

## Appeal Campaign for Atif Rafay and Sebastian Burns

# THE "CONFESSIONS"

## Canada's "Mr. Big"

In Canada, an undercover operation known as "Mr. Big" is technically legal, although it is widely believed to have caused both teenagers and adults to falsely confess to murder (see the [R. v. Mentuck](#) judgement for one example; also see summaries of similar cases at [Injustice Busters](#)). And again with this case. Had this operation been conducted in the US or had it targeted US citizens these confessions would NOT have been admissible in court due to the overtly coercive nature of the operation.

The "Mr. Big" strategy is conducted along the following lines: RCMP undercover officers befriend the target; these officers then expose themselves as organized criminals; the undercover officers involve the target in criminal activity; the target's weakness is identified; and finally, the undercover officers use that weakness to give the target a "logical reason to confess". Using this strategy, the RCMP is able to induce confessions with the promise of gain or the risk of loss or punishment. Because the target doesn't know these organized criminals are actually police officers, the RCMP avoids the requirement of proving the voluntariness of confessions they obtain. This test is left to juries.

In this case, RCMP undercover officers befriended Sebastian Burns. From the time of the second meeting, they exposed him to their criminal world, a world involving retaliation, violence, murder, large sums money, weapons and drugs. The undercover officers then attempted to lure Sebastian into continued involvement with money, women and promises of investment in his dream---filmmaking. However, RCMP officers quickly realized (and admitted in pre-trial hearings) that nothing could entice Sebastian to stay involved in their criminal organization. When he realized the nature of their business he wanted out.

At a loss to discover a hook, the RCMP realized Sebastian's real "weaknesses" were that he was a prime suspect in a triple homicide, combined with his relationship with dangerous acquaintances (in reality undercover officers) who would be made vulnerable by his imprisonment. In order to give Sebastian a "logical reason to confess" the RCMP spent time and money concocting a phony reality consisting of two outrageous lies:

- RCMP undercover officers falsified evidence they pretended to have obtained from the Bellevue Police Department to prove to Sebastian and his friends that they would be charged and arrested for the triple homicide;
- RCMP undercover officers, acting in their roles as organized criminals, pretended to be seriously threatened by Sebastian's imminent arrest---so threatened they either had to stop this arrest or eliminate Sebastian.

In creating this phony but menacing and terrifying world, the organized criminals coerced Sebastian's involvement in a plan to sabotage the evidence Bellevue was acquiring to charge him, evidence that did not in reality exist. Sebastian's involvement in this plan was simple: tell us what happened down there in Bellevue. Failure to provide this information - or worse, to claim innocence -- not only put the organized criminals at risk, it proved Sebastian was a liar who could not be trusted. Therefore, claims of innocence or the

decision to not cooperate in the plan meant Sebastian would be eliminated.

Sebastian, and later Jimmy and Atif, did their best to provide the stories the organized criminals required. They collected information from news reports and pieced together a story of guilt.

This web page will not only explain why Sebastian falsely confessed to the murder of the Rafay family, it will also explain why he initially became involved with these phony organized criminals. All subsequent quotations are taken from RCMP transcripts of the undercover operation prepared for trial.

Note: extensive mistakes in spelling and presentation as well as the vagaries of speech are solely the fault of the RCMP undercover officers who provided the transcriptions. We have not altered the transcripts in order to make corrections.

## Why would a normal teenager get involved with organized criminals?

Al Haslett, one of the undercover operators on this case, described who can be targeted for this type of undercover operation:

"Anybody is approachable and anybody can be brought into our scenarios if the approach is done right."

### Preparing the target

In the year following the murders, Sebastian Burns and Atif Rafay were profoundly alienated as a result of being prime suspects in the bloodiest murder in Bellevue's history: they stopped answering their phones and their door because they were persistently harassed and watched by the press; they withdrew from many of their friends; they dropped out of school and neither of them had any hope of finding a job. Additionally, the RCMP and the West Vancouver Police engaged in menacing behaviour, which included stealing Atif's car in order to install listening devices, contacting their close friends and their close friends' parents in an attempt to convince them Sebastian and Atif were guilty, and trumping up a mischief charge, which involved arresting, hog-tying, and holding the boys overnight in jail. While the boys were in jail, for what the RCMP now admits was a trumped-up charge, the police installed video- and audio-monitoring devices throughout their house. At 18- and 19-years-of-age, Sebastian and Atif had become pariahs. Every move they made, every word they spoke was recorded and scrutinized by the police.

During this year, Sebastian and Atif began to change. They were no longer normal teenagers---their world had changed into a hostile and terrifying place. Perhaps foolishly, they dreamt they could use their interest in art and film to create a better life for themselves. So Sebastian and Atif decided to try to become filmmakers. They studied and discussed films, but neither made a serious start. Neither had a script or even a concrete idea for a film.

### The target is approached

Nine months after the murders on April 11th, 1995, frustrated that their web of surveillance had produced nothing incriminating, the RCMP decided to use the Mr. Big

Scenario on Sebastian and Atif. Sebastian was approached by Gary, an undercover officer who pretended to be locked out of his car. Sebastian gave Gary, who appeared to be a successful business man, a lift to his hotel. They conversed in the car and Sebastian told Gary he was looking for investors to help him make a movie. He was then introduced to Al, another undercover officer who was presented to him as a potential investor.

In the second meeting on April 13th, 1995 Gary picked up Sebastian and drove him to Whistler, ostensibly to meet with other potential investors. Upon arriving in Whistler the tone of the meeting abruptly changed: the undercover officers told Sebastian that they wanted him to steal the car of a former associate. In preparation, as a subtle but frightening piece of set-decoration, the RCMP had placed children's toys and a child's car seat in the car.

But Al and Gary didn't just demand that Sebastian drive the car back to Vancouver, they also made it clear the car theft was a way of sending a message.

This message, as recorded and transcribed by the RCMP, was explained by Al to Sebastian:

- Al: "I'll fuck with you and I'll fuck with your family. I am gonna fucking do your wife and shit like that. You don't fucking get back at that guy. If fuck things that are dear to him and he's gonna sit there and go, holy fuck, I am still out here and they can fuckin' - they can fuck up everything I care about. I better fuckin' come through. That is how you deal business."

### Sebastian wasn't tough enough to steal cars

How did 19-year-old Sebastian, the alleged murderer, respond to this car theft? Al and Gary reported that Sebastian looked shocked, scared and turned pale when he realized Al and Gary were serious criminals and that he was expected to drive a stolen car.

After this episode, the undercover officers let Sebastian know he didn't seem tough enough to steal cars. Al and Gary indicated this was a problem:

- Gary: "... when I saw you on that fuckin' uh, on who's us car? That's uh, I think you were gonna fuckin' shit. I thought holy fuck, big mistake here."
- Gary: "you looked like you were gonna shit when Al said this is what we're doin' ..."
- Gary: "It seems to me that boostin' a car seemed to be uh, at the very outer most extremities of somethin' that you'd be doing."
- Al: "I'm not convinced you can fuckin' handle all this shit." Burns: "Yeah, well, auh, I guess not."

### Sebastian attempts to end involvement with Al and Gary

The wire-taps from the following scenario demonstrate Sebastian tried to end his involvement with Al and Gary immediately after the car theft scenario, when he realized

they were criminals. This attempt to end his involvement took place at their third meeting on May 6th, 1995. Sebastian tried to free himself using two different tactics: he told them he couldn't work for them because he didn't want a criminal record, and he lied to them, saying he had found other investors and would be too busy making his movie to work for them.

- Burns: "I'm not worried ... I have no reason to worry, but I guess like having, having something pop up on a criminal record now would, it would just kinda fuck me up ... I have problems with a criminal record."
- Burns: "... you know I was sort of getting at earlier is that ... I'm a bit busy ... this movie thing i-is ... the sort of thing that .. you gotta do now and so uh I'm gonna way ..."
- Burns: "... my problem quite honestly is that, um like I said I don't know if I'm gonna have time to do what, you know, you might think is appropriate for me to do..."
- Burns: "...I guess, the thing is, I almost, almost not that motivated right now, because like as I said, right, I just got things to do..."
- Burns: "... my concerns with you is that I don't necessary have the time you need to do lots of work right now... it's like I sort of have things on my plate... Like I say, I'm totally busy..."
- Al: "Who's financing your movie?" Burns: "Just auh, a couple guys."

If Sebastian wanted to walk away, why didn't he?

Instead of allowing Sebastian to leave the organization, which is undoubtedly what he wanted to do, on May 6th Al and Gary ignored his statements and asserted that he would work for them---no matter what.

- Al: "We'll talk again. And I'll tell ya we're leaning on you again."
- Al: "Tell me. No don't fuckin' nod your head it's ah, situation where ah, we're gonna look after each other."
- Gary: "The thing is Sebastian, nothing's coming down on us, me, because you're either gonna fuckin' work for me, and fuckin' get involved making money and it'll be total trust, where you don't fuck me, and I don't fuck you."

In addition to making it clear to Sebastian that he could not simply walk away, in this third meeting Al and Gary turned Sebastian into a potential informant by exposing their criminal activities to him. In this way, Al and Gary trapped Sebastian even more securely in their world by putting him in a position of 'knowing too much'.

- Gary told Sebastian that he (Gary) was a murderer and that Al hired contract killers:
- Gary: "I'll tell you what. You wanted to know what I did my fucking time for? I fuckin' toasted a guy. You know how fuckin' solid Al is? When it came time for

fuckin' court, the person that could finger me, they're not around anymore. So I know that business gets taken care of."

- Gary further explained to Sebastian that Al paid \$80,000 to kill this witness.
- A third undercover officer pretending to be an employee of Al and Gary entered the room and threw two handguns down on a table in front of Sebastian and indicated a person had just been shot with one of them.
- Third officer: "If Al's going to try to use it, tell him to throw it in the salt right away, cause she's pretty hot. I don't mean hot stolen, I mean, still warm. You know what I am saying? Still pretty warm."
- Al brought \$250,000 into the room where Gary and Sebastian had been talking, and demand that Sebastian join them in counting the money.

In this third meeting, Al and Gary claimed to know Sebastian was a murderer and that this was the reason he was such a valuable criminal asset. Sebastian was evasive, but Al and Gary demanded an admission of guilt.

- Al: "I just know what I found out up here. I just told you, I know you did that fuckin' murder all of them."
- Al: "Fuck! Say it. Fuck I read, I know."
- Al: "Sebastian don't start fuckin' trying to think like I do. I've lived and died this way, you're motive is more than sixty thousand dollars on a house."
- Al: "You did that murder."
- Al: "What kind of evidence is there down there against you?"

During this same third meeting, Al and Gary told Sebastian there was evidence against him and that he should have it destroyed. They told him it was only a matter of time until he was charged and arrested.

- Al: "You obviously left somethin' down there that's fuckin' ah, people are asking for." Burns: "Well, not obviously." Al: "They want your fuckin' ass for some reason."
- Burns: "...if that's the case how the fuck should I know what they're gonna fabricate. You know what I mean? They had months before they, before they finally asked for hair and blood samples and they just fuckin' making something up in all that time." Al: "[What] [w]as the lead down there? You have to think. ..." Burns: "...well like I said to you, I was in the house for five days, hang around the house for five days? Sleep in the bed, the hair's gonna be there in the room." Al: "Everything I read, they have somethin' on you."
- Al: "Yeah, you left fuckin' something down there that ah, is going to tie you to a fuckin' ah, murder. That's why they're after you, fuckin' think." Burns: "... there's nothing to leave. Alright, from-[cut off by Al]" Al: "Um, is that's they way that's great 'cause that's what's happening, that's what they're thinking. That's how you got into your fuckin' ... cover man. Somethin' was left. Stop and think. Gary (after brief mutterings by Burns): "... Sounds like you're saying that something fuckin'

they left their house, saying there's something there?"

- Gary: "... I've done a lotta time for guys who were fuckin' ... just as clear fuckin' did it. And they're saying no they didn't did it. They ain't gonna fuckin' be sittin' there chasing down something, that ain't there. And you do what the fuck you want, if it's there, you get rid of it. That's that's the pure and simple you should do and ah, otherwise ah-ah, I-I been that fuckin' route man and as long as I've been sitting there, they're still doing time, I-, there's a fuckin' there's a trail, you fuckin' cover it up. Ah do what the fuck you want, she's your life. Burns: "Well yeah okay, anyhow." Gary: "Did you hear what I said, don't give me this fuckin' anyhow..."
- Gary: "Can't your lawyer just phone down and say fuck if ah, my guy crosses the line are you gonna pick him up? They won't tell him--" Burns: "Wel - well basically they said they will and - " Gary: " - then I would say you're not safe."

## Al and Gary protect themselves and their organization ...

In this third meeting, Al and Gary decided they would destroy this evidence for Sebastian whether or not he wanted it destroyed.

- Al: "But the last thing I-, is go askin' questions blindly." Burns: "Listen you know as much as I do, about - , ... there's nothing I can say that can help you if you don't - ." Al: "No but I - I don't want to question blindly."
- Al: "But, I, you want, we can do some checks in the states for you, for fuck all. You don't have to do anything."
- Burns: "Well in that case if you auh, do your checks, I wouldn't mind auh, knowing what's going on." Gary: "We're gonna do them anyway."

Al and Gary told Sebastian in this same third meeting that he is a threat to them both because he knew too much about their criminal organization and because when charged with murder he would be certain to rat them out.

- Al: "What happens when these fuckin' bozos from down in Bellevue come fuckin' up here and grab you? Who's the first person you are gonna give up? Well, you are looking at him. That is why I want to be fucking sure. You know what I am saying?"

Sebastian assured Al that he would never give Al up, but Al explained that he wouldn't take any risks.

- Al: "Not today you won't, but in three months you might."
- Al: "Cause the minute I get a fuckin' ... people that are working for me are going to fuckin' jail... I got... a chance of me going to jail."
- Al: "But I'm not sure if you can be fuckin' trusted."

- Al: "There's two things I ain't gonna fuckin' do in my life, is go to jail or lose money. And you always remember that."

Al and Gary also pretended to worry about Sebastian's friends Atif and Jimmy becoming threats to their organization if charged with murder. They pressured Sebastian for information on whether or not Atif and Jimmy could be trusted and whether or not they were 'solid'.

- Al: "How solid are these guys? Like how, how, how much are you gonna be hung out to dry?"

## Al and Gary turn up the heat ...

The fourth meeting on June 28th, 1995 took place in Victoria, a city several hours journey away from Sebastian's home. From this point, Al and Gary pretended to have insider knowledge of the evidence in Bellevue. They told Sebastian (and later Atif) that his arrest was imminent. They claimed to have read a police report detailing the evidence and they pretended to have underworld access to evidence in police labs. In fact, the Bellevue Police Department did not have any evidence indicating Sebastian had committed these murders.

- Al: "Well, they have you in a pretty big fucking way down there... the report I read knows you did it."
- Al: "They're culturing your fuckin' D.N.A. is the word they used right now."
- Burns: "I can't say anything that'll help you ..." Al: "Yeah you can. You know why, 'cause I gotta know what else I got to take care of. That's why."
- Al: "Right now you need my fuckin' help."
- Al: "... they know you killed him. That's in the report is fuckin' ... that report is so fuckin' uh, white whatever, so clear, it's unreal."
- Al: "...It's not as though, I know you fuckin' did it. You know you did it. The police even fuck know you did it..."
- Al: And then you're the one, hanging out here to fuckin' dry... Tell you something right fuckin' now, the way it is now you're done down there."
- Al: "And I can't afford to have me to go fuckin' down."
- Al: "...the report, report I read on you was so fuckin' black and fuckin white it's unreal."
- Al: "...The report I read fuckin' puts you there. You know that, I know that."

During this fourth meeting, Al and Gary pretended to be in the process of having evidence against Sebastian destroyed in Bellevue. They would do this so Sebastian and his friends could not go to jail and become potential informants and so Sebastian could

work for them. They demanded details so the correct evidence could be destroyed. Because he is not the killer, Sebastian could not provide these details.

Al refused to believe Sebastian was not the murderer. He insisted Sebastian was the murderer because of the phony Bellevue Police memo. Al was repeatedly angered by Sebastian's truthful explanations that are consistent with innocence, such as coming home to find the bodies and the presence of hair in the shower because he used the shower for five days prior to the murder of the Rafay family. Al repeatedly accused Sebastian of lying and playing games.

- Al: "What went on down there that I got - that I got to fuckin' worry about covering up for you and destroying for you... How did that hair get in the shower with the blood in... ..let's be straight forward with each other right now because I've got some other things in motion that are going to look after you, if in fact things start working out between you and I. They don't that's the end. But what, what do I have to worry about what else that's gonna come back and bite you in the ass? ... Tell me about the shower... .. You know why, 'cause I gotta know what else I got to take care of. That is why."
- Al: "Now, before he [Al and Gary's phony operative in the Bellevue Police Department] goes askin' around in the fuckin' dark getting more. I wanna know. ...you were there I fuckin' wasn't now this - this is no time to play games."
- Al: "How did this blood get in the showers for starters? Did you wash out the fuckin' murder weapon in it or what? That's what I want to fuckin' find out. Be straight with me and I can fuckin' maybe look after you. Don't be straight with me I can not fuckin' look after you. I told you before I'll look after everybody who works for me and I'll spend more money to look after them while we're there truthful and fuckin' straight forward with me. If they're not I am not going to stick my fuckin' neck in the dark."
- Al [In response to Burns saying they could get info on the crime scene from television and police reports]: You were there, I wasn't. I'm getting too fucked with the police telling you to fuck your head. I'm getting too fucked with the fuckin' t.v. tells ya to, uh, make fuckin' money off a t.v. If I'm gonna go down there and fuckin' look after you so you'll be able to work for me and make me money, I wanna know. 'Cause like I said, I will not be going fuckin' back and I can not fuckin' risk going back two or three times, start fuckin' askin for little bits of information every fuckin' week or two or three weeks. It's gonna come out in one fuckin' shot. It'll be taken care of in one shot. Its gonna cost me one lump some of money. Nobody in their right mind's gonna keep going back fuckin' day in and day out. And that's what I gotta fuckin' know. That's why I'm talkin' to you right here without Jimmy, me and you, 'cause he's not named in the reports, you are. That's what I say, you'll be the one that's lookin' after my business, not Jimmy or anybody else. You can take care of business the way you took care of it down there, you can always look after the business I want looked after. But I cannot fuckin' do it without having you on my side so that if one thing happens I'm looked after. Now what the fuck went on down there so I can go look after everything fully? And once it's looked after we'll talk again and then you'll know you're clear. They're culturing your fuckin' D.N.A. is the word they used right now."
- Burns: "Well, I guess at some point I must've been in the shower and, uh, at some point there was blood in the shower and, uh," Al: "Forget about it fuckin', you're fuckin' makin' circles. I didn't come down on last night's train. How did the dead

people's blood get in the fuckin' shower with your hair."

- Al: "Because I want to know what the fuck went on. Did you wash the murder weapon in there or what the fuck went on here? That's what I wanna fuckin' know. So when I go back to this fuckin' lab they don't start fuckin' havin, weapons go missing or what."
- Al: "If you can't tell me that then it makes me think you're hiding other stuff that when I go down there I get fuckin' half the story and I'm gonna be coming out with half a fuckin' answer."
- Al: "... somebody down there or somebody in someplace when I ask them to do something for isn't going to be sticking their fuckin' neck in the dark. You know what it's like going out with your head in the dark and only knowing half the fuckin' story you're trying to find something out. Somebody get fuckin' bit..."
- Al: "...So let's be straight forward with each other as much as we can right now and we decide at the end if we're gonna fuckin' answer more questions you're gonna fill in the more blanks for me, okay? 'Cause I'm not sending people down there in the dark."
- Al [in response to Sebastian's inability to describe the murders]: "...when I fuckin' ask you how you killed those guys you can not fuckin' say uh, the medical report."
- Burns: "... if there scenario is that, ya know Sebastian has killed someone..." Al: "Let's forget about this scenario, they know you killed him. That's in the report is fuckin'. Gary was talking about green and black. That in, that report is so fuckin' uh, white whatever, so clear, it's unreal."
- Al: "So fuckin' be straight forward with me. That's all I want."
- Al: "...tell me the bit about the shower, just give me that and I'll leave it alone. And I'll talk to, find out what else I'll come back ask ya more."
- Al: "...did you wash the fuckin' weapon in the shower? ... Like fuck, am I lookin' for some other fuckin' uh weapons or somethin..."
- Al: "I'll help you, but I won't help you unless you fuckin' uh, don't play games with me 'cause I will not be set, ... [ellipses in RCMP transcription- words not transcribed]. Burns: "[Sighs] Gees, I'm not setting you up!" Al: "So just answer that question there."
- Al [in response to Burns saying "not to my knowledge"]: "What do you mean not to your knowledge you were fuckin' there don't give me the fuckin' games okay."
- Al: "You ain't give me the straight goods here Sebastian. What makes you think someone's goin' into the fuckin' dark?"
- Al: "Okay. Stop the fuckin' bullshit there. Stop the bullshit there. Right now you're all but fuckin' lying to me." Burns: "I'm not goddamn lying to you." Al: "You are fuckin' givin' me this song and dance and everything you just told me. That you told me last time I talked to you that, which I don't know fuck all about. You come back and found these fuckin' bodies. You found them, the report I fuckin' read. Fuckin' basically spells out black and white. That, the police fuckin' know you killed

these people. The fuckin' DNA is being cultured right now and they're puttin' together fuckin', big fuckin' case against you. So I'm not gonna have this bullshit, you lying to me now, or fuckin' uh, you come back and found these fuckin' bodies. You must think I came down on last night's train. The minute you start thinkin' that about me, ... [ellipses in RCMP transcript-words not transcribed] Burns: "Holy Christ," Al: "...And this fuckin',... [multiple ellipses in RCMP transcript-words not transcribed]"

- Al: "Don't fuckin' lie to me. Don't take me for a fuckin' stupid man." Burns: "I'm not takin' you for a stupid man." Al: "You're always started tellin' me you come back and found these bodies that I fuckin know for a fact... [ellipses in RCMP transcript-not transcribed]"
- Al: "... You're not answering my questions and that's what's botherin' me."
- Al: "Don't be so fuckin' evasive with me, tell me. It's no big fuckin' deal to me. But I don't fuckin' want someone's fuckin' ass gettin' bit."
- Al: "And you take a fall, you know who else takes a fall after everything's done, Guess, right now, guess." Burns: "No one." Al: "What do you mean no one?" Burns: "No one." Al: "Huh? No one? You're fuckin' stupid right now, you know who else goes down." Burns: "You're gonna say you, right?" Al: "Yeah."
- Al: "When I ask you a simple question, were you alone or were you with someone and you can't answer me a simple yes or no, that makes me think that you're hiding something."
- Al: "I'm gonna look after whoever who's ever fucking was involved in this fucking murder, because everything comes back to me, and back to you."
- Al: "You know what though, when you don't answer that question it makes me think that you don't trust me."
- Al: "...I don't give two fucks whether you trust me or not. I fuckin' uh, I got your fuckin' uh, basically your fuckin' future in the palm of my fuckin' hand if I want it anyway but you're gonna make money for me..."
- Al: "I'm, acting like fuckin', what the fuck are they gonna find. You're saying they could find hair from five fuckin' days ago, well that's fucking great. The report I read fuckin' puts you there. You know that, I know that."
- Al: "... if he [man hired to destroy evidence] ends up going down because I missed something, you're gonna go down anyway, and you go down and fuck you know me I'm going' down."
- Al: "...I only asked you a fuckin' question, don't fucking play fuckin round-about games with me, you know. I ask questions because I fucking want to have clear answers to fucking look after..."

In this fourth scenario, Al continued to act as if he was concerned that Atif and Jimmy were threats. He told Sebastian that Atif and Jimmy were a risk to him because they did not leave any incriminating evidence at the crime scene [remember: description of incriminating evidence of Sebastian's involvement in the crime was fabricated by the RCMP]. Al insists that because they would be a threat to Sebastian they were also a

threat to him.

- Al: "None of his [Atif's] hairs fell into any incriminating places. Now why, why did yours? That's what I want to know. Were you being set up by this guy or what? Burns: "No." Al: "So why is your hair all there, and his isn't?"
- Al: "Why do you think? I, I 'cause I don't fuckin' know. Why would you both be there during the fuckin' uh job and uh, your hair's there and his [Atif's] isn't? Like is he setting you up or what?"
- Al: "I know if it was against me and that fuckin' guy sittin' over there was clean I'd be thinkin', huh? What went on here man?"
- Al: "And why your partner's, got no fuckin' thing against him that I read. ... I'm thinking what the fuck is going on? Is there such a fuckin' fuck up this whole thing was? That, is it going to bite everybody in the ass?"
- Al: "...They [Jimmy and Atif] know you did it, they better not now about me, what I'm gonna do for you. You got that? I, I don't give a fuck if your man and wife I don't care what you guys are, see what I'm saying?"
- Al: "Because they've [Jimmy and Atif] got nothing to lose right now."
- Al: "These two fuckin' guys decide for some reason, hey.... let's get rid of fuckin' Sebastian here and fuckin' uh, Jimmy and the other guy [Atif] are fuckin' happy. And you take a fall, you know who else takes a fall after everything's done...." Al proceeds to insist he will take a fall.
- Al: "What I'm trying to get at, you sure there's not going to give you up."
- Al: "Don't fuckin' sell me short. Don't ever let your fuckin' friends start selling me short, 'cause if they start selling me short, you being in the middle is gonna hurt."

## I'm innocent ...

The prosecution claimed Sebastian never said he was innocent. This is misleading. Sebastian discussed the case as an innocent: his truthful explanations were statements of innocence, such as returning to the Rafay home to find the bodies. However, it was clear from the time of the car theft scenario that Sebastian was chosen and immediately exposed to Al and Gary's criminal activities only because they thought he was a murderer. If he exposed his innocence explicitly or repeatedly he would have immediately turned himself into a possible informant and therefore a threat to Al and Gary.

The following quotations demonstrate Al and Gary made it clear to Sebastian that they only trusted him because they believed he was a murderer:

- Al: "... And from what everything I've read about you, and I've read about you. I've read about you lots in the last fuckin' week. Cause I made a point of finding out about you. You know something, that's why you're here tonight, cause I've read about you."

- AI: "Well, you're hear to fuckin' day because of what I read in ... [ellipse of RCMP transcription-no transcription of remaining words]"
- AI: "You can take care of business the way you took care of it down there, you can always look after the business I want looked after."
- AI: "And that's why you're solid."
- AI: "I did a little fuckin' checking, some research, whatever, found out lots about you. And uh, I don't know, I found out a lot."

After the third scenario of May 6th (in which Sebastian tries to leave the organization) Sebastian knew he was selected by AI and Gary because of his reputation as a murderer. By that time he had also discovered they were murders and powerful underworld figures. How would they react if he chose to tell them he was innocent, that they had made a grave error in trusting him and exposing their criminal organization to him? Furthermore, as Sebastian's actual innocence (demonstrated by his explanations of the crime scene) only served to infuriate AI, it's clear outright statements of innocence could not demonstrate innocence to AI and Gary, but only untrustworthiness.

## Trying to save his life ...

In the meetings prior to his eventual submission, Sebastian tried to avoid giving AI and Gary the confession they demanded by arguing he wouldn't rat them out: if he did, he understood he would be dead. AI and Gary, of course, said nothing to indicate he was wrong.

- "Look, I am not going to rat you out if I get arrested. I am not going to rat you out, because I know you can get to me in jail."
- "If I went to jail or something, I am sure I could still be gotten to, all right? That is my attitude towards you, all right? Is that if I were to do something to you, anything, try and like set you up or whatever, then I would be fucked, okay? That is your fuckin' guarantee, okay? That is my attitude, all right? You have got power over me, so I am not going to fuck you around."
- "I just assume that if I were to fuck you around, I would wake up one day with a bullet in my head."
- "... you could just confidently think well those guys wouldn't fuck me around because they'd know that you know they'd be dead as soon as fuckin' two days after they did..."
- "Yeah, I know but you're not gonna go down, because theoretically speaking if you go down I'm dead so therefore you never go down, that's your power."

## The Final Straw ...

The fifth scenario on July 18, 1995 also took place in Victoria. AI and Gary showed

Sebastian the phony Bellevue Police Department memo. It was the final straw. This memo was created by the RCMP on fake Bellevue Police Department letterhead and falsified evidence supposedly in the possession of the Bellevue Police Department. Sebastian believed the report was real. Who wouldn't?

According to American journalists who observed the video intercepts of this event during the trial, Sebastian read the report with visible confusion.

Al told him the evidence must be destroyed immediately because arrest was imminent. He demanded details of the murder so all the evidence could be destroyed in one visit to a police lab.

At this point Sebastian's worst fear was realized. Al and Gary had convinced him the police had fabricated evidence against him and he would be arrested for a murder he did not commit. To make matters worse, this situation meant more than wrongful imprisonment: It meant Sebastian would become a risk to Al and Gary because going to jail turned Sebastian into a possibly informant. Al and Gary made it clear this was a risk they would not take. Sebastian's ONLY way out was to make the false admission of guilt Al and Gary demanded.

However, Sebastian continued to provide explanations of this evidence that were consistent with innocence. Al continued to be angered by Sebastian's 'lies' and his disregard for Al and Gary's safety.

- Burns: "...there is a possibility that there can be things that I would know about that like they're basically fabricating to look like they count..." Al: "I don't believe they're sending a report to the lab or wherever this report is asking to fabricate fuckin' evidence."
- Al: "...and then he [man hired by Al to destroy evidence] comes, and he comes up with this stuff here and he says hey unless I better what I'm looking for he says you better fuckin' come down here and fuckin' give me the facts cause I'm not fuckin' lookin' no more and uh, so now these... ...he says there's things down there they're coming to lock your ass up. Yours and your friend. He said things got to be acted on fast if they're gonna be acted on. I'm not fucking going and telling him to do anything else now, half the job and blind because there's no time for any mistakes here. 'Cause I'll tell you right now, it's this close."
- Al: "...I'm not gonna risk first of all anything with me, without knowing what I'm doing anymore, and obviously there's another person that I'm looking after one thousand percent here and it's fucking not gonna fuckin' do anything for me unless he's got fucking everything he knows he's looking for. Like could you imagine if we went to the lab and just changed some things around and all of a sudden we're fuckin' uh, dealing with some fuckin' uh, red fabric hairs that we didn't find?"
- Al: "...So, tell me what went on down there and I'm gonna tell you how I'm gonna take care of your problem. Okay and it has to be taken care of quick. Give me the straight goods, so I know exactly what I gotta take care of. Now if something else needs taking care of I'm gonna need your help. Start."

With no safe or reasonable alternative available, it is here that Sebastian offered a vague and false confession cobbled together from news reports he had studied in the interval between the June 28th and July 18th scenario, from what he recalled of the days before

the murders when he was a guest in the Rafay home, and from those terrifying few minutes when he and Atif returned home to find the Rafay family murdered.

After the false confession was obtained from Sebastian, Al continued to insist Atif was a threat unless he also provided details about the crime.

- Al: "I don't even know who he is, I gotta meet him before too long, I'll tell you that right now, 'cause when we have this plan in motion, I gotta make sure that cocksucker's solid. I mean fuckin' solid."
- Al: "Well I've been involved in a few jobs in my fuckin' day, and if one guys's standing around telling uh, me to do this, do that, do this, unless I'm working for him and not with him, it makes me think that fuckin' guy's a, hasn't got the balls to do it." Burns: "Well, whatever." Al: "No it's not whatever. I'll tell you why it's not whatever, because I gotta be sure this cunt's solid."
- Al: [after Burns has said Rafay thinks "nothing" of his family having been killed]: "Good. As long as he's not gonna fuckin' break down after and say oh fuck it's Sebastian."
- Al: "I'm thinking you're thinking, I'm thinking this fuckin' guy has fuckin' planned this pretty smart. I'm still worried about little fuckin' Atif, that he's standing back there with his clothes on while you're running around the fuckin' house in your fuckin' underwear uh, using a baseball bat, as long as that fucker's solid, you know what I'm saying?"
- Al: "If he ever ratted you out, no, I'm gonna tell you, because if he ever did, would he be able to say, I saw Sebastian hit my dad with a bat, was he that close enough to see that?"
- Al: "Well I can't fuckin' say it enough, I hope these guys are solid." Burns: "Well, whatever, I mean..." Al: "No not whatever, because now I'm gonna be involved in this."
- Al: "And there's gonna be a lot of other things, so, I'll decide then if I can trust him. I, I don't know the fuckin' guy so I don't know." Burns: "...I shouldn't even really be saying this because I know that they're not gonna, you know, fuck anyone around but just for your peace of mind, you could just confidently think well those guys wouldn't fuck me around because they'd know that you know they'd be dead as soon as fuckin', two days after they did..." Al: "I want to be sure they don't because once they do let's say, say-" Burns: "No well, I guess what I mean is that they are, they are fuckin' smart enough to know what will happen, because..." Al: "And I'm smart enough to make sure I'll find out about them before see."

Fearing for the safety of his friends, Sebastian convinced Atif and Jimmy to accompany him to visit Al and Gary and to falsely confess to knowing about and / or participating in the murders.

## How do we know these confessions are false?

The Mr. Big Scenario is illegal in the United States because it is unreliable---in other words, witnesses and accused persons are forced to tell a story they think will save their lives, but which may or may not be true. However, in this case these confessions are not merely unreliable, THEY ARE FALSE.

One of the central hurdles in the pursuit of justice is overcoming people's tendency to lie. Experts have developed methods to try to determine whether witnesses or accused persons are lying, including lie-detector tests and examinations of body language. However, these methods are useless. The only reliable method to determine the truth or falsity of a story is to compare it to the available facts.

That is exactly what the jury did not do in this case.

These confessions are proven false beyond a reasonable doubt because every material element of the confessions is refuted by the physical evidence. The most powerful of these refutations are the following:

**Number of killers:** The State's witness testified on the stand that no fewer than three (3) people participated in the murder of Dr. Rafay. The false confessions from Sebastian and Atif both state Sebastian was the lone killer. However, the evidence fabricated by the RCMP erroneously indicated Sebastian was the lone killer.

**Murder weapon:** The Medical Examiner testified that wounds found on the victims were caused by a sharp object. Therefore, the baseball bat was not the only murder weapon. Sebastian and Atif only knew about the bat -- which was public information -- and therefore could not add information about the other murder weapon. However, media reports erroneously indicated the bat was the only murder weapon.

**Timing:** Sebastian and Atif state that they killed the Rafays during The Lion King. Yet, the killing occurred before 10:15 p.m., which is definitely before the boys could have traveled from the theatre to the Rafay home. However, media reports erroneously indicated the murders were committed by Sebastian and Atif during the late showing of The Lion King.

**Gloves:** Sebastian told Al and Gary that he wore gloves during the attack, to assuage their fears that he may have left fingerprints. However, the State's expert concluded that the murderers were not wearing gloves, as smudges consistent with glove marks were not found at the crime scene.

**Bloody footprints in the garage:** Sebastian and Atif's false confessions do not indicate they entered the garage. However, the killers left footprints in the garage that contain Dr. Rafay's blood and another unidentified DNA profile, probably belonging to one of the real killers.

Additionally, each boy's confession contradicts the other's and each is internally inconsistent with respect to such material details as what Sebastian was wearing during the murders, what they did with the incriminating evidence, and where they obtained the murder weapon. Above all, the confessions do not contain any additional information that only the killers could know.

Between a rock and a hard place ...

The RCMP undercover sting operation contained six ingredients:

- Al and Gary refuse to believe the target is not a murderer. They even falsify independent proof (the phony Bellevue police memo) to make it clear professions of innocence will be useless;
- Al and Gary make it clear they only trust the target because they believe he is a murderer;
- Al and Gary force the target to become a threat (potential informant) by exposing their criminal and violent activities to him;
- Al and Gary force the target to become a threat (potential informant) by pretending his arrest is imminent;
- Al and Gary kill people they believe are threats to themselves or their criminal organization;
- Al and Gary give the target one way out: cooperate with the plan and get everyone out of trouble or become a threat and risk elimination.

Sebastian is forced to submit to every element in this complicated web of trust to ensure he will not be treated as a threat to Al and Gary.

- Sebastian must avoid explicit denials of involvement in the Bellevue murders---he must not let Al and Gary know they chose the wrong ally (an innocent);
- Sebastian must continually assure Al and Gary that he is not a threat because he 'knows too much';
- Sebastian must continually assure Al and Gary that his friends are not threats to the organization because they 'know too much';
- Sebastian must help Al to ensure he is not charged with the murders in Bellevue. Failure to do so would not only prove him untrustworthy (a definite threat), but would also result in his arrest (also a definite threat).

In this phony but horrifying world created by the RCMP, innocence would cost Sebastian his life. In order to secure Al and Gary's trust and therefore live, he must pretend to be guilty and falsely confess.

## The confessions were purposely false ...

When it was revealed at trial that these confessions did not match the physical evidence of the crime, the prosecution argued Sebastian and Atif provided false confessions on purpose, knowing Al and Gary may be undercover officers.

This theory is utterly nonsensical. Providing a false confession would defeat the purpose of the confession---it would not eliminate the evidence gathered by Bellevue Police Department!

Therefore, a false confession would not eliminate the threat of arrest AND would not comply with Al and Gary's plan of sabotage. This would result either in Sebastian's arrest or Al and Gary's discovery that the correct evidence had not been identified. In the parameters of this phony life-or-death game, either or these consequences would cost Sebastian his life.

Please join us in our attempt to outlaw these undercover methods before they are employed wrongfully on another innocent person — possibly another teenager. Write to the Minister of Justice in Canada and provide a copy to this committee. We will use this collection of letters to lobby to have these methods declared illegal.

[Send letters to:](#)

The Honourable Irwin Cotler Minister of Justice and Attorney General of Canada 284  
Wellington Street Ottawa, Ontario K1A 0H8

[E-mail letters to:](#)

[webadmin@justice.gc.ca](mailto:webadmin@justice.gc.ca)