand behind Mr. Lance and intend to go forward with the publication of the updated trade paperback edition of the book, which we regard as an important work of investigative journalism.”

But the U.S. Attorney was not satisfied. On November 16th, 2007 he sent a second letter demanding that the book be pulped and this time, as if to send a message, it was faxed from the office of the U.S. Attorney Chicago.

In both letters Fitzgerald could point to only a single factual error in 604 pages: the misdating of an article from NBC News relating to the possible prior knowledge of U.S. intelligence officials of the East African Embassy bombing conspiracy. The misdating was clearly inadvertent since the story itself, still accessible on the MSNBC website, contained the very October 24, 2003 date that I used in the book. Further, in order to mount a successful claim for libel, Fitzgerald would not only have to prove that the statement was false, but that it was written with malice, defined by the Supreme Court in the landmark New York Times vs. Sullivan case as “reckless disregard for the truth.”

He'd be hard pressed to do that since *Triple Cross* was heavily vetted prior to publication. It had eighty-five pages of appendices and supporting documents including 1,425 end notes. Virtually every factual allegation was annotated and there were multiple transcript citations from the five terror trials prosecuted by his own Southern District office. Nonetheless, by early summer of 2009 Patrick Fitzgerald had succeeded in holding up the book's publication for more than 20 months.

The story behind *that* story is a cautionary tale that questions the tactics and motives of best and the brightest in the FBI and Justice Department in the years leading up to the attacks of September 11th.

Until 9/11 virtually the entire war on terror was fought as a series of legal cases investigated by the FBI's NYO and prosecuted by the assistant U.S. Attorneys of the SDNY. Patrick Fitzgerald was the single most powerful general in that war and the book he wants to kill documents for the first time the catastrophic mistakes he made from 1996 forward as Osama bin Laden plotted his attack on the U.S. homeland.

In reporting that dates back to 2002, I established that the agents of the FBI's elite JTTF had blown multiple chances to stop Ramzi Yousef in the fall of 1992 as he built an urea-nitrate WMD in a Jersey City bomb factory. On February 26th, 1993, he set it off on the B-2 parking level beneath the Twin Towers, killing six and injuring 1,000.

After escaping New York that evening, Yousef made his way to Manila, where he hatched three plots: a plan to kill Pope John Paul II during a visit to the Philippines in early 1995, the so-called Bojinka plot in which small improvised explosive devices (IED's) would be placed aboard a dozen U.S. jumbo jets exiting Asia and the “planes operation,” realized on 9/11.

I'd documented my findings with the classified evidence I'd received from Col. Rodolfo B. Mendoza of the Philippines National Police. My most shocking revelation was that in 1995 he'd sent that same intel to the U.S. Embassy in Manila where it was forwarded to prosecutors in the SDNY.

I even traced the chain of custody, interviewing the U.S. Diplomatic Security Service Agent who'd picked up the intel from Mendoza at Camp Crame in Manila and stood by as the FBI Legal Attaché express mailed it to the Southern District. The agent confirmed an earlier account he'd give that, "Mike Garcia and Dietrich Snell, the Assistant U.S. Attorneys" who later prosecuted Yousef "almost certainly had access to the materials." By December of 1995, Garcia and Snell were working directly under Patrick Fitzgerald.

In short, the SDNY bin Laden office of origin, had more than five years prior warning of Ramzi Yousef's hijack-planes-fly-them-into-buildings scenario. My findings created such a stir that Chairman Tom Kean had asked me to testify before the 9/11 Commission. But when I came to present the evidence I'd received from Col. Mendoza, the Senior Counsel assigned to interview me was none other than *Dietrich Snell*, the ex-SDNY prosecutor who'd had access to Mendoza's intelligence warning of the plot.

As I saw it, Snell should have been a witness before the Commission, but he was acting now as the fox guarding the chicken coop. On March 15th, 2004, he led me into a windowless conference room at 26 Federal Plaza, the Commission's New York office. There was no stenographer present and no recording equipment. Nevertheless, I testified to what I'd learned from Mendoza:

That in early 1995, after a fire in their Manila bomb factory, Yousef and his uncle, Khalid Shaikh Mohammed (KSM) had escaped to Pakistan. But a third member of their cell, Abdul Hakim Murad, had been caught. After interrogating him, Mendoza learned that Murad was a commercial pilot trained in four U.S. flight schools. He was to be the lead pilot in the original configuration of the suicide-hijacking plot.

At that point, Yousef and KSM had chosen seven targets: the WTC, the Pentagon, the White House, CIA headquarters, the Sears and Transamerica Towers and a nuclear facility. I later interviewed Rafael Garcia III, the Philippines computer expert who de-encrypted Yousef's Toshiba laptop, found at the Manila bomb factory. Garcia confirmed those identical targets.

But back in 2004, as Snell took notes on my testimony, he seemed to have a different agenda. A source inside the Commission staff later revealed to me that Snell and other investigators were cherry picking the evidence, concocting a scenario that took Ramzi Yousef out of the plot.

Why? Because if they'd confirmed his involvement, the SDNY and FBI might be held accountable for not having stopped in him 1992 as Yousef plotted the first WTC attack. It would also raise questions about whether, in fact they'd been tipped to the plot back in 1995 as Col. Mendoza and the DSS agent had told me.

In the end, Snell reduced my testimony to a single footnote in the Commission's Final Report. Ignoring Mendoza's findings, he pushed the plot's origin ahead two years to 1996, a date *after* Ramzi's arrest. More astounding: Snell's sole authority for this stunning rewrite of history was Khalid Shaikh Mohammed himself, whom Snell, per the 9/11 Report, claimed had confessed to all of this under torture after his capture.

To me, relying entirely on the man the FBI later called “the mastermind” of the plot, to establish its date of origin was like asking serial killer David Berkowitz when he’d performed his first “Son of Sam” murder. Khalid Shaikh was completely unreliable; especially since he’d given his so-called “confession,” after being water boarded. <sup>1</sup>

But in the Spring of 1996, KSM was still on the loose, working to execute Ramzi’s plot. Meanwhile, Yousef and Murad had been rendered back to the SDNY for the Bojinka trial and the man assigned to be one of their prosecutors was Dietrich Snell; then working directly under Patrick Fitzgerald.

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Yousef and Murad were housed in cells on the 9th floor tier of the Metropolitan Correctional Center (MCC), federal jail in Lower Manhattan. That’s where events began to unfold that led to crucial Fitzgerald decision exposed in my book for the first time.

In the cell between Yousef and Murad was none other than Gregory Scarpa Jr., the son of a notorious capo for the Colombo crime family. Though Greg Jr. was a mid level wiseguy, his father, known as The Killing Machine had been jailed for only 30 days in a 30 year career of murder and racketeering. Why? Because in the early 1960’s he’d become a Top Echelon informant for the FBI. Now, Greg Jr. figured that if he ratted out these two terrorists, it might do him some good when he came up on RICO charges.

So, after Yousef and Murad removed bed struts from the walls of their cells, they began passing notes, Ramzi called kites, through Greg Jr. who acted as the middleman. Among the kites was a protocol for a Bojinka-like plot entitled: “How To Smuggle Explosives Into An Airplane.” Many of the notes and the FBI 302 memos that describe them can be accessed at: [www.peterlance.com/PLfbi.htm](http://www.peterlance.com/PLfbi.htm)

Scarpa Jr. also retrieved a schematic from Yousef of the Bojinka IED showing how it was powered by a Casio DBC-61 Databank watch into which the bomb maker would solder a C106D semi-conductor. That schematic matched precisely with copies of a Casio IED recovered from Yousef’s Manila bomb factory that I’d received from Col. Mendoza.

Months later in August, the C106D was described at the Bojinka trial as Ramzi’s “signature,” but in the spring of 1996, nobody outside of the FBI or the SDNY prosecutor’s office had access to any of those details.

The FBI was so taken with the quality of the intel, that they gave Greg Jr. a camera to photograph the notes and later set up a phony Mafia front company called “Roma Corp.” Convincing Yousef that Roma was manned by wiseguys, Scarpa Jr. encouraged him to call it from the pay phone on the 9th floor tier of the MCC. That way, the purported mobsters could patch him through to his people in New York and the Middle East.

Instead of Mafiosi, of course, the Feds had special agents on the phone and they tracked each call. One of them even went to KSM who had been hiding out in Doha, Qatar. The Bureau rushed its elite Hostage Rescue Team (HRT) to Doha, only to have KSM disappear with the help of a senior Qatari official. It was KSM's second escape from the FBI and he was free once again to carry out his nephew Ramzi's "planes as missiles" plot.

Still, over 11 months, Greg Jr.'s Yousef sting yielded a treasure trove of intelligence including proof of an active al Qaeda cell in New York City and a plot to hijack planes to free blind Sheikh Omar Abdel Rahman, bin Laden's surrogate in New York who'd been in Federal jail since 1993. That last piece of intel was considered so important that it later showed up in the infamous Presidential Daily Briefing (PDB) to President Bush weeks before 9/11. It was headlined: "bin Laden to Attack Inside the U.S."

The revelation about an active al Qaeda cell should have rocked the corridors of the FBI's New York Office. Why? Because after Fitzgerald's conviction of the blind Sheikh in 1995, the official position of the Feds had been that they had eliminated the Islamic terror threat to New York.

Scarpa Jr., had been known as The Marijuana King of Staten Island. But his proximity to the terrorists, his skills as a Mafia con man and his audacious willingness to work for the Feds (like his murderous father) made him the perfect spy.

Documented in those FBI 302 memos, the intel he generated became known as "The Scarpa Materials." One 302 recounted how, for the payment of \$2,500.00, the terrorist was willing to set up a meeting, "between one of (Yousef's) people and one of SCARPA's people (FBI) on the outside." Such a meeting would have given the FBI a chance to penetrate a U.S. based al Qaeda cell linked to bin Laden and KSM *five years* before the 9/11 attacks.

"These 302's had extraordinary potential intelligence value to other agencies like the CIA and DIA," said Lt. Col. Anthony Shafer, the Bronze Star winner who ran the U.S. Army's Top Secret data mining operation called Able Danger in the year 2000. "After we found similar links between the blind Sheikh's New York cell, this intel might have helped us connect some major dots in the years leading up to 9/11."

And who was privy to the Scarpa Jr. sting? Patrick Fitzgerald and a host of FBI and Justice Dept. officials. The 302 dated March, 7th, 1996 documents how Greg Jr. was interviewed by none other than Dietrich Snell, Valerie Caproni, chief of the U.S. Attorney's office for the Eastern District of New York (EDNY) and Fitzgerald himself.

"That information from Greg Jr. was clearly credible," said Scarpa Jr.'s former lawyer Larry Silverman, himself an ex-EDNY prosecutor. "I first heard the name Osama bin Laden from Greg Jr. after Yousef told him that name. And I want to emphasize that this information came forth in stages. That proves it was credible. If, at any point the information was inaccurate, the Government would have pulled the plug."

But the FBI never acted on Yousef's offer to meet his cell members. The CIA and the Defense Intelligence Agency never got to see those Yousef-to-Scarpa Jr. kites or the two-inch thick pile of FBI 302s documenting them. Why? Because by the late summer of 1996, the Feds were moving into a containment mode.

Top Justice Department officials came to believe that if the younger Scarpa was found credible in his sting of Yousef, he'd be credible later on when he testified about the alleged corrupt relationship between his father and R. Lindley DeVecchio, that senior FBI Agent who was then under investigation by the Bureau for allegedly feeding organized crime intelligence to Scarpa Sr., aka, The Killing Machine.

In the early 1990's those suspected leaks had sparked what became known as "the Colombo war," leaving 12 people dead including 2 innocent bystanders and a Federal Judge had warned that more than 60 Mafia prosecutions in the EDNY would "unravel" if the Scarpa Sr.-DeVecchio scandal continued to fester.

So the Feds came up with a new story: that the trove of intelligence documented in the 302's was simply fabricated. A leading proponent of that scenario was Patrick Fitzgerald. In fact, in that June 25th 1999 Affirmation that I'd gotten unsealed, he swore that, "...Scarpa's effort at 'cooperation' was a scam in collusion with Yousef and others."

Fitzie's principal authority for that theory was John Napoli, a Gambino Family wiseguy who arrived on the 9th floor tier of the MCC in December, 1996 ten months after Greg Jr. began the Yousef sting. But when I interviewed Napoli from his Texas prison in 2006 he denied that he'd ever called the "Scarpa Materials" a fabrication:

"As far as my personal[ly] being there, hearing it, seeing it—anything that Yousef gave Greg *wasn't* a scam," said Napoli. "It *wasn't* a hoax. He [Greg] wasn't trying to do *anything* with Ramzi against the government. He was legitimately trying to help them. He was giving them information."

Fitzgerald offered no explanation for how Greg Jr., a wiseguy with a 10th grade education could concoct sophisticated bomb schematics with secret details like the C106D or why Yousef, then on trial, would knowingly reveal his inner secrets to the Feds.

"If Fitzgerald knew that the evidence in those 302s was genuine," said defense attorney Flora Edwards, "he could be liable for the same charges of perjury and obstruction he nailed Libby on – that is, if anybody at Justice cared to investigate."

But it didn't seem to matter. By 1997 the hoax story stuck and a year later when Greg Jr. sought downward release time in return for his 11 month Yousef sting, the Feds threw the book at him. The Judge in his RICO trial sentenced Junior to 40 years in the Supermax prison even though he hadn't been convicted of a single murder.

After the Feds floated the hoax story, the FBI closed its 2 year investigation of Lin DeVecchio and let him retire with a full pension. That occurred, despite the fact that the ex-Supervisory Special Agent had taken the Fifth amendment, refused a polygraph and later answered "I don't recall" 66 times after a grant of immunity when a lawyer questioned him on the charges that he'd leaked key FBI intel to Scarpa Sr.



After my second book documented that story, the Brooklyn D.A. indicted DeVecchio on the four homicide counts, leading to that mob scene outside Brooklyn Supreme Court in 2006. But following a two-week trial in the fall of 2007, the charges were suddenly dropped when a key witness was accused of perjury.

Still, the presiding Judge called DeVecchio's relationship with Greg Sr. a "deal with the devil" and a Special D.A. appointed to probe why the case ended so abruptly, issued a report concluding that the alliance between the G-Man and the hitman exposed "a dramatic picture of corruption" that "warrant(ed) further investigation."

As I described it in *Triple Cross*, Patrick Fitzgerald had made an ends/means decision to bury important al Qaeda intel in order to save a series of mob cases. And here's the ultimate irony: The Twin Towers might still be standing if the Feds had applied the same dogged surveillance techniques they'd wielded against La Cosa Nostra to an al Qaeda hot spot across the Hudson River in New Jersey.

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The address was 2828 Kennedy Boulevard in Jersey City; the location of Sphinx Trading, a check cashing and mailbox store. Sphinx was incorporated in 1987 by Waleed al Noor and Mohammed El-Attris, two Middle Eastern émigrés. It was located 4 doors down from the al-Salam mosque, presided over by blind Sheikh Rahman, the same terrorist Fitzgerald had convicted in the "Day of Terror" plot back in 1995.

Just prior to trial Fitzgerald and the lead prosecutor on the case drew up a list of "unindicted co-conspirators" in the plot to blow up the bridges and tunnels into Manhattan. The 172 names on the list included Osama bin Laden and Waleed A. Noor, the co-incorporator of Sphinx Trading. As far back as 1991, the FBI had known that Sphinx was the location of a mailbox held by El Sayyid Nosair, another al Qaeda cell member who had gunned down controversial Rabbi Meier Kahane in 1990.

Now cut forward to July of 2001. As I reported for the first time in *Triple Cross*, 2 of the muscle hijackers who flew American Airlines Flight #77 into the Pentagon on 9/11 got their fake I.D.'s at Sphinx Trading. The seller was none other than Mohammed El-Attris, the partner of Waleed al Noor whose name Fitzgerald had put on that list in 1994.

Dot #1 was the 1991 mailbox revelation. Dot #2 was al Noor in 1994. Now to Dot #3 and the best chance the Feds had to interdict the 9/11 plot:

For years in the 1990's "getting" Gambino family boss John Gotti had been the "top investigative priority" of the FBI's New York Office. The probe cost the Feds millions. But after 3 failed conviction attempts, they finally brought down "The Teflon Don," by doing around-the-clock surveillance of his Little Italy social club.

"If they'd used those same surveillance techniques on Sphinx Trading," they'd have been in the middle of the 9/11 plot in the summer of 2001," says Paul Thompson the terrorism research who maintains the 9/11 database [www.historycommons.org](http://www.historycommons.org).

The irony is that if you added up all of the murder and mayhem attributed to the Mafia from the days of the Black Hand in the 1920's, up through Murder Incorporated in the 30's; from Lucky Luciano to Crazy Joe Gallo and beyond, it wouldn't even *begin* to equal the damage done to our country on September 11th, 2001.

"No wonder Patrick Fitzgerald wanted your book buried," says Nick Pileggi, the author of *Goodfellas* and *Casino* who's followed my ongoing investigation linking the terrorism story to organized crime.

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By September 2008, with a *third letter* to HarperCollins, Fitzgerald was amping up the pressure to make sure the book never appeared in paperback:

"I write to demand immediate compliance with my demands of October, 2007." Using the word "demand" twice in the same sentence, you could almost hear him stamping his feet. "Surely HarperCollins can make a decision in a year," he insisted.

Then, months later, they did – coming down on the side of the First Amendment and an investigative reporter's right to tell a story, no matter how embarrassing a public official might find it. The new, updated edition of *Triple Cross* is due out this week. Only time will tell if Fitzgerald will make good on his threat and file a libel claim.

While nobody invites litigation, I for one, look forward to sitting across a table from Mr. Fitzgerald at a deposition where he'd be compelled to testify under oath. It would give me a chance to grill him in the same way he's put so many others on the hot seat. I have a reporter's notebook full of questions: like why he'd agree to bury the intel from Greg Scarpa's Yousef sting and why the FBI hadn't sit on Sphinx Trading.

There's no doubt that the "crusader" with "scary smart intelligence" can dish it out. The question is, when confronted with his own track record, can he take it?