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aspects of the violation of her constitutional rights as
contended by her.

/s/ James J. Laughlin
James J. Laughlin
National Press Building
Washington, D. C.
Counsel for Defendant

"CERTIFICATE OF SERVICE

"I hereby certify that a copy of the foregoing Motion to
Vacate and Set Aside Judgment of Conviction has this ____ day
of March, 1958 been delivered to the Office of the United States
Attorney.

/s/ James J. Laughlin
James J. Laughlin "

"IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA :

vs. : Criminal No. 10478

KATHRYN THORNE KELLY :

AFFIDAVIT OF KATHRYN THORNE KELLY

"Kathryn Thorne Kelly, being first duly sworn on oath,
as required by law, deposes and says that she was a defendant
in the above-entitled cause and says unto the Court that at
her trial her constitutional rights were violated and there-
fore the Court could not proceed to judgment and the verdict
and judgment entered against her is null and void and that
she should forthwith be granted a new trial.

"Affiant says that her constitutional rights were vio-
lated in many particulars and as to the main ones she lists
them as follows:

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"1. Affiant was denied proper assistance of counsel. Counsel was not given ample time to prepare for her defense and was not given an opportunity to confer with her. Affiant says that the amount of time that her counsel conferred with her did not exceed ten minutes. She says further that her attorneys advised her that it would be futile to attempt to confer with her as the Federal Bureau of Investigation agents advised that they would have to listen in on all conversations and would not permit her to confer with her counsel in a confidential manner.

"Affiant says further that all attorneys in the cause were intimidated by the agents of the Federal Bureau of Investigation and by the prosecuting officials in that all attorneys were suspected of receiving ransom money and there was held over their heads a threat of criminal indictment if they prepared a vigorous defense for the affiant. Affiant says at least two of the attorneys participating in the various cases growing out of the Urschel kidnapping were in fact indicted and one was sent to prison.

"2. The affiant was hurried to trial and the trial was held in the midst of passion, public excitement and prejudice. As to this point it must not be overlooked the so-called Lindbergh kidnapping aroused the country and there were great demands throughout the country that Congress legislate on the matter. As a result of this, the so-called Lindbergh Law was passed. Affiant is of the belief that their prosecution was perhaps the first prosecution under the Lindbergh Law. The victim in the instant case, Urschel, was a man who had accumulated great wealth by marriage and was socially prominent. A number of persons were involved. The trials were held in the atmosphere of a Roman Holiday. At the first trial Mr. R. G. Shannon, Mrs. Ora L. Shannon and others were tried. On the day that Mr. and Mrs. Shannon were sentenced to life imprisonment affiant was arraigned. Although affiant requested that she be given ample time to prepare for trial and that the trial be delayed while the feeling and prejudice subsided, she was forced quickly to trial without having proper time to prepare for her defense.

"3. The trial was a mockery of justice. Affiant says there were constantly 200 to 300 agents of the Federal Bureau of Investigation in and about the courtroom, in and about the corridors and outside the courtroom. Affiant says

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further that every day when she was brought to trial she walked alongside her husband George Kelly who was handcuffed and chained and followed by about 30 FBI agents and Texas Rangers and at least ten of the agents and Rangers had drawn shotguns. Affiant says further that as she was led into the building from the street she was subjected to hissing, hooting and shouting and that many persons tried to stike her and that the FBI agents made no effort to protect her and added to the insults, humiliation and injuries inflicted upon her. Affiant says further that on one occasion when she waved to a close relative she was struck in the back by a Texas Ranger, causing her to fall to the floor. Affiant says when this was done her husband George Kelly severely rebuked the Ranger whereupon her husband was badly beaten over the head with pistols and clubs and that the injuries, cuts and bruises did not heal for at least twenty days.

"Affiant says further that moving picture cameras and photographers were posted at various parts of the courtroom and there was constant flashing of bulbs and all of this detracted from the ordinary decorum of a courtroom. Affiant states that perhaps the presence of cameras and photographers and operators of newsreel devices in the courtroom would not ordinarily present a constitutional question. However, when the whole setting is taken into consideration and since the publicity was so all-embracing and so comprehensive that it was unheard of in Oklahoma history, it worked a distinct prejudice against the affiant and the atmosphere was whipped up to such an extent that a jury would have been afraid not to convict.

"Affiant says on one occasion the trial judge sent word to her that she should cooperate with the newsmen, commentators and photographers in that the trial judge stated he had never had such fine publicity in his life and that his photograph was appearing in more magazines than he had ever anticipated and that it was his hope that his picture would also appear in the movies and if the affiant would cooperate, it would be helpful to everyone.

"4. Mr. E. E. Kirkpatrick, a brother-in-law of the victim and a man of great wealth in the oil industry and a person of wide acquaintanceship in Oklahoma and Texas, was

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permitted to sit at the trial table and assist the prosecuting officials in the selection of a jury. Since Mr. Kirkpatrick had accumulated such a vast sum of money from the oil business and was connected with so many enterprises and businesses in the State of Oklahoma, his presence at the table worked to the distinct prejudice against the affiant and prevented affiant from selecting a fair and impartial jury.

"5. Affiant says at her trial witnesses were intimidated and she was denied compulsory process. Affiant says that Alfred Bates, who was tried with Mr. and Mrs. Shannon, had already been convicted and at affiant's trial was going to testify that affiant had nothing to do with the kidnapping and that in fact affiant had stated that she would have no part in it. Affiant says that her husband George Kelly, who was on trial with her, was going to take the stand and testify to the same effect. Affiant says upon information and belief that when Mr. Keenan ascertained that her husband and Bates would testify for her, he went to her attorney and said if they did testify he would see that they were turned over to the State authorities in Oklahoma for committing a robbery with firearms and that this carried a death penalty. Affiant says that Keenan said in substance, 'I hope they do testify. It will give me a chance to burn them and I will burn them.' Affiant says that after this statement was made Bates and her husband were afraid to testify in her behalf.

"6. Affiant was denied compulsory process for her defense. During the trial the Government put on testimony of a handwriting expert that affiant had written certain ransom notes. Affiant says this is false and that she never wrote any of the ransom notes. Affiant says when this testimony came out she asked her counsel to request the trial judge to delay the trial to permit her to obtain handwriting experts of her own. Affiant says the trial judge stated, 'That would be too expensive to delay the trial' and this request was refused. Affiant says that she could have obtained handwriting experts to testify that it was not her handwriting. As to this point affiant desires to emphasize that there was a great similarity between the handwriting of George Kelly and the handwriting of affiant. At first glance a writing of George Kelly's handwriting and of affiant's placed side by side would indicate that the handwriting was the same. However, a careful examination by a handwriting expert would show that the writing of affiant's

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was not the writing of Kelly and had the trial judge permitted the handwriting expert to have been called by the affiant it would have been clearly demonstrated that the ransom notes were not written by affiant and therefore this phase of the case would not have gone to the jury virtually uncontradicted. The jury was of course deceived and misled as to this aspect of the case and this was vital and fatal to the affiant. Affiant says further that the present head of the Federal Bureau of Investigation Mr. J. Edgar Hoover, in a recent publication, has stated in effect that the FBI now concedes that the ransom notes were not in the handwriting of affiant. Affiant says that Mr. Hoover attempts to justify it on the grounds that although it was not her handwriting the FBI contends affiant suggested the phraseology.

"7. Affiant says that there was a violation of her constitutional rights in that the Government offered testimony that violated her constitutional rights under the Federal Communications Act. Affiant says that at her trial the Government put on a witness, a telephone operator from Paradise, Texas, who testified that she always listened in to Mrs. Shannon's phone calls, Mrs. Kelly's phone calls and George Kelly's Phone calls and that she related a conversation that she had overheard in her work as a telephone operator between affiant and her husband and between affiant and other persons and testified at the trial as to the substance of these conversations.

"8. The prosecuting officials used false testimony and testimony that they knew to be false. Affiant says that in this case one Luther Arnold played an important part. He was an important witness against affiant. Arnold, his wife and daughter were hitchhiking in Texas. He was picked up by affiant and was told certain matters of a confidential nature. This Arnold was later arrested for transporting a woman across the State line, for illegal transportation of an automobile and for the unlawful sale of whiskey. When he discovered that the evidence against him was strong, he contacted the FBI and prosecuting officials and made false statements with respect to affiant. His testimony was not only false but he was interested in obtaining certain reward money. When the reward money was not forthcoming, he filed a suit and recovered same. Affiant says Arnold was also told that if he gave false testimony against affiant his charges would be dropped. The charges

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were dropped. The said Arnold also told affiant that he had been told by Mr. Keenan just what to say on the witness stand and that he did not have to be afraid of perjury as Mr. Keenan had assured him that only the prosecuting officials could have him indicted and that Mr. Keenan would be in charge of the grand jury. Arnold, therefore, was given a green light for testimony of the most perjurious nature. Affiant says, therefore, that Arnold's testimony was false and that the prosecuting officials knew it to be false when they put him on the stand. The prosecuting officials knew also that he had given false testimony and made no effort to rectify it or to prosecute Arnold for perjury.

"Affiant says that it is her view that the reward money collected by Arnold amounted to \$15,000. Affiant says further that with respect to Arnold's participation in the case, although an impoverished individual, he was kept in the swankiest hotels, furnished the best of clothing and amply provided for. In addition he was permitted to make personal appearances in theaters for a period of time and one of his acts was entitled 'When I Put the Finger on Machine Gun Kelly and Machine Gun Kelly's Wife.' He was also assisted by certain agents of the FBI in preparing certain articles for periodicals and received pay for same.

"9. Every effort was made by the FBI and law enforcement agencies to prevent affiant from receiving a fair trial. Affiant says that she was arrested in Memphis and that 75 FBI men participated in the arrest and 18 members of the Memphis police. Affiant says she was carried to the Memphis jail, held from three to four days and was constantly questioned by the FBI men. When affiant made request for counsel she was advised she could not have counsel or anyone to represent her until after she made a full and complete confession admitting her guilt. Affiant says after three or four days she was handcuffed and taken with her husband -- who was not only handcuffed but shackled and chained -- to a Memphis Air Port and flown to Oklahoma City. Affiant says the FBI made much ballyhoo as to this trip from Memphis to Oklahoma City and advance statements had been given to the press. The streets were roped off and photographers and newsreel cameramen had gathered. There were perhaps 50 FBI men accompanying affiant and her husband and they were cursed and threatened by the FBI men. Affiant says that when she was in the plane she was told that the Attorney General was personally prosecuting the case and that if she did not make a full confession admitting her guilt

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the Attorney General would make every effort to see that she was given death in the electric chair. Affiant says that she was also told by the FBI that her mother, Mrs. Ora L. Shannon, would receive no consideration unless affiant admitted to a long list of numerous unresolved crimes, of which she had no participation. Affiant says that she was even told that she and her husband had some part in the kidnapping of the Lindbergh baby. Affiant says that upon arrival in Oklahoma City the FBI had given advance notice to the papers and great crowds had gathered; that when they were moved from the plane about 50 more FBI agents appeared and perhaps 15 of them were carrying shotguns. Affiant says that after she was lodged in jail the FBI men and local police sat in front of her barred, open cell with machineguns across their knees. Affiant says that the FBI and the local police manufactured lurid, sensational statements such as 'Kathryn Kelly attacked a matron,' and 'Kathryn Kelly breaks out light bulbs as fast as they are put in her cell' and 'Kathryn Kelly attacks guards' and 'Kathryn Kelly scratches eyes of FBI men.' Affiant says that this is all false, did not happen and that the FBI knew this was false and did not happen. Affiant says, also, that since she refused to confess she was told by the FBI men that they had ways to make people confess and that the FBI men complained to the Warden that the bulbs were not powerful enough and sent out for very high-powered bulbs and kept them burning day and night to prevent affiant from sleeping. Affiant says that her conduct in jail was exemplary and this can be attested to by the United States Marshal at that time in charge.

"10. Affiant was told by the agents of the FBI that if she did not fully and completely admit her guilt and plead guilty it would never be forgotten and that steps would be taken to make her confinement hard, rigorous and difficult. Affiant says that she was repeatedly told by the FBI agents that there was no doubt as to her guilt and that if she insisted on a trial they would see that her imprisonment was made as difficult as possible. Affiant says that when she was transferred to prison she was permitted no visitors. However, E. E. Kirkpatrick, brother-in-law of Charles F. Urschel, was permitted to call upon her at the Milan, Michigan prison soon after affiant's confinement there. The said Kirkpatrick sais he was anxious to ascertain the whereabouts of unrecovered ransom money and that if she would not reveal

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his visit to the Urschels he would pay her 50¢ on the dollar and when affiant told him that she knew nothing of any ransom money he said then that he and Mr. Urschel would bring pressure to bear on the Parole Board to see that she was never paroled.

"Affiant was not permitted to write to her daughter nor to receive mail from any of her friends and relatives. She was denied all commissory privileges. She could not buy any tooth paste, tooth brushes or any type of medicines or medications. Affiant says that this persisted for almost two years when some corrective measures were taken. Affiant realizes that the matter of confinement after a conviction would not be considered any greater for vacating a judgment of a conviction but she refers to it here to support and verify her contention that every effort was made to deny her constitutional rights and shows the general pattern pursued from beginning to end and emphasizes again the feeling and venom, public passion and excitement that had been worked up as a result of her prosecution.

"Affiant says that she has read this affidavit with care. That what she states as facts are true and what she states on information and belief she believes to be true, and she asks that there be a full and complete hearing on the matter to the end that her testimony be taken in open court. With this done, affiant is of the view the judgment of conviction will be voided, set aside and that she will be awarded a new trial.

/s/ Kathryn Thorne Kelly
KATHRYN THORNE KELLY

Subscribed and sworn to before me
this 6 day of March, 1958.

(SEAL) /s/ Laura L. Lehman
Notary Public
State of West Virginia "

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TRIAL PROCEEDINGS

This hearing under Title 28, Section 2255, USC, was held in U.S. District Court, Oklahoma City, Oklahoma, by U.S. District Judge W. R. WALLACE on June 9, 1958.

Mr. JAMES J. LAUGHLIN, attorney for ORA L. SHANNON and KATHRYN THORNE KELLY, in his opening statement on June 9, 1958, advised he believed he could prove that attorneys for the defense of his clients in 1933 were intimidated. He stated he believed that LUTHER W. ARNOLD, a Government witness, committed perjury. He stated in his opinion a great number of FBI Agents were involved in the apprehension and transportation of both ORA L. SHANNON and KATHRYN THORNE KELLY and a great number of FBI Agents were in the courtroom in Oklahoma City during both trials. He alleged that a handwriting expert testified falsely in stating that KATHRYN THORNE KELLY wrote the ransom note. Mr. LAUGHLIN also stated that Mr. HOOVER, Director of the Federal Bureau of Investigation, was in Oklahoma City on the case during 1933.

On June 10, 1958, after Mr. HERBERT K. HYDE testified for the Government, Mr. LAUGHLIN made the statement he planned to ask for the production of FBI reports but made no formal request at that time.

On June 12, 1958, the Government rested its case and Mr. LAUGHLIN began rebuttal. He stated that attorney JAMES H. MATHERS, who represented KATHRYN THORNE KELLY, had denied knowing her prior to her trial in 1933 or representing her previously. He then pointed out that Mr. MATHERS had testified he had never signed the register for attorneys who visited their clients at the Oklahoma County Jail.

After KATHRYN THORNE KELLY testified, Mr. LAUGHLIN discussed the White Slave Traffic Act violation on the part of LUTHER W. ARNOLD; the fact that Assistant Director NATHAN was in charge of the investigation of this case in Oklahoma City during 1933 and dictated the rules of confinement for KATHRYN KELLY.

Mr. LAUGHLIN on June 12, 1958, read into the record, from a transcript of testimony given in the civil suit tried in Oklahoma County Court concerning the claim made for the reward

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offered by the Citizens Committee for the capture of GEORGE and KATHRYN KELLY. This suit was filed by GERALDINE ARNOLD, the daughter of LUTHER W. ARNOLD. While reading this transcript, Mr. LAUGHLIN pointed out to the Court that former Assistant Director HAROLD NATHAN and former SAC RALPH H. COLVIN gave detailed depositions supporting the claim of GERALDINE ARNOLD for the reward.

Mr. LAUGHLIN then made a motion to obtain the files of the Federal Bureau of Investigation, for examination to determine whether the defense attorneys of KATHRYN THORNE KELLY and ORA L. SHANNON were investigated or intimidated during the two trials in 1933. He handed the Court a document which was described as a subpoena duces tecum.

Mr. PAUL CRESS, U.S. Attorney, objected and at that time advised the Court he, CRESS, had all the FBI reports in his possession. Mr. CRESS also pointed out the provisions of Departmental Order 3229.

Mr. LAUGHLIN then requested that Mr. CRESS be sworn as a witness. This was done and Mr. CRESS took the witness stand. When Mr. LAUGHLIN began to question Mr. CRESS, Assistant U.S. Attorney GEORGE CAMP objected and advised the Court he desired to file a motion to quash. This was granted and Mr. CAMP dictated his motion into the record.

During the discussion that followed, Judge WALLACE pointed out that he felt a critical point had been raised concerning whether the defense attorneys were under investigation during the two trials. He stated he had the highest personal regard for Director J. EDGAR HOOVER and the FBI. Further, that he personally felt the FBI would have been derelict in their duty if they had allegations concerning the defense attorneys and had not investigated the allegations. Judge WALLACE advised that in view of the positive testimony of Mr. HERBERT K. HYDE, he felt that he, the Court, should be entitled to see the reports of the FBI as indicated. He then issued the following ruling:

"USA V. Kelly, Kathryn Thorne
SHANNON, Ora L. No. 10478, Crim.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA,
AT OKLAHOMA CITY, OKLA.

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"BEFORE: Hon. W. R. Wallace, U.S. District Judge, N. E. & W.
Districts Okla.

EXCERPT FROM TRIAL PROCEEDINGS

June 12, 1958

(Being Only A Ruling By the Court)

"THE COURT: The Court is going to make this statement with regard to the question under consideration, the legal question:

"The question of privileged F. B. I. reports is always delicate. However, after carefully considering the defendants' motion to produce certain reports or documents, and the Government's motion to quash, the Court has reached the following conclusions:

"One critical issue raised by the defendant is the question of whether or not defendants' counsel conducted their defense in 1933 under a state of personal apprehension or coercion because of alleged investigations by the F. B. I. of various defense counsel.

"Along this line, of course, the very fact that the issue is, as stated in the small transcript, in the Kathryn Kelly case, that only a certain issue was raised, might go to this question, because the attorney might have been afraid to raise any other issue.

"The defendants have unequivocally testified that such coercion existed; and Mrs. Kelly, I believe, stated that Mr. Mathers told her several times that no lawyer could properly defend her under the existing conditions, and that he was being investigated.

"Contrarily, Mr. Hyde positively testified that none of the counsel involved in these cases was under investigation at the time of the trial, and that such investigations occurred after he left the District Attorney's office early in 1934.

"Moreover, Mr. Mathers has testified he had no fear of investigation and had no knowledge that such investigations were even threatened while he was defending Mrs. Kelly.

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"In addition, the evidence indicates that one defense attorney was convicted of receiving ransom money, and that Mr. Mathers' son, a law partner of the lawyer who defended Mrs. Kelly, was indicted for receiving ransom money, although he was acquitted.

"With all these matters before the Court, it certainly appears that the Court should have the benefit of any evidence which tends to throw some light on this highly critical, contested point. If in fact, investigations were going on during these trials, such fact would lend credibility to Mrs. Kelly's testimony, and tend to challenge the testimony of Mr. Hyde.

"Although no F. B. I. agent has testified, as in the Jenks case, the principle involved is identical. Mr. Hyde, who was then acting District Attorney, has unreservedly stated that no investigations took place, and that if such had occurred, he would have known of it. Moreover, he testified that he and the F. B. I. worked hand in hand in these cases, and that he had access to all information which the F. B. I. had.

"At this point, it seems inconceivably legalistic not to go into this matter of investigation of the defense counsel, and try to uncover the truth of the matter. If no investigations were in fact made during these trials, and a responsible F. B. I. agent, or the present District Attorney, speaking authoritatively on this point, will testify to the effect that they have examined these files, all of the files involving the attorneys, the defendants' attorneys in the trial of the Kelly and Shannon case, and will testify that no such investigations were made, and that the F. B. I. files indicate that no such investigations were made, the Court will then be satisfied on this point.

"However, if investigations were made during the time relevant herein, and the F. B. I. files contain statements which tend to establish such fact, together with related facts as to the general scope of such investigations, then this Court wants such information made available.

"The Court is of the opinion that the files should be turned to it, and it will personally go through the files,

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-- "For the Plaintiff: Paul Cress, U.S. Attorney, Western District of Oklahoma; and George Camp, Assistant U.S. Attorney, Western District of Oklahoma.

"For the Defendant: James L. Laughlin, Attorney-at-Law, Washington, D. C.

EXCERPT FROM TRIAL PROCEEDINGS JUNE 16, 1958
(Being Only a Ruling by the Court)

"Before we proceed further with this hearing, the Court wishes to make the following observation in regard to its previous order granting Mr. Cress, the United States Attorney and custodian of the controverted F. B. I. files, the alternative of turning these files over to the Court for examination or of testifying under oath that no investigations were made by the F. B. I. of any counsel representing any of the defendants in these 1933 trials and that 'the F. B. I. files indicate that no such investigations were made'.

"Last Thursday, when the Court offered to accept a sworn statement by 'a responsible F. B. I. agent or the present District Attorney, speaking authoritatively on this point', the Court issued such alternative order in the best of 'good faith', and assumed that if in fact, as Mr. Hyde (the prosecutor in the 1933 trials) had testified, no such investigations took place until after he went out of office early in 1934, the government would unhesitatingly and unequivocally so apprise the Court, under oath. At the time this alternative was given, the Court realized that a serious question existed as to whether it should, or could, accept such a sworn statement in place of personally examining the records, -- but, I decided to take full responsibility for not requiring the files to be opened, if to my own satisfaction, the accusation challenging Mr. Hyde's testimony on investigations of counsel was demonstrated to be utterly frivolous by virtue of an immediate denial of such accusation by a responsible government official in a position to know the true facts.

"Immediately after the Court's alternative order, the Court granted a recess until later Thursday afternoon to

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grant Mr. Cress an opportunity to confer with his superiors in Washington. In addition, late Thursday afternoon, at the Government's request, Court was recessed until Friday morning. And, on Friday morning, Mr. Cress asked for a recess until this morning to give him an adequate opportunity to obtain instructions from Washington..

"In view of this repeated delay and marked hesitancy by the government, the Court can but infer that some serious questions exist in the minds of the Government officials as to whether a responsible government official should unequivocally swear to this Court that no such investigations occurred and that the F. B. I. files contain no information as to any such investigations.

"Thus, the Court is of the present opinion that in the interest of justice it must assert its judicial right to determine whether relevant information is contained in these files and cannot, in effect, partially abdicate its authority in favor of the Department of Justice and thereby permit such Department to pass upon the admissibility of evidence in a matter in which it in reality is an adversary party and has a vital interest.

"Therefore, the court hereby modifies its earlier order by eliminating the alternative previously given the United States Attorney, and specifically orders that all files and reports of the Federal Bureau of Investigation pertaining to all prosecutions arising out of the kidnapping of Charles F. Urschel in 1933, be delivered to this Court for examination.

"In this regard, the Court reiterates its earlier remark that 'it will personally go through the file, having in mind only this issue of investigation of counsel, and remove therefrom for consideration in this case any instruments, which in the Court's judgment are relevant to this very material issue. All other contents in the file will be carefully protected and immediately returned to the government's authorized agent.'

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"Moreover, if after going through such files the court determines that in fact there are no statements herein which have a real or material bearing on this dispute dealing with investigation of defense counsel, the Court will immediately return intact the entire file to the Government.

"The court cannot decide these motions on their merits if the pertinent information held in the F. B. I. files is not made available. If the Department of Justice insists upon claiming that such relevant information lies within the sanctuary of privilege, then the Department cannot effectively resist the relief requested by the defendants.

"The Supreme Court, in the Jencks case, quoted with approval the statement that '*** the Government can invoke its evidentiary privileges only at the price of letting the defendant go free. The rationale of the criminal cases is that, since the Government which prosecutes an accused also has the duty to see that justice is done, it is unconscionable to allow it to undertake prosecution and then invoke its governmental privileges to deprive the accused of anything which might be material to his defense.***'

"And, as stated by Judge L. Hand and repeated with approval in the Jencks case:

'***while we must accept it as lawful for a department of the government to suppress documents, even when they will help determine controversies between third persons, we cannot agree that this should include their suppression in a criminal prosecution, founded upon those very dealings to which the documents related, and whose criminality they will, or may, tend to exculpate. So far as they directly touch the criminal dealings, the prosecution necessarily ends any confidential character the documents may possess; it must be conducted in the open, and will lay bare their subject matter. The government must

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chose; either it must leave the transactions in the obscurity from which a trial will draw them, or it must expose them fully. Nor does it seem to us possible to draw any line between documents whose contents bear directly upon the criminal transactions, and those which may be only indirectly relevant.***

"The Supreme Court in its holding in the Jencks case ruled that:

'***the criminal action must be dismissed when the government, on the ground of privilege, elects not to comply with an order to produce, for the accused's inspection and for admission in evidence, relevant statements of reports in its possession of government witnesses touching the subject matter of their testimony at the trial. (citing authority) The burden is the government's, not to be shifted to the trial judge, to decide whether the public prejudice of allowing the crime to go unpunished is greater than that attendant upon the possible disclosure of state secrets and other confidential information in the Government's possession.'

"Although this hearing is not a criminal prosecution but is held pursuant to a special Act of Congress, the principles to be applied are identical. The government cannot resist defendants' motions for new trials and at the same time refuse to come forward with evidence which may well help establish that the motions under consideration are well taken.

"Mr. Cress, you are hereby directed to deliver to me in open court, when we reconvene at 1:30 P. M. this afternoon, the files in question, upon the conditions previously outlined. If you fail to make such delivery let it now be clearly understood that the court will enter an order SUSTAINING defendants' motions for new trials.

"Certified a true transcript,
June 16, 1958.

"/s/ Frank M Sickles

Frank M. Sickles,
Official Court Reporter,
N. E. & W. Districts Okla. "

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On June 16, 1958, Mr. Cress made a statement to the Court concerning the reason for the delay in complying with the Court's order concerning production of FBI records. In explaining this, he furnished the Court with a copy of a telegram he had received from the Attorney General. Mr. CRESS then advised the Court that in accordance with the instructions contained in the telegram, the FBI files would not be produced.

Judge WILLIAM R. WALLACE then read the following order:

"IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

KATHRYN THORNE KELLY and
ORA L. SHANNON,

Defendants.

No. 10478 - Criminal

O R D E R

"It is hereby ordered in the case of United States of America, Plaintiff, vs. Kathryn Thorne Kelly and Ora L. Shannon, No. 10478 Criminal, that the motions of these two just-referred to defendants to vacate and set aside judgment of conviction and for new trial, are hereby SUSTAINED.

"These motions are sustained because of the Government's claim of privilege as to the court's earlier order in regard to statements in possession of the Federal Bureau of Investigation involving the alleged investigation of defense counsel at the time of the defendants' trials in 1933.

"The requested evidence is critical on the issue of judging the credibility of Mr. Hyde, the United States Attorney who prosecuted these defendants in 1933, and who in substance testified in this hearing that no investigations of counsel took place before he left office in the early part of 1934, and that consequently defendants' counsel could not have been under coercion caused by in-

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"New trials are granted solely because the court believes that justice cannot be done in this case due to the Government's claim of privilege. This asserted privilege precludes this court from having all the evidence necessary to decide these motions on their merits.

"This order carries no implication that under the evidence adduced at this hearing that the defendants are entitled to prevail. Neither does this order imply that the defendants are not entitled to so prevail.

"Dated this 16th day of June, 1958.

W. R. WALLACE
United States District Judge"

Following this, Judge WALLACE then fixed bond for ORA L. SHANNON and KATHRYN T. KELLY at \$10,000.00 each.

The Court Reporter advised it would be three or four weeks before the notes on the hearing could be transcribed. Copies of the transcript were ordered by Mr. CRESS for study before he determines whether to appeal the decision of Judge WALLACE.

Mr. CRESS advised that ORA L. SHANNON and KATHRYN THORNE KELLY were released on \$10,000.00 bond each on June 16, 1958.

On June 16, 1958, Mr. JAMES LAUGHLIN had under subpoena the following individuals:

Mr. CARL STUART of the Oklahoma City Times,
Oklahoma City, Oklahoma.

Mr. NORMAN BAGWELL, manager of WKY-TV Station,
former Special Agent, Oklahoma City, Oklahoma.

b7C [REDACTED] of the Associated Press, Oklahoma
City, Oklahoma.

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[REDACTED] of the United Press, Oklahoma City,
Oklahoma.

None of these witnesses were used.

Mr. PAUL CRESS, U.S. Attorney, Oklahoma City, had
under subpoena for this hearing, the following individuals:

Mr. GUS T. JONES, former Special Agent.

Mr. [REDACTED] former Special Agent.

[REDACTED] formerly [REDACTED] telephone
operator from Paradise, Texas.

Mr. E. E. KIRKPATRICK, who delivered the ransom
money.

Mr. CHARLES F. URSCHER, the Victim.

Special Agent [REDACTED]

These witnesses were not used.

KATHRYN KELLY TESTIMONY

On June 9, 1958, KATHRYN THORNE KELLY testified that
a great number of FBI Agents arrested her and her husband GEORGE
KELLY at Memphis, Tennessee, during 1933. She testified that
while being held in custody at Memphis she was denied counsel
but could not recall to whom she talked, or who refused to allow
her to obtain counsel.

She testified that after arriving in Oklahoma City
she was placed on "bread and water" on orders of the FBI and
as a result when she arrived in Court was in a weakened condition.

She testified that photographers were in the court-
room and took photographs during the trial and that "about one
hundred FBI Agents" took her from jail to Court.

She testified that Mr. E. E. KIRKPATRICK, whom she
described as a brother-in-law of CHARLES F. URSCHER, sat at
the counsel table with the then U.S. Attorney, HERBERT K. HYDE.

All b7C

OC 7-6

With regard to [REDACTED] the telephone operator from Paradise, Texas, KELLY testified that [REDACTED] perjured herself but could not recall the testimony given or on what point [REDACTED] committed perjury. b7C

LUTHER WILLIAM ARNOLD was said to have perjured himself by testifying to certain conversations he allegedly overheard between GEORGE and KATHRYN KELLY. Further, she testified that LUTHER W. ARNOLD was paid a reward for assisting in the apprehension of her and GEORGE KELLY. (At this point a copy of the journal entry of judgment awarding GERALDINE ARNOLD \$4,000.00 was introduced by U.S. Attorney PAUL CRESS. This judgment was rendered after GERALDINE ARNOLD, a minor, filed suit against Mr. C. F. COLCORD and the Citizens Committee of Oklahoma City.)

KELLY testified that her attorney was Mr. JAMES MATHERS, who was about 50 years of age at the time of her trial and that MATHERS could not defend her properly due to threats made by the FBI. She related that Mr. MATHERS was subsequently indicted for receiving ransom money, along with attorney BEN LASKA, who was sent to the penitentiary. The fact was pointed out by U.S. Attorney CRESS during cross examination that the attorney who represented Mrs. KELLY was JAMES H. MATHERS and it was his son, JAMES C. MATHERS, who was indicted with BEN LASKA.

On June 12, 1958, KATHRYN T. KELLY testified on rebuttal she had not told her attorney, Mr. MATHERS, she had written some of the ransom notes.

Further, she stated she had requested Mr. MATHERS to obtain the services of an independent handwriting expert to testify in her behalf and to refute the testimony of the Government witness, who had testified concerning her handwriting.

She testified that Mr. MATHERS had requested a court order to stop FBI Agents from surveilling and investigating him.

She testified that Mr. MATHERS obtained a court order or made a request for a court order to give some of the clothing of Mrs. KELLY to Mrs. LUTHER W. ARNOLD.

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On being shown an exhibit which was described as a court order, Mrs. KELLY testified it was signed by both her and her husband GEORGE KELLY. The order directed delivery of two hand bags, expensive clothing, a 16-cylinder Cadillac, two Chevrolets, a pickup truck and the contents of a lock box containing \$1,800.00 in money and a great quantity of jewelry for a total of some \$25,000.00 to JAMES H. MATHERS. She advised she recognized the signatures on the document but stated she did not believe she or her husband had read the document when they signed it.

She testified that while confined in Milan, Michigan, she received a letter from Mr. MATHERS which related to a trip he had made to Kansas City to obtain some of her property and after obtaining the property, MATHERS was arrested. She could not produce the letter.

With regard to her confinement in the Oklahoma County Jail at Oklahoma City, Oklahoma, Mrs. KELLY testified there were "hundreds" of people milling around the jail and she heard Mr. HAROLD NATHAN, Assistant Director of the FBI, tell someone at the jail that he was taking over the entire case of KATHRYN KELLY as of the date of his arrival in Oklahoma City. NATHAN allegedly then issued the order for her to be fed bread and water. As a result, when she became weak and ill, a jail doctor was called by the authorities and not by KELLY herself. The doctor endeavored to feed her warm milk toast but she was so weak she vomited and the doctor thereafter fed her bite by bite. This unknown doctor allegedly stated he planned to resign his position if the prisoners were not fed properly.

In addition to the above, KATHRYN T. KELLY testified to the following:

She did not recall whether spectators to her trial needed passes to get in the courtroom or not.

Her attorney, JAMES H. MATHERS, visited her at the jail and told her that GEORGE KELLY had paid him \$10,000.00.

On one occasion, MATHERS remarked, "Daughter, you knew uncle Jimmy would be here."

MATHERS told her it would be virtually impossible for an attorney to defend her but that he would go through the motions and endeavor to get a reversal on appeal.

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On another occasion, MATHERS advised her he would get a continuance for her.

Later, while incarcerated in a Federal institution, MATHERS wrote to her asking for money some six times.

With regard to the testimony of JAMES H. MATHERS that he visited KATHRYN KELLY at the Oklahoma County Jail several times between October 7 and 9, 1933, she stated he visited her once for less than one hour. She testified she was of the opinion that attorney MATHERS had discussed with her the fact that LUTHER W. ARNOLD was charged with transporting whiskey into Oklahoma and with violating the White Slave Traffic Act, and that the Government planned to send ARNOLD to prison.

ORA L. SHANNON TESTIMONY

On June 9, 1958, Mrs. ORA L. SHANNON testified as follows:

She testified concerning a great number of FBI Agents who arrested her at her home near Paradise, Texas, in August, 1933.

Her attorneys were SAYERS, SCOTT and McLEAN from Fort Worth, Texas, and they represented her during her trial.

There was no hearing held for her at Dallas, Texas, where she was incarcerated following her arrest.

After being removed to Oklahoma City she was allowed to visit with her attorney, who told her nothing could be done for her and that she was not guilty.

With regard to her trial in Oklahoma City, she stated there were four or five dozen FBI Agents in and around the courtroom.

Photographers were in the courtroom and photographs were taken during the trial.

Her attorney was threatened about receiving ransom money.

OC 7-6

b7C

[REDACTED] the telephone operator from Paradise, Texas, testified about telephone calls received by ORA L. SHANNON but the testimony was not recalled.

She testified that a statement taken by FBI Agents at Dallas, Texas, (by SACs R. H. COLVIN and E. J. BLAKE) on August 12, 1933, was untrue because they worded it and she signed it to get food and drink. She testified she signed this statement about 10:00 p.m., August 12, 1933, and that five or six FBI Agents were in the room with her and had questioned her for hours.

On cross examination, June 9, 1958, Mrs. SHANNON testified that a statement obtained from her on August 21, 1933, (by SACs E. J. DOWD and GUS T. JONES) was untrue and, in fact, she had never heard of it. (Both of these statements were in the files of the U.S. Attorney.)

HERBERT K. HYDE TESTIMONY

Mr. HERBERT K. HYDE, attorney-at-law, Cravens Building, Oklahoma City, Oklahoma, testified on June 9, 1958, as follows:

He was the U.S. Attorney for the Western District of Oklahoma, Oklahoma City, Oklahoma, during 1933 and was in charge of and handled the prosecution of both the SHANNON and KELLY trials.

He and his assistant BILL HODGES prepared both cases for prosecution. None of the defense attorneys were intimidated and all were very able attorneys.

Photographers were allowed to take photographs in the court room, before court, during recess, after court adjourned and at the actual sentencing of the subjects, but not during the actual trial.

Mr. HYDE testified concerning the part played by LUTHER WILLIAM ARNOLD, his arrest, the information developed, and that he, HYDE, had refreshed his memory by reading two pages of a statement obtained from LUTHER W. ARNOLD in the courtroom on that day. (This statement was introduced into evidence by U.S. Attorney PAUL CRESS.)

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Mr. HYDE then testified concerning a telegram sent by GERALDINE ARNOLD to her father, LUTHER W. ARNOLD, from Fort Worth, Texas. (Mr. LAUGHLIN demanded the original, which is in the possession of the U.S. Attorney.)

Mr. HYDE testified concerning the FBI Agents he recalled being in Oklahoma City and stated no more than four or five were in the courtroom at one time. The Agents there were said to be witnesses or were assisting the U.S. Marshal with the prisoners.

He testified the FBI had no control over Federal prisoners, but the U.S. Marshal had custody and control of the prisoners.

He testified no one sat at the counsel table with him unless it was a member of his staff, Mr. JOSEPH B. KEENAN, Mr. WILLIAM C. LEWIS, or possibly an FBI Agent who was handling the file of exhibits.

He identified a Photostat of the ransom letter and stated it was typewritten and was not handwritten.

On June 10, 1958, Mr. HYDE testified as follows:

Mr. HYDE denied that he accompanied Mr. JOSEPH B. KEENAN, an Assistant Attorney General, to the Oklahoma County Jail where KATHRYN T. KELLY was allegedly told by KEENAN that he had taken over the prosecution of her case and she had better plead guilty.

He denied that Mr. J. EDGAR HOOVER, Director of the Federal Bureau of Investigation, had been in Oklahoma City during the investigation or trials, but that Mr. HAROLD NATHAN, an Assistant Director, had been in Oklahoma City.

HYDE denied having any knowledge that after LUTHER W. ARNOLD testified for the Government, a note was given to JAMES H. MATHERS in which ARNOLD told KATHRYN KELLY the Government planned to send ARNOLD to prison if he had not testified as he did.

HYDE testified he had no personal knowledge of visits by attorney JAMES H. MATHERS to the Oklahoma County Jail to visit KATHRYN T. KELLY, but was of the opinion that Mr. MATHERS

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had visited his client. He testified that inasmuch as the U.S. Marshal did not like to go down to the jail at night, Mr. MATHERS spoke to HYDE and Judge EDGAR S. VAUGHT, stating he felt he should have more privacy with his clients and wanted to visit them when he so desired. HYDE recalled that such an order was issued and on being exhibited a copy of such an order, identified it. It was introduced into evidence.

HYDE testified that to his knowledge no attorneys were investigated concerning the receipt of ransom money until after the SHANNON and KELLY trials were completed. He pointed out that he resigned as U.S. Attorney on January 1, 1934, and it was his belief the BEN LASKA investigation was conducted subsequent to his leaving office.

HYDE was examined concerning a newspaper article which had headlines stating the Government had been double-crossed because GEORGE and KATHRYN KELLY did not plead guilty to the indictment at their arraignment. After examining the article Mr. HYDE stated he could not find his name in the article and apparently the headline had been written by a "lead writer."

He endeavored to estimate the number of photographers in the courtroom, their positions, and concerning a newsreel camera that was in the courtroom. He pointed out that the trial was held in the ninth floor courtroom and the physical layout of that courtroom is directly opposite that of the second floor courtroom where this hearing was held.

HYDE denied being related to a JACK BERNIER.

He testified that after leaving the office of the U.S. Attorney in 1934, he joined a law firm which was handling the suit against Mr. C. F. COLCORD, filed by GERALDINE ARNOLD, in which she claimed the reward offered by Mr. COLCORD for the Citizens Committee. He testified the suit was settled by giving GERALDINE ARNOLD \$4,000.00.

In response to a question from Mr. LAUGHLIN concerning the balance of the \$15,000.00 reward offer, Mr. HYDE testified his firm was paid a fee of possibly \$250.00 for their work and the balance of the money subscribed to the fund was returned to the various donors.

OC 7-6 c.

With regard to the testimony of the telephone operator from Paradise, Texas, HYDE testified the purpose of her testimony was to determine whether KATHRYN KELLY received a telephone call at the home of her mother, ORA L. SHANNON on a certain day, whether the call was from GEORGE KELLY, and whether the operator could identify the voices of the party calling and the party answering. He testified the text of the conversation was of no value.

He recalled GEORGE KELLY being in Court with a "knot" on his head, but did not recall any blood.

He testified that at no time while in Washington, D.C., had he, HYDE, contacted the U.S. Board of Parole concerning KATHRYN KELLY or ORA L. SHANNON.

He related he had been employed as counsel for a company owned by the URSCHEL interests but had never been on the payroll of Mr. URSCHEL.

While testifying concerning the alleged investigation of defense attorneys during the trials, Mr. HYDE testified that as U.S. Attorney he had received copies of all FBI reports of the investigations conducted in this case and that no investigation was conducted of the defense attorneys.

JAMES H. MATHERS TESTIMONY

Mr. JAMES H. MATHERS, County Attorney at Coalgate, Oklahoma, and who resides on a ranch northwest of Tupelo, Oklahoma, on June 10, 1958, testified as follows:

He is 80 years of age and has practiced law for about 60 years. He was the defense counsel for KATHRYN THORNE KELLY at her trial in 1933.

GEORGE KELLY was represented by attorney JOHN ROBERTS of Enid, Oklahoma. He, MATHERS, represented HARVEY BAILEY at the first, or SHANNON, trial in 1933.

He did not advise KATHRYN KELLY to plead guilty to the indictment and consulted with her on several occasions at the Oklahoma County Jail privately.

-OC 7-6c

He was treated courteously by the officers during the trials and at the jail.

He recalled that there would be a guard in the office of the jail downstairs and a guard upstairs, but did not recall seeing any shotguns or machine guns at the jail.

He testified that KATHRYN T. KELLY was not treated any differently from other female prisoners at the time.

She did not complain to him that she was being fed bread and water and did not complain of being ill or weak.

He testified that KATHRYN KELLY wanted to visit Judge EDGAR S. VAUGHT in his chambers and stated she would go alone if MATHERS did not accompany her. The two visited the Judge's chambers and KATHRYN wanted to make a trade with the Court; she to plead guilty to the indictment if the Court would give consideration to her mother, ORA L. SHANNON. MATHERS testified that Judge VAUGHT advised Mrs. KELLY he would make no deals.

Mr. MATHERS testified he was not threatened in any manner and was not intimidated by anyone during the trials.

Concerning the taking of photographs in the courtroom, MATHERS said none were taken during the actual trial.

He described the courtroom as very orderly.

He knew four Federal officers who were in the courtroom and they were Mr. GUS JONES and Mr. DOC WHITE, FBI Agents, Mr. W. C. GEERS, the U.S. Marshal, and Mr. ERLING W. BARKER, the U.S. Probation Officer. He recalled no display of firearms in the courtroom by FBI Agents or other officers and the only weapon he recalled seeing in the courtroom was the machine gun taken from HARVEY BAILEY at the time of the raid on the SHANNON farm.

He denied hearing Mr. JOSEPH B. KEENAN advise KATHRYN KELLY that GEORGE KELLY and ALBERT BATES would "burn" if they testified in behalf of Mrs. KELLY.

Mr. HERBERT K. HYDE, the U.S. Attorney at the time, was in charge of the prosecution of both trials.

OC 7-6

Mr. JOSEPH B. KEENAN was described as a courteous, polite attorney who was an efficient prosecutor. Further, during the prosecution of both trials he had talked to Mr. KEENAN for a total of approximately five minutes.

With regard to GEORGE KELLY appearing in Court with a "knot" on his head, MATHERS testified he noticed the lump one morning and asked what was wrong. Mrs. KELLY advised that one of the FBI Agents said something to her and GEORGE KELLY cursed the Agent and was struck with a pistol.

He testified he had never heard of KATHRYN KELLY being threatened in any way. He denied that LUTHER ARNOLD gave him a note telling KATHRYN KELLY that ARNOLD was to be sent to prison if he refused to testify for the Government as he had.

He denied that HERBERT HYDE endeavored to get KATHRYN KELLY to plead guilty to the charge.

He testified that his son, JAMES C. MATHERS, and BEN LASKA were indicted for receiving ransom money, but that a directed verdict of not guilty was returned against his son.

He testified he was not denied compulsory service of process.

On cross examination Mr. MATHERS testified on June 10, 1958, that:

He was subpoenaed by the Government.

He had endeavored to locate the missing transcript of testimony in the KATHRYN KELLY trial and that it must have burned when his barn was destroyed by fire two or three years ago.

He testified to his qualifications and the fact that he had been County Attorney at Ardmore, Oklahoma, in 1907.

He is now County Attorney at Coalgate, Oklahoma, and had represented some 200 to 250 defendants in murder cases, and had prosecuted about 75 murder cases.

He had tried numerous cases in Federal Court.

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He was not acquainted with and does not know Mr. CHARLES F. URSCHEL.

He advised he had never heard of many cases cited by Mr. LAUGHLIN.

When questioned concerning whether KATHRYN KELLY had been arraigned after her arrest and her rights protected, MATHERS advised he presumed she had been arraigned but an indictment had been returned against her and, in his opinion, the arraignment made no difference.

He denied knowing that since an indictment was outstanding for KATHRYN KELLY that the FBI had no right to interview her.

He prepared the appeal of KATHRYN THORNE KELLY's case himself.

He could not recall the exact motions he filed with the Court but testified he would be glad to identify them if they were exhibited to him.

He identified one motion he had filed in the HARVEY BAILEY case and could not recall whether he filed a similar motion for KATHRYN KELLY.

With regard to witnesses for KATHRYN KELLY, MATHERS testified he did not subpoena any because KATHRYN KELLY did not furnish him the names of any witnesses.

He recalled his defense in the case was that KATHRYN was under the coercion of her husband, GEORGE KELLY.

He recalled visiting with KATHRYN KELLY at the Oklahoma County Jail on several occasions between October 7 and October 9, 1933. He stated he received courteous treatment from the officers and was allowed to confer with his client in private with no one listening.

He testified he conferred with KATHRYN KELLY during the trial of the case.

He had no knowledge of the number of FBI Agents with shotguns or machine guns who met the plane at Oklahoma City when GEORGE and KATHRYN KELLY were delivered.

OC 7-6

He identified one photograph from a group exhibited and pointed out that it was taken in the courtroom with the jury standing up.

With regard to why he did not ask for a delay to obtain the services of an outside handwriting expert to refute the testimony of a Government witness, MATHERS testified that KATHRYN KELLY told him she had written some of the letters because her husband made her. He therefore felt the services of another handwriting expert were not needed, although there were several available in Oklahoma City.

On June 11, 1958, Mr. JAMES H. MATHERS was again cross examined and testified as follows:

He had no recollection of certain press releases.

He did not recall filing a "motion of discovery."

He did not recall any inconsistency in the testimony of Government witnesses, nor whether their testimony was the same as that given in oral or written statements to FBI Agents.

He did not recall what instructions he requested the Court to furnish the Jury.

He did not recall whether he obtained handwriting specimens of GEORGE and KATHRYN KELLY during the trial.

He did not recall the cross examination of LUTHER WILLIAM ARNOLD.

He did not recall advising the Court that LUTHER ARNOLD should be made a defendant or that he even thought of it.

He did not recall the suit filed by LUTHER ARNOLD to collect the reward money offered for the apprehension of GEORGE and KATHRYN KELLY.

He testified that the clothing and other articles of GEORGE and KATHRYN KELLY were delivered to him on order of the Court.

OC 7-6

He did not know whether the Government made a deal with LUTHER ARNOLD or not.

He did not recall obtaining an order from the Court to deliver some of KATHRYN KELLY's clothing to Mrs. L. W. ARNOLD.

He denied being arrested while obtaining some of KATHRYN KELLY's clothing in Kansas City.

He was of the opinion that he communicated with KATHRYN KELLY concerning the appeal he filed in her behalf.

He testified that FBI Agents did not interfere with him and he had no knowledge of any investigation being made of defense attorneys in either trial.

He restated his testimony concerning the indictment of his son and BEN LASKA, and the outcome of the prosecution.

He recalled seeing Mr. CHARLES F. URSCHEL in the courtroom during the trials.

He recalled that former SA GUS T. JONES was active in the investigation of the case but did not know that JONES quit to go to work for Mr. URSCHEL.

He denied making any statement to KATHRYN KELLY about his fee, attorneys being investigated, or that no attorney wanted to handle her case.

He recalled that a man named PRINCE FEELING (phonetic) was formerly an Attorney General for the State of Oklahoma.

b7C

TESTIMONY

[REDACTED] Liberty National Bank Building, Oklahoma City, Oklahoma, testified on June 11, 1958, as follows:

He is more than 80 years of age and has resided in Oklahoma City since 1917.

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During the first trial he represented a group of individuals from Minneapolis, Minnesota, who were known as "money changers."

He advised that during the trial he was not interfered with in any manner and he had no knowledge of any investigations being conducted of the defense attorneys by the FBI.

He testified that the Court was fair to the defense attorneys, although the Court commanded respect.

Nothing out of the ordinary occurred, and he did not recall any flash bulbs used in taking photographs during the trial. He testified he was not disturbed in any way, but just tried his case.

On cross examination, Mr. DUDLEY could not recall the steps he had taken in defending his clients. He recalled his clients were all out on bail and after the trial was completed he appealed one conviction. He did not recall any display of arms in the courtroom and did not recall whether or not there were FBI Agents in the courtroom.

He advised he was not interrogated by FBI Agents concerning the case or his activities.

W. C. GEERS TESTIMONY

Mr. W. C. GEERS, McAllen, Texas, testified on June 11, 1958, that he is 84 years of age and in 1933 was U.S. Marshal for the Western District of Oklahoma. His testimony was as follows:

Federal prisoners are in the custody of and under the control of the U.S. Marshal.

KATHRYN THORNE KELLY was incarcerated in the old Oklahoma County Jail in Oklahoma City. Her cell was off the main floor and was reached by walking up two or three steps.

He had no knowledge of any bright lights being placed in or near her cell.

OC 7-6

He had no knowledge of what she was fed, and had no knowledge she was fed "bread and water."

He recalled taking attorney JAMES H. MATHERS to the jail on one occasion to visit KATHRYN KELLY.

He testified concerning security measures taken by him and his office with regard to the safekeeping of the prisoners. Armed guards were maintained at the jail and were with the prisoners when they were transported from the jail to the Federal Building. All persons visiting the courtroom on the ninth floor left the elevators on the eighth floor and were checked before they could walk up to the ninth floor where the trials were held. Guards were kept in the hallways because of various threats received by the Court and other officials.

There was no display of firearms in the courtroom.

Press photographers were stationed along the route from the jail to the courtroom. Photographs were taken in the courtroom but he could not recall if they were taken during the trial or whether court was in session.

There was a great deal of excitement at the time of the trials, but Judge VAUGHT handled the Court as usual.

The defendants received a fair trial, as fair as anyone would have received.

With regard to the affidavit filed by Mr. LAUGHLIN, signed by GEERS, testimony revealed that Mr. LAUGHLIN discussed the matter with GEERS at McAllen, Texas. He then returned to Washington, D.C., prepared the affidavit and mailed it to GEERS for signature. Some parts of the affidavit were "scratched out," after which it was signed by GEERS and returned to LAUGHLIN with the request the affidavit be rewritten. He recalled signing only one affidavit and the one submitted by Mr. LAUGHLIN was substantially correct.

He testified there was some confusion in the courtroom but he kept order in the court for Judge VAUGHT.

The camera men and newsreel men did not disrupt the Court.

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On cross examination June 11, 1958, Mr. GEERS testified:

He testified concerning the information in the affidavit he had signed for Mr. LAUGHLIN.

He testified he hired 12 extra deputies to assist in handling the prisoners and the crowd.

He described the feeling at the time of the trial as "intense."

He identified his scrapbook and described several photographs in the book.

He recalled taking attorney JAMES H. MATHERS to the Oklahoma County Jail one Sunday morning where MATHERS visited with KATHRYN KELLY for a period of 30 minutes to an hour. He advised he did not hear the conversation between MATHERS and KELLY.

He could not recall whether there was a register maintained at the county jail for attorneys to sign when they visited their clients.

With regard to the head wound received by GEORGE KELLY on the way to Court, it was testified that 13 stitches were taken in the wound, and that SA [REDACTED] hit KELLY, but GEERS advised he was not present. b7c

He testified he had no knowledge of any mistreatment of KATHRYN KELLY while she was confined in the Oklahoma County Jail.

He advised that if a prisoner visited the chambers of the Judge, the U.S. Marshal or one of his deputies would have to take the prisoner there.

He had no knowledge of any investigation of defense attorneys by the FBI during the trials.

There were no Texas Rangers hired as deputies or used in moving the prisoners, unless it was a man named GONZALES who was described as a bodyguard for Mr. URSCHEL.

OC 7-6

When questioned concerning which paragraphs he thought he had "scratched out" in the affidavit he furnished Mr. LAUGHLIN, he testified he did not know.

TESTIMONY

[REDACTED] a resident of Oklahoma City, Oklahoma, for the past 35 years, testified on June 11, 1958, that he was Sheriff of Oklahoma County in 1933 and recalled both trials in this case. He testified as follows:

He was in charge of the county jail where the prisoners were incarcerated and had no knowledge of any of the prisoners being fed "bread and water."

There were no special lights in or near the cell of KATHRYN T. KELLY. The light bulbs in her cell were the same as those used in all the other cells.

On cross examination on June 11, 1958, [REDACTED] testified:

In 1933 attorneys were not required to sign a register when they visited their clients.

The U.S. Marshal placed prisoners in his jail and he, the Sheriff, was responsible for keeping the prisoners.

Any records from the Department of Justice or the U.S. Marshal calling for special handling of any of the prisoners would be on file at the Oklahoma County Sheriff's Office in Oklahoma City. He had no knowledge of any such special orders.

KATHRYN THORNE KELLY was kept apart from the rest of the prisoners on his, [REDACTED] orders.

FBI Agents were in and out of the jail frequently and could have stayed all night if they so desired.

He did not recall that a doctor was called for KATHRYN THORNE KELLY and could think of no records that would be kept concerning such a call.

OC 7-6

He testified there was no floodlight near the cell of KATHRYN KELLY and, in fact, every effort was made to make all the prisoners as comfortable as possible.

He recalled seeing Mr. JAMES H. MATHERS in the jail frequently but could not recall specific dates.

He could not recall any specific dates that he observed KATHRYN KELLY.

He was of the opinion that other defendants were held in cells 9, 10, 11 and 12, but that KATHRYN KELLY was held in a cell ordinarily used for holding juveniles.

TESTIMONY

[REDACTED], Chief Criminal Deputy Sheriff, Oklahoma City, Oklahoma, on June 11, 1958, testified as follows:

He worked for Sheriff [REDACTED] as a jailer in 1933 and recalled ORA L. SHANNON and KATHRYN THORNE KELLY when they were incarcerated there.

He had never heard any mention made and had no knowledge of KATHRYN KELLY being fed "bread and water."

No register was maintained for attorneys to sign when they visited their clients in 1933, but such a register was installed in 1941.

He testified the old jail calendar reflects that KATHRYN KELLY was booked into the jail on October 1, 1933, and was removed from the jail on October 16, 1933.

Mr. GUS SMITH, now deceased, was the head jailer.

[REDACTED] testified concerning the location of Detention Cell No. 3 in which KATHRYN KELLY was confined, stating it was just outside the jailer's office.

He testified no FBI Agents stayed in front of Mrs. KELLY's cell at night while he was on duty.

OC 7-6

He did not recall that a physician was called for Mrs. KELLY and that if one were called, the slip would be given to the doctor and no record maintained by the jail of the visit.

He did not recall receiving any directives from the U.S. Marshal, the FBI or the Department of Justice concerning the confinement or feeding of any of the prisoners.

LUTHER WILLIAM ARNOLD

The following investigation was conducted by SA [REDACTED] at Ardmore, Oklahoma:

On May 26, 1958, a search of the current Ardmore City and Telephone Directories failed to reflect the names of JESSIE SWEETEN and/or JEFF ARNOLD.

On May 26, 1958, [REDACTED] Ardmore Police Department, advised that his records reflect no information concerning JESSIE SWEETEN or JEFF ARNOLD.

[REDACTED] Deputy Sheriff, Ardmore, advised on June 6, 1958, that JESSIE SWEETEN is not known to him. He said he had been a resident of Carter County, Oklahoma, for the past 15 years and has never known anyone by this name to be a sheriff or deputy in this county.

[REDACTED] advised that he does not know a JEFF ARNOLD, but on second thought said that this person may be identical with [REDACTED] Daube's Department Store in Ardmore.

[REDACTED] Daube's Department Store, advised on June 6, 1958, that LUTHER WILLIAM ARNOLD was [REDACTED] He said he heard several years ago, believed to be about 10 years, that LUTHER WILLIAM ARNOLD had died in Arizona or New Mexico. [REDACTED] was unable to advise who had given him this information, the cause of death or the place of death. He said he has not seen ARNOLD in about 30 years and has heard nothing further since he heard of his death. [REDACTED] said he could not advise of anyone who would know any more about the matter than he had relayed above.

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The Albuquerque Office on June 7, 1958, advised that [REDACTED] Vital Statistics Department, New Mexico Department of Public Health, Santa Fe, New Mexico, on June 7, 1958, advised she had checked the State Index of Death Certificates from 1940 to date without locating any certificate identifiable with LUTHER WILLIAM ARNOLD.

On June 9, 1958, the Phoenix Office advised that [REDACTED] Bureau of Vital Statistics, Phoenix, Arizona, advised she found no record of the death of LUTHER WILLIAM ARNOLD in Arizona for the years 1940 through 1956. One WILLIAM ARNOLD died in Phoenix on February 1, 1948, of tuberculosis. This person was born August 3, 1903, in Texas. His parents were WILLIAM and MARY ARNOLD, both from Texas. His occupation was window washer, and his wife's name was ELIZABETH.

C. J. KAHO TESTIMONY

On June 13, 1958, Mr. LAUGHLIN advised the Court he had obtained a copy of the June 12, 1958, issue of a weekly Oklahoma City newspaper entitled "The North Star." This publication has a story appearing on pages one and seven concerning the original KELLY trial. The article was described by Mr. LAUGHLIN, who stated he desired to subpoena the author, Mr. C. J. KAHO.

The article to which Mr. LAUGHLIN referred reflects that C. J. KAHO had been a staff photographer for the "Daily Oklahoman" but is now retired. It relates that on the first day of the trial all photographers were called into the Judge's chambers and told, "The courtroom is yours, you may make a picture any time, in any place in the courtroom while the Court is in session. We want all the publicity we can get on this case." The story described the ninth floor of the Federal Building, where the original trials were held, as being from "the first day" a veritable arsenal, "with machine guns facing you any way you looked." "The first two days seemed like a dream, here I was making pictures from the Judge's bench, practically popping flash bulbs in his ear, shooting down in the Courtroom, and every shot expecting someone to come and get me, for violating a Federal Law. Nothing happened." "The picture of the day" was described as one of a line up of all defendants in the first trial which was made while KAHO was standing in the witness chair.

OC 7-6

Mr. C. J. KAHN, a retired news photographer from Oklahoma City, Oklahoma, on June 16, 1958, testified as follows:

He attended both the SHANNON and KELLY trials during 1933 as a news photographer.

Before Court opened on the morning of the first trial, he and other newsmen were called to the office of U.S. District Judge EDGAR S. VAUGHT. They were told they could take photographs any where, any time and any place while Court was in session. He took numerous photographs while Court was in session and produced 10 photographs which he identified as being taken in the courtroom.

KAHN testified that both HERBERT K. HYDE, the U.S. Attorney, and Mr. W. C. GEERS were both present at the press conference in the office of Judge VAUGHT.

He recalled JIMMY ADAMS, a newsreel photographer was present, and still resides in Oklahoma City and has film taken during the trial.

[REDACTED] newspapermen were also present but their whereabouts are unknown.

[REDACTED] a newspaperman, was present and now resides in CARLSBAD, New Mexico, where he edits a magazine for midget auto racers.

The Dallas Office advised on June 19, 1958, that there are 15 Federal Record Centers. They are located at the following places.

1. Boston, Post Office Building.
2. New York City, 641 Washington Street.
3. Philadelphia, 5000 Wissahickon Avenue.
4. Alexandria, Virginia, King and Union Streets, Building 1.
5. E. Point (Atlanta) Georgia, 221 St. Joseph Street.
6. Bedford Park (Chicago) Illinois, 7201 South Leamington Avenue.

OC 7-6 c.

7. Kansas City, Missouri, 2306 Bannister Road.
8. New Orleans, Louisiana, 401 Custom House Building.
9. Denver, Colorado, Building 25, Denver Federal Center.
10. San Francisco, California, P.O. Box 708.
11. Wilmington, California, 2401 East Pacific Coast Highway.
12. Seattle, Washington, 601 West Nevada Street.
13. Portland, Oregon, 729 Northeast Oregon Street.
14. Honolulu, T.H., P.O. Box 673.
15. Fort Worth, Texas, 320 West Vickery.

The following identification record of ORA LILLIAN SHANNON was received from the Identification Division of this Bureau under FBI No. 712422 and under date of June 13, 1958:

CONTRIBUTOR OF FINGERPRINTS	NAME & NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
PD, Dallas, Texas	ORA LILLIAN SHANNON #11410	8/12/33	accessory to kidnaping (URSCHEL Case)	trans. to Okla. City, Okla. 8/25/33
PD, Oklahoma City, Okla #14969	ORA L. SHANNON #-- PD Dallas Texas	8/12/33	kidnaping (URSCHEL Case)	comm. to Co. Jail - sent. to life imprisonment on 10/7/33
Federal Detention Farm, Milan, Mich.	ORA L. SHANNON #F-4	11/17/33	accessory to kidnaping	natural life 10/30/39 tran. to Terminal Isl.
Federal Corr. Ins. Terminal Island, Calif.	ORA L. SHANNON #F 89 Cal	11/2/39 in trans. from Milan Mich.	accessory to kidnaping	life

OC 7-6

CONTRIBUTOR OF FINGERPRINTS	NAME & NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Fed. Ref. for Women, Seagoville, Texas	ORA L. SHANNON #259-WS	11/14/41 in trans. from Fed. Corr. Inst. Terminal Island, Calif.	access- sory to kidnaping	natural life
Fed. Ref. for Women, Alderson, W. Va.	ORA L. SHANNON #5485-W	3/27/42 in trans. from Fed. Ref. for Women, Seagoville, Texas	not given	
SO Okla City Okla	ORA LILLIAN SHANNON #30209	6/7/58	Writ AD test	

The following identification record of KATHRYN THORNE KELLY was received from the identification division of this Bureau under FBI No. 698248, and under date of June 16, 1958.

CONTRIBUTOR OF FINGERPRINTS	NAME & NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
PD, Ft. Worth, Texas	DOLORES WHITNEY #5025	11/30/29	shop- lifting	dism.
USM, Memphis, Tenn.	KATHERINE KELLY #--	9/26/33	kidnaping	
PD, Memphis, Tenn.	KATHERINE KELLY #15596	9/26/33	fugitive kidnaping for ransom (vio. U.S. Penal Code)	10/1/33, ret'd. to Okla. City, Okla. by Gov't. Agents

OC 7-6

CONTRIBUTOR OF FINGERPRINTS	NAME & NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
PD, Okla. City Okla.	CLEO MAY #3113	not given	kidnaping (URSCHEL Case)	10/12/33, sent. life
WH, Cincinnati Ohio	KATHERINE KELLY #--	10/17/33	acc. to kidnaping	life
Fed. Det. Farm Milan, Mich.	KATHERINE KELLY #F-2	11/14/33	acc. to kidnaping	natural life
Fed. Corr. Inst. Terminal Island Calif.	KATHERINE KELLY #F-85-Cal.	11/2/39 in trans. from Milan Mich.	kidnaping life (holding for ransom)	
Fed. Ref. For Women, Seagoville, Texas	KATHRYN THORNE KELLY #272-WS	11/30/41 in trans. from Fed. Corr. Inst. Terminal Island, Calif.	kidnaping life (holding for ransom)	
Fed. Ref. for Women Alderson, W. Va.	KATHRYN THORNE KELLY #5442-W	3/27/42 in trans. from Fed. Ref. for Women, Seagoville, Texas	272-WS	
SO Oklahoma City Okla	KATHRYN THORNE KELLY #30208	6/7/58	Writ A.D. Test	

OC 7-6 c.

CONTRIBUTOR OF FINGERPRINTS	NAME & NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
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- * As KATHRYN KELLY, arr. 10/24/25, chg., robb., Okla. City, Okla. PD #3113, rel. to Okla. Co., 3/18/26. sent. 5 yrs. SP, McAlester, Okla.; 3/25/26, filed notice of appeal and rel. on bond. 9/20/26, filed certification of appeal and on 5/9/29, case was heard and reversed; no further action was taken. (Per inf. rec. 12/9/33).
- * As KATHERINE PHONE RUSSELL, Ft. Worth, Texas, 1928, chg., shoplifting; rel.

- Notations indicated by * ARE NOT BASED ON FINGERPRINTS IN FBI files. The notations are based on data formerly furnished this Bureau concerning individuals of the same or similar names or aliases and ARE LISTED ONLY AS INVESTIGATIVE LEADS.

A disposition sheet for ORA L. SHANNON and a disposition sheet for KATHRYN THORNE KELLY have been submitted to the Bureau.

- P -

Parole Appears Likely For Kelly Companion

BY MABEL GOULDY.

BROWNWOOD, July 19.—Harvey J. Bailey, notorious bootleg era gangster and onetime jail break artist,



HARVEY
BAILEY.

is slated for freedom from a federal life sentence for kidnaping in a legal maneuver instituted by the persons who sent him to the penitentiary 25 years ago.

E. E. Kirkpatrick, iron-nerved Brownwood and Tulsa oil man and rancher,

recommended Bailey for federal parole Saturday.

If Bailey is freed before Sept. 30 it will stave off a hearing set for that date by Federal Judge W. R. Wallace in Oklahoma City on a motion asking that Bailey's sentence be set aside on grounds he received an unfair trial.

Wallace freed Kathryn Kelly and Ora L. Shannon, widow and mother-in-law of George (Machine Gun) Kelly, in July when the FBI refused to give him its files so the jurist could determine a conflict in testimony.

JAMES J. LAUGHLIN, Washington attorney who represented the women life-termers, filed the motion in behalf of Bailey on practically the same grounds.

Kirkpatrick on July 30, 1933, kept a rendezvous with the kidnaper of Charles F. Urschel on a Kansas City street corner and under the muzzles of underworld machine guns delivered the then record ransom of \$200,000 in \$20 bills.

Urschel, the wealthy oil man who was the victim of the plot, has approved Kirkpatrick's

move in seeking clemency for Bailey.

So have Federal Judge Edgar S. Vaught of Oklahoma City, 85, who sentenced Bailey, and other defendants in the crime, and two former FBI agents.

They are Gus Jones of San Antonio and Doc White of Austin, who spearheaded the capture of Bailey and the late R. G. (Boss) Shannon on the farm of the latter near Paradise in Wise County where Urschel was held, chained and blindfolded, for 10 days.

"Bailey had nothing to do with the Urschel kidnap case," Kirkpatrick, a former newspaperman who specialized in crime assignments, told the Star-Telegram in an exclusive interview at his luxurious mansion here.

"We all know that. He was unlucky enough to be hiding at the Shannon farm."

Kirkpatrick, who for 25 years has used the sleuthing skill he acquired as a reporter in trying to untangle one of America's most vicious crimes, is now convinced, he said, Bailey was primarily a bank robber.

HE OFFERED to appear in Bailey's behalf at a parole hearing and will, if necessary, give him a job to rehabilitate the now 71-year-old sensational Southwestern badman who has been accused of a bookful of crimes.

Kirkpatrick's offer was made in a letter mailed Saturday to the U. S. Board of Parole (Department of Justice) and James V. Bennett, director of the U. S. Bureau of Prisons.

His letter stated:

"With reference to my past correspondence with you concerning the parole of Harvey J. Bailey, No. 6304-L. Leavenworth Turn to Kidnap on Page 2.

FT. WORTH STAR-TELEGRAM

FT. WORTH, TEXAS

PG. 1

SUNDAY EDITION

JULY 20, 1958

GEORGE KELLY
BARNES, was, et al;
CHARLES F. URSCHER,
VICTIM; KIDNAPING

OC file 7-6

BU file 7-115

7-115-2477

ENCLOSURE

Continued From Page 1.
(worth), I now want to unqualifiedly recommend the parole of Bailey.

"I have the approval of Judge Vaughn, who tried the case; Charles F. Urschel, the victim, and Gus Jones and Doc White, the FBI men who made the arrest of Bailey on the Shannon farm.

"I will be glad to appear before the board with reasons supporting my recommendations, at your convenience."

Kirkpatrick opposed repeated unsuccessful pleas for parole made since 1948 by Mrs. Kelly and Mrs. Shannon.

Bailey, who has never applied for parole, on April 21, 1956 wrote Kirkpatrick and asked him to intercede with the parole board in his behalf.

"As you know," he wrote, "it has been 23 years since I was sent to the federal prison for a crime that I did not commit or have anything to do with its planning or commission."

"I have been the unfortunate victim of circumstances beyond my control."

"HOWEVER, THIS is all in the past and my plans are for the future . . . I am sure that a letter from you (asking that parole be granted) would command the attention of the parole authorities, especially in view of your connection with the case for which I was convicted."

"I am now 68 years old and have about exhausted all the means at my disposal in seeking my release."

Kirkpatrick visited Bailey at Leavenworth twice after receiving his plea.

Bennett and Warden Looney at Leavenworth told Kirkpatrick that Bailey both at Alcatraz (where he was first sent) and the Kansas prison had been a model prisoner.

He has become an expert cabinet maker at the penitentiary and told Kirkpatrick that despite his years he feels he has 10 to 15 years left as a good worker.

Two books, "Voices From Alcatraz" and "Crimes Paradise" were written by Kirkpatrick about the Urschel case. Both are now out of print and at a premium price.

The San Saba County native hopes to do a third book based on Bailey's crime career.

Kirkpatrick believes Bailey is also innocent in the 1933 Kansas City union station massacre in which four law officers were killed along with the gangster the outlaws were trying to deliver from custody.

Bailey was indicted 25 years ago in connection with that crime.

While serving a bank robbery sentence at the Kansas State Penitentiary at Lansing, he led 20 other prisoners to freedom in a sensational break in 1933 in which the warden was taken along as hostage.

Bailey was asleep on a cot in Shannon's farmyard when that place was raided. He broke jail in Dallas one week after a newspaper there printed a story that the building and its cell blocks were absolutely escape-proof. He was captured shortly thereafter in Ardmore, Okla.

CONVICTION OF Bailey in the kidnap case hinged on the fact \$700 of \$1,200 found in his pants pocket during the Shannon raid was Urschel ransom money.

"He told me," Kirkpatrick said, "that Kelly owed him \$1,200 and that he (Bailey) had no idea any of the ransom money was involved or even that his companions on the farm were involved in the kidnaping."

"A man has to sleep sometime," he remarked when aroused from slumber and arrested.

W. C. (Rube) Geers of McAllen, who was U. S. marshal in Oklahoma City at the time of the kidnap trials, testified in the recent Kelly-Shannon hearing that Bailey, in his opinion, was innocent of that crime.

"They would have convicted

anyone arrested in connection with that case," Geers said on the witness stand.

Bennett in a letter to Kirkpatrick in 1956 wrote that Bailey had "made an excellent adjustment at Leavenworth and it seems to me he has many appealing facets to his case."

"Besides, as you know, he is getting to be a pretty old man who does not want to die in prison."

The Shannon farm has been represented as a hideout for outlaws. Kirkpatrick thinks Bailey was "cooling off" there after a bank robbery.

Prosecution for bank robbery is barred by statutes of limitation that vary by states.

Federal prosecution is barred after five years.

A graduate (two degrees) of the old Daniel Baker College, Kirkpatrick worked as a newspaperman here 10 years before going into the oil business.

He covered a four-block area he tagged "Battle Row" and the name has stuck.

His description of it is:

"Packed with rum and romance, mutilations and murders, battles and brawls, cock pits and pool halls, gambling dens and gangsters and bounded on the north by the only licensed red light district in Texas."

HIS REPORTORIAL experience stood him in good stead when Urschel was kidnaped.

Both were vice presidents in the oil organization of the late Tom Slick, "King of the Wildcatters."

Slick died in 1930, and Kirkpatrick, who headed his lease and land department, was named a co-trustee of the estate.

Urschel married Slick's widow shortly before the kidnaping.

When the ransom demand was made, Kirkpatrick followed instructions and took a suitcase filled with the money to Kansas City and registered under an assumed name.

A telephone call to his hotel room instructed him where to meet the kidnapers.

Two cars, in which he saw men with machine guns trained on him, were parked at the spot.

Kirkpatrick never thought he would get away alive and, in fact, wrote a farewell letter to his wife before embarking on the dangerous mission.

"I had to do it; there was nothing else I could do," he explains simply. Kirkpatrick says he handed the suitcase to Kelly, although the latter always said the late Albert L. Bates received it.

Kelly and Bates were the actual kidnapers. Both died serving life sentences for the crime. Shannon, also under life sentence, was paroled before he died.

With the granting of new trials to Mrs. Kelly and her mother, Bailey remains the only defendant under life sentence still in the penitentiary.



E. E. KIRKPATRICK
... decides to help.

Urschel Backs Kidnap Parole

Kidnaper Gets Urschel's Nod

By CLAIRE CONLEY

Charles F. Urschel, millionaire Oklahoma oilman, has approved a move to parole one of the figures in his bizarre ransom kidnaping 25 years ago.

The parole has been requested for Harvey Bailey, now serving a life sentence in the federal penitentiary at Leavenworth, Kan., for the crime.

Initial announcement of the parole request came Tuesday from E. E. Kirkpatrick, Tulsa oilman, who as a friend of Urschel's paid the \$200,000 ransom money to George "Machinegun" Kelley and his gang in 1933.

Kirkpatrick said he had recommended a parole for the 71-year-old Bailey, who has now served 25 years of the sentence.

"I have the approval of Judge Edgar Vaught, who tried the case; Charles F. Urschel, the victim, and Gus Jones and Doc White, the FBI men who made the arrest of Bailey," Kirkpatrick said.

In Oklahoma City Tuesday, U. S. district Judge Vaught, now retired, confirmed Urschel's approval for the parole.

"Mr. Urschel talked to me some six or eight months ago when he was in Oklahoma City," Judge Vaught declared. "He told me then he was feeling very kindly toward Bailey and would like to help him.

"He said he was a great deal different person than the other

(Continued on Page 2, Column 1)

CONTINUED FROM PAGE 1

figures in the kidnaping. Mr. Urschel said he would recommend a parole for Bailey if I would agree to it."

Judge Vaught recalled that Bailey had always maintained his innocence in the kidnaping itself.

"He was a guard at the Texas farm where Bailey was held, but he did not actually participate in the kidnaping here in Oklahoma City."

The judge said he had received a letter from Kirkpatrick stating he intended to appear before the U. S. pardon and parole board in Bailey's behalf.

"I have advised them I will approve it," the judge stated.

Asked if Urschel had approved similar paroles for Mrs. Kathryn Kelly, wife of the key kidnaper, and Mrs. Ora Shannon, her mother, Judge Vaught replied he had not.

New Trial Granted

The two women were recently released from prison and granted a new trial in federal district court here when FBI agents refused to turn over files in connection with investigation of the 1933 kidnaping.

Bailey had requested a similar hearing for a new trial here and U. S. district Judge W. R. Wallace has already set July 28 as the date.

Bailey has always protested his innocence in connection with the Urschel kidnaping. However, FBI officers searching for the other known kidnapers found him asleep at the Kelley gang's hide-out in Texas, a machine gun beside him and part of the ransom money in his pocket.

In addition to his alleged part in the Urschel kidnaping Bailey has a long record of bank robberies and machine gunnings in the middle west prior to his conviction for the crime.

Eleven Stage Break

He was identified as one of the gangsters who killed four federal officers transporting a prisoner in the Kansas City railroad station in the early 1930's.

Bailey also was sought for a \$2 million Lincoln, Neb., bank robbery and was sent to the Kansas state prison for a \$32,500 Fort Scott, Kan., bank robbery.

He served a few months of a 50 year sentence, then led 10 other convicts over the wall, taking the warden as hostage.

Just prior to his capture at Paradise, Texas, he was wanted for the \$30,000 robbery of the Clinton State bank in Oklahoma.

It is presumed that other states may have hold orders on the one-time desperado. However, a federal parole would have the effect of nullifying state warrants.

THE DAILY OKLAHOMAN

DATED: 7-23-58

MORNING EDITION

PAGE 1

GEORGE KELLY
BARNES, was,
et al;
CHARLES F.
URSCHER -VICTIM;
KIDNAPING

OC file 7-6

BU file 7-115

7-115-2499
ENCLOSURE

114 East 5th Street
July 18, 1958

United States Board of Parole
Department of Justice
Washington, D. C.

Gentlemen:

With reference to my past correspondence with you and Mr. James Bennett, Director of Bureau of Prisons, concerning the parole of Harvey J. Bailey, No. 63400-L, I now want to unqualifiedly recommend the parole of Bailey.

b7C I have the approval of Judge Edgar Vaught, who tried the case, Charles F. Urschel, the victim, and Gus Jones and [REDACTED] the FBI men who made the arrest of Bailey on the Shannon Farm.

At your convenience I will be glad to appear before the Board with reasons supporting my recommendation.

Yours very truly,

E. E. Kirkpatrick

EEK.f.d

COPY COPY COPY

7-115-2499
ENCLOSURE

New Trial Is Granted For Kathryn, Mother; Both Are Out on Bond

THE DAILY OKLAHOMAN

DATED: 6-17-58

MORNING EDITION

GEORGE KELLY DARRIN,
WAS.

ET AL

CHARLES F. UPCHOP -

VIC. KIDNAPPING

OC FILE 7-6

7-115-2469.

Office Memorandum • UNITED STATES GOVERNMENT

TO DIRECTOR, FBI (7-115)

DATE: 7/11/58

FROM SAC, OKLAHOMA CITY (7-6)

SUBJECT: GEORGE KELLY BARNES, was., et al;
 CHARLES F. URSCHER - VICTIM
 KIDNAPING
 (Origin: Oklahoma City)

Enclosed herewith are two copies of the report of SA [REDACTED] dated 7/11/58 at Oklahoma City in captioned matter, one disposition sheet for ORA L. SHANNON, and one disposition sheet for KATHRYN THORNE KELLY.

REFERENCE

Report of SA [REDACTED] dated 6/5/58 at Oklahoma City.

ADMINISTRATIVE

Two copies of this report are being designated for the Bureau inasmuch as an additional copy may be needed in view of the Court's decision.

The information set forth in this report concerning testimony given by various witnesses is not complete, but consists of various statements to which each witness testified in answer to questions by either Mr. JAMES J. LAUGHLIN or U.S. Attorney PAUL CRESS. It should be pointed out that the acoustics in the second floor courtroom where this hearing was held are very poor and the testimony of many of the witnesses at times was not distinct.

During this hearing both U.S. Attorney CRESS and Mr. JAMES J. LAUGHLIN made use of and quoted from the printed transcript of the Appeal Briefs in the SHANNON and KELLY trials; they were not introduced into evidence or considered a part of the record.

② - Bureau (Encls)
 2 - Oklahoma City

ENCLOSURE
 REC-1

REC-1

JUL 15 1958

All b7C

DISPOSITION SHEET DETACHED
 AND HANDLED SEPARATELY

OC 7-6

Mr. PAUL CRESS, U.S. Attorney, objected repeatedly but was either overruled or the witness was allowed to answer by the Court despite the objection. On several occasions the Court took the objection "under advisement" or "into consideration."

The Chicago Office furnished the Oklahoma City Office copies of the following instruments when it was believed that either the U.S. Attorney or a representative of this Bureau would be held in contempt of court:

Copy of petition of writ of habeas corpus filed by U.S. Attorney, Chicago, in behalf of former SA GEORGE R. McSWAIN.

Photostat of portion of U.S. District Court record filed with U.S. Circuit Court of Appeals in behalf of McSWAIN.

Photostat of Appellee's brief filed in U.S. Circuit Court of Appeals in the McSWAIN matter.

Copy of U.S. Attorney's brief filed in U.S. Circuit Court of Appeals in behalf of McSWAIN.

Photostat of opinion of U.S. Circuit Court of Appeals in McSWAIN matter.

LEADS

THE OKLAHOMA CITY OFFICE

At Oklahoma City, Oklahoma

Will follow and report developments in this case.

The Attorney General

July 2, 1958

Director, FBI

ple
**EDITORIAL FROM "COMMERCIAL APPEAL,"
MEMPHIS, TENNESSEE**

Ans 6-1

Enclosed is a copy of an editorial entitled
"The Court Fashioned A Key" which appeared in the June 23,
1958, edition of the "Commercial Appeal," Memphis, Tennessee,
relating to the Jencks case. I thought this might be of interest
to you.

Enclosure

KATHRYN KELLY

1 - Mr. Lawrence E. Walsh
Deputy Attorney General (Enclosure)

7-115-V
NOT RECORDED
102 JUL 16 1958

JUL 2 10 27 AM '58
REC'D-READING ROOM
FBI

H
ENCLOSURE

JUL 15 1958

Tele. _____
Boardman _____
Belmont _____
Mohr _____
Nease _____
Parsons _____

ENCLOSURE

JUL 2 1958

JUL 2 1958
RECEIVED - DIRECTOR

They've been up there since they were 16 years old, participating in the efforts of the Ku Klux Klan, kidnapping—one of the most sensational cases of the kidnapping era. Ussery was held captive for 11 months at an isolated farm and \$50,000 was paid for his release. Later, one of the kidnapers, was arrested in Memphis and died three years ago in prison.

The ironic thing about the release of mother and daughter is that as a result of a Supreme Court ruling they could, after a quarter century of confinement, make a simple claim of violation of constitutional rights and get away with it.

The Jackson 5-to-3 decision, briefly stated, requires the Government to produce relevant but secret files in criminal cases or dismiss the charges. It has caused havoc and confusion in Federal courts from one end of the country to another and in many instances has hamstrung United States attorneys in their prosecutive efforts.

It provided Mrs. KELLY and her brother with an opportunity to claim that their statements and witnesses had been intimidated by the FBI and that the records should be made available to vindicate that fact.

Major General Boone refused to surrender the records of the records as they are in the public interest. Federal District Judge WALLACE of Oklahoma City has just approved a motion to return the records and ordered the records to be held pending the return of the records to the federal government.

THE

For the Government to attempt to make a new conviction against two women well up to years and who had already been long in prison would put it in an almost impossible light. Many of the most of the Government's allegations as to a crime committed a quarter century ago are probably no longer available. At this stage with the Government's adamant position as to the sanctity of FBI files made the outcome of the women's use of the capricious and mischievous JAMES decision almost a foregone conclusion.

The Supreme Court majority had fashioned a key which can open the doors of the nation's prisons and they used it.

THE COMMERCIAL APPEAL
MEMPHIS, TENNESSEE

642

سید احمد علی

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

JUL 6 1958

TELETYPE

Mr. Tolson ✓
Mr. Boardman ✓
Mr. Belmont ✓
Mr. Mohr ✓
Mr. Nease ✓
Mr. Parsons ✓
Mr. Rosen ✓
Mr. Tamm ✓
Mr. Trotter ✓
Mr. W.C. Sullivan ✓
Tele. Room ✓
Mr. Holloman ✓
Miss Gandy ✓

URGENT 7-6-58 4-22 PM CST

TO--DIRECTOR, FBI

FROM- SAC, OKLAHOMA CITY 2P

GEORGE KELLY BARNES, WAS., ETAL. CHARLES F. URSCHEL, VIKID. LOCAL
UP REPRESENTATIVE HAS ADVISED THAT UP EXCLUSIVE WITH DALLAS,
TEXAS DATE LINE REFLECTS THAT ATTORNEY JAMES J. LAUGHLIN WILL
U.S. DISTRICT COURT OKLAHOMA CITY
APPEAR USDC AT OC ON JULY SEVEN. LAUGHLIN ALLEDGELY WILL FILE

MOTION SIMILAR TO THAT IN THE KELLY SHANNON HEARING AND WILL

REQUEST A HEARING FOR HARVEY BAILEY CURRENTLY INCARCERATED

LEVENWORTH PENITENTIARY. I HAVE SPOKEN WITH USA PAUL CRESS OC

WHO HAS ADVISED HE HAS HEARD NOTHING OF SUCH PROPOSED

MOTION BY LAUGHLIN. STATES HOWEVER IF LAUGHLIN FILES SUCH A

MOTION CRESS INTENDS TO COUNTER WITH MOTION THAT ANY SUCH HEARING

SHOULD BE HELD BEFORE JUDGE WHO ORIGINALLY HEARD CASE. THIS

WOULD BE FEDERAL JUDGE EDGAR VAUGHT WHO IS CURRENTLY IN OC

AND WHO WAS SERVING AS USDJ IN SAN FRANCISCO FEDERAL COURT

WHEN KELLY SHANNON HEARING WAS IN PROGRESS. AS MATTER

OF INFO FOR BUREAU, USA CRESS HAS CONFIDENTALLY ADVISED THAT

JUDGE VAUGHT IS QUOTE FURIOUS END QUOTE AT RULINGS HANDED

DOWN BY USDJ WILLIAM WALLACE IN KELLY SHANNON HEARING AND REFUSES

TO SPEAK WITH JUDGE WALLACE UNLESS THE LATTER COMES TO JUDGE

END PAGE ONE

Mr. Rosen

All b7c

7-115

PAGE TWO

VAUGHTS OFFICE IN THE FEDERAL BUILDING, OC. REPORTS REVIEWED BY THIS OFFICE IN CONNECTION WITH KELLY SHANNON HEARING APPLY TO FBI INVESTIGATION OF HARVEY BAILEY. SAME REPORTS ALSO ENCOMPASS HIS TRIAL. MATTER WILL BE FOLLOWED CLOSELY. BUREAU WILL BE KEPT ADVISED OF DEVELOPMENTS.

END AND ACK PLS

6-25 PM OK FBI WA CS

THRU DISC

62 MR. FOLEY
INVESTIGATIVE DIVISION

July 10, 1958

AIRTEL

REC-42

7-115-2481

To SAC, Oklahoma City

From Director, FBI

GEORGE KELLY BARNES, WAS., ET AL.; CHARLES F. URSCHEL -
VICTIM; KIDNAPING.

Reurtel 7/6/58.

Continue to follow matter closely.
Refer Kansas City airtel 7/3/58. Advise
immediately when hearing set for Bailey. Keep
Bureau advised of all developments.

Tolson _____
Nichols _____
Boardman _____
Belmont _____
Mohr _____
Parsons _____
Rosen _____
Tamm _____
Trotter _____
Tele. Room _____
Ingram _____
Ty _____

57 JUL 18 1958

MAIL ROOM ☒

MAILED 11

JUL 11 1958

COMM-FBI

All b7C

FBI

Date: 7/10/58

Transmit the following in _____
(Type in plain text or code)Via AIRTEL AIRMAIL
(Priority or Method of Mailing)

Mr. Tolson	✓
Mr. Boardman	✓
Mr. Belmont	✓
Mr. Mohr	✓
Mr. Nease	✓
Mr. Parsons	✓
Mr. Rosen	✓
Mr. Tamm	✓
Mr. Trotter	✓
Mr. W.C. Sullivan	✓
Tele. Room	✓
Mr. Holloman	✓
Miss Gandy	✓

TO: DIRECTOR, FBI (7-115)

FROM: SAC, KANSAS CITY (7-8)

SUBJECT: GEORGE KELLY BARNES, was.;
ET AL
CHARLES F. URSCHER - VICTIM
KIDNAPPING
(OO: OC)

Re KC letter to Bureau, 7/7/58.

On 7/8/58, [REDACTED] U. S. Penitentiary, Leavenworth, Kansas, advised SA [REDACTED] that one [REDACTED] reporter for the Oklahoma City Time, Oklahoma City, Oklahoma, had telephonically contacted the U. S. Penitentiary, Leavenworth, and stated he desired to know if HARVEY BAILEY would be released if he were put on bond by Federal Court in Oklahoma in view of the detainer on file from the Kansas State Prison, Lansing, Kansas. [REDACTED] stated that [REDACTED] was advised by [REDACTED] that he was unable to answer that question because he did not know if the Kansas State Prison would execute the detainer. [REDACTED] stated he also advised [REDACTED] that he did not know if the detainer would prevent BAILEY from being put on bond by Federal Court. [REDACTED] stated he suggested to [REDACTED] that [REDACTED] call the warden at the Kansas State Prison if he desired further information regarding this matter.

On 7/9/58, Warden [REDACTED] Kansas State Prison, Lansing, Kansas, advised SA [REDACTED] that he had been telephonically contacted by a reporter from Oklahoma City on 7/8/58 concerning HARVEY BAILEY. Warden [REDACTED] advised that the detainer and warrant for BAILEY was still in effect and he anticipated having BAILEY taken into custody after BAILEY's release or dismissal by Federal Authorities.

3 - Bureau
1 - Oklahoma City (7-6)
2 - Kansas City

REC-42

EX-135

JUL 12 1958

Approved: 4 F148
Special Agent in Charge

Sent M Per

cc Room
Lap

F B I

Date:

Transmit the following in _____
(Type in plain text or code)

Via _____
(Priority or Method of Mailing)

KC 7-8

He stated that if BAILEY was released on bond from Federal Court, he did not believe that the Kansas warrant could be executed until after Federal Authorities were through with BAILEY and he was either released or dismissed completely. [REDACTED] advised that this was his opinion only and that the final decision in the matter would have to come from the Kansas Attorney General. [REDACTED] advised that he did not believe, however, that BAILEY could be released or would be released by Federal Court in view of the fact that the detainer from the Kansas State Prison was in existence.

Kansas City Office will continue to follow this matter and keep the Bureau advised of any developments.

All b7C

July 15, 1958

AIRTEL

To SAC, Oklahoma City

From Director, FBI

GEORGE KELLY BARNES, WAS., ET AL.; CHARLES F. URSCHEL - VICTIM;
KIDNAPING.

RE: HARVEY BAILEY

Reurairtel 7/10/58.

The matter of interviewing the jurors who sat in the petit jury during the original trial should be discussed with the U. S. Attorney. You indicate the U. S. Attorney will only call three witnesses, namely Bill Hodges, James H. Mathers, and Judge Vaught. Considering the possibility that Attorney James J. Laughlin will call same witnesses used in the hearing of Shannon and Kelly, determine who possibly will be witnesses in addition to afore-mentioned. Witnesses should be completely and thoroughly interviewed, signed statements obtained and submitted in report form. Furnish Bureau a list of prospective witnesses. It is noted that former SAs Gus T. Jones, [REDACTED] and [REDACTED] were present at the time of the arrest of Bailey on 8/12/33. Leads should be set out immediately to interview all prospective witnesses and reports reflecting results your inquiries should be furnished Bureau by 8/10/58.

NOTE: This airtel confirms telephone call to Oklahoma City, SAC Doyle, per memo Mr. Rosen to Mr. Boardman 7/14/58. Same caption.

Tolson _____
Boardman _____
Belmont _____

MAILED 17

July 15, 1958

AIRTEL

To SAC, Oklahoma City

From Director, FBI

GEORGE KELLY BARNES, WAS., ET AL.; CHARLES F. URSCHEL - VICTIM;
KIDNAPING.

RE: ORA SHANNON AND KATHERYN KELLY

Subairtel status appeal. Advise if the court reporter has completed the transcription of the hearing. Include status of investigation to locate transcript of original trial. Determine if U. S. Attorney is pressing appeal and whether efforts by him to locate missing transcript are being pursued.

(4)

All b7C

EX-105

REC-94

7-115-2484

16 JUL 16 1958

COMM - FBI
JUL 15 1958
MAILED 27

Tolson _____
Boardman _____
Belmont _____
Mohr _____
Nease _____

F B I

Date: July 16, 1958

Transmit the following in _____
(Type in plain text or code)Via AIRTEL _____
(Priority or Method of Mailing)

Mr. Tolson	_____
Mr. Boardman	_____
Mr. Belmont	_____
Mr. Mohr	_____
Mr. Nease	_____
Mr. Parsons	_____
Mr. Rosen	_____
Mr. Tamm	_____
Mr. Trotter	_____
Mr. W.C. Sullivan	_____
Tele. Room	_____
Mr. Holloman	_____
Miss Gandy	_____

TO: DIRECTOR, FBI (7-115)

FROM: SAC, OKLAHOMA CITY (7-6)

GEORGE KELLY BARNES, was., ET AL;
CHARLES F. URSCHEL - VICTIM
KIDNAPING

Reference is made to Bureau Airtels dated 7/15/58.

RE: ORA SHANNON and KATHRYN THORNE KELLY.

Mr. PAUL CRESS, USA, Oklahoma City, has advised the Court Reporter has stated the transcript of the hearing of KELLY and SHANNON will be ready on or about Monday, July 21, 1958.

Efforts to locate the missing transcript of testimony in the KELLY trial have met with negative results in the office of the USA at Oklahoma City and Tulsa. Both USAs have checked in the files of the kidnaping cases furnished by the Bureau and where the files have been sent to a Federal Records Center for storage, inquiry is being made there to determine if the missing transcript is among the papers stored.

Minneapolis has been requested to contact appropriate USAs to determine the same information with regard to cases cited by the Bureau in Bulet 6/30/58.

Mr. CRESS states he plans to appeal this ruling unless advised to the contrary by the Department. 7-115-2485

WITNESSES AT BAILEY HEARING SET FOR SEPTEMBER 30, 1958.

Mr. PAUL CRESS has advised he desires some of the jurors who heard each trial, interviewed; preferably those who reside in Oklahoma City. He wants them interviewed concerning the atmosphere of the court room; whether there was bickering between HYDE and KEENAN; whether photographers took pictures during the trial of the cases; whether flash bulbs were used during the trial; and whether they observed a display of firearms in the court room during the trial other than the weapons used as evidence.

F B I

Date: 7-16-58

Transmit the following in _____
(Type in plain text or code)

Via AIRTEL _____
(Priority or Method of Mailing)

PAGE TWO

With regard to former Agent personnel, Mr. CRESS does not plan to use them although he is aware they made the arrests, and interviewed BAILEY. Further, they so testified during the trial. CRESS has stated he still plans to use U. S. D. J. EDGAR S. VAUGHT, retired, Mr. BILL HODGES, of Bartlesville, Oklahoma, who was AUSA and assisted in the prosecution, and Mr. JAMES H. MATHERS, who defended HARVEY J. BAILEY.

Research is being made concerning BAILEY and this case with a view to submitting a report in the near future outlining investigation desired. BUDED of August 10, 1958, will be set forth on all outgoing communications and reports.

Developments will be followed and reported.

DOYLE

 b7c
(4)

Office Memorandum • UNITED STATES GOVERNMENT

TO : THE DIRECTOR

DATE: July 18, 1958

FROM : A. ROSEN *R*SUBJECT: GEORGE KELLY BARNES, with aliases, et al
CHARLES F. URSCHER - VICTIM
KIDNAPING

Tolson	_____
Boardman	_____
Belmont	_____
Mohr	_____
Nease	_____
Parsons	_____
Rosen	_____
Tamm	_____
Trotter	_____
W.C. Sullivan	_____
Tele. Room	_____
Holloman	_____
Gandy	_____

This is to advise of the current developments in connection with the above-entitled matter.

With reference to Ora Shannon and Kathryn Kelly, the United States Attorney at Oklahoma City has indicated he intends to appeal the decision of Judge Wallace which resulted in the release of these two.

Harvey Bailey has filed a motion seeking release and is represented by Attorney James J. Laughlin of Washington, D. C. A hearing has been set for September 30, 1958. The U. S. Attorney is getting fully prepared and the Oklahoma City Office has been instructed to carry out specific investigation in order that all possible angles will be fully covered in ample time before the hearing day.

ACTION TO BE TAKEN

This is for information. You will be advised of further pertinent developments.

✓

mg

REC-66

7-11-2486

EX-139

12 JUL 22 1958

All b7C

AR: [redacted]
(5)

90

57 JUL 25 1958

FBI

Transmit the following in PLAIN TEXT
(Type in plain text or code)

Via AIRTEL AIR MAIL
(Priority or Method of Mailing)

Mr. Tolson ✓
Mr. Boardman ✓
Mr. Belmont ✓
Mr. Rosen ✓
Mr. Tamm ✓
Mr. Trotter ✓
Mr. W.C. Sullivan ✓
Tele. Room ✓
Mr. Holloman ✓
Miss Gandy ✓

TO: DIRECTOR, FBI (7-115)
FROM: SAC, OKLAHOMA CITY (7-6)
SUBJECT: GEORGE KELLY BARNES, was., et al;
CHARLES F. URSCHER - VICTIM
KIDNAPING
(Origin: Oklahoma City)

Enclosed herewith are two copies of a motion to vacate and set aside the judgment and conviction of HARVEY BAILEY, and two copies of the affidavit signed by HARVEY BAILEY. These were filed in the U.S. District Court Clerk's Office, Oklahoma City, on 7/8/58 by attorney JAMES J. LAUGHLIN of Washington, D.C. Also attached is a copy of the letter from Mr. LAUGHLIN to the Court Clerk, and a certification of service which indicates copies have been forwarded to U.S. Attorney PAUL CRESS.

Mr. CRESS has advised the hearing will be set 9/30/58 and it is assigned to U.S. District Judge WILLIAM R. WALLACE for hearing. CRESS has the transcript of testimony in the trial which he plans to submit to the Court for review before the hearing. In reviewing the allegations set forth, Mr. CRESS states he desires to know whether the State of Kansas will want custody of BAILEY if he is released on this motion, since BAILEY was an escapee from the Kansas Prison and was under a 50 year sentence when the trial occurred. The Kansas City Office is requested to obtain this information.

- 3 - Bureau (Enc. 6)
- 2 - Kansas City
- 1 - Oklahoma City

(6)

ENCLOSURE
REC-66
JUL 11 1958

REC-66

7-115

JUL 12 1958

Approved: [Signature]
Special Agent in Charge

Sent _____ M Per _____

All b7C

F B I

Date:

Transmit the following in _____
(Type in plain text or code)

Via _____
(Priority or Method of Mailing)

OC 7-6

CRESS states at this time he plans to use as witnesses, BILL HODGES of Bartlesville, Okla., who was Assistant U.S. Attorney and assisted in preparing and prosecuting the case; Mr. JAMES H. MATHERS, Tupelo, Okla., who defended BAILEY; and U.S. District Judge EDGAR S. VAUGHT, retired. CRESS desires the Oklahoma City jurors who heard the case, some of whom still reside in Oklahoma City, be interviewed concerning the atmosphere in the courtroom at the time of the trial and to determine whether photographs were taken during the actual trial by newsmen or motion picture cameramen. He also desires to know if there was a display of firearms in the courtroom. These interviews will be made of any of the jurors located in Oklahoma City, UACB.

This matter will be followed and the Bureau advised of all developments.

DOYLE

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

7-115-2487
ENCLOSURE
RECEIVED
JUL 12 1954
U.S. DEPT. OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C.
20535
This report is being submitted
and all other information and
conviction of HARVEY LOWMYER
was dated at ATTORNEY GENERAL
JULY 12 1954 and the report was
dated JULY 12 1954.

ENCLOSURE

7-115-2487

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA
UNITED STATES OF AMERICA

Criminal No. 10478

HARVEY BAILEY

MOTION TO VACATE AND SET ASIDE JUDGMENT OF CONVICTION

Now comes Harvey Bailey, defendant, and says that he invokes the jurisdiction of this Court pursuant to Section 2255 of the New Judicial Code. He says that at his trial his constitutional rights were violated and as a result of the violation the Court was without power to proceed to judgment and the resulting conviction and sentence that followed were null and void and that he is entitled to a new trial. The following are the grounds:

1. His constitutional rights were violated in that he did not have adequate assistance of counsel in that counsel were fearful to properly defend him due to a threat of a criminal prosecution and that in other respects the counsel were serving conflicting interests to the end that the protection of the Sixth Amendment was lost.
2. The prosecuting officials presented testimony that was false and known by the prosecuting attorneys to be false.
3. The defendant was denied compulsory service of process.
4. The atmosphere in the courtroom prevented a fair and impartial trial due to the feeling that had been engendered and in fact the defendant was denied a public trial contrary to the Constitution and the trial was conducted in a circus atmosphere and was in fact a mockery of justice, a sham and in fact no trial at all.

There is annexed hereto and made a part hereof the affidavit of the defendant.

FOR ATTORNEY GENERAL

Division
Section

U.S. ATTY, OKLAHOMA CITY

FILED

REPLY DATE

Asst U.S. Attorney

Date

/s/ James J. Laughlin
James J. Laughlin
National Press Building
Washington, D. C.
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I have this 7th day of July, 1933
mailed copy of foregoing Motion to Vacate and Set Aside Judgment
of Conviction and Affidavit to Paul S. Cross, Esq., United States
Attorney, Post Office and Federal Building, Oklahoma City, Okla-
homa.

/s/ James J. Langille
James J. Langille

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
UNITED STATES OF AMERICA

HARVEY BAYLEY

AFFIDAVIT OF HARVEY BAYLEY

Harvey Bayley, being first duly sworn on oath, deposes and says unto the Court that his constitutional rights were violated at his trial and therefore the Court could not proceed to judgment and therefore it followed that the conviction and sentence imposed are null and void and that he should forthwith be granted a new trial.

Affiant says that his constitutional rights were violated in many particulars and as to the main ones he lists them as follows:

1. Counsel was not given ample time to prepare for his defense and affiant was not given an opportunity in fact to confer privately with his counsel. Affiant says that furthermore he was denied effective assistance of counsel in that all attorneys were being investigated and interrogated by Agents of the Federal Bureau of Investigation and other persons, in addition to counsel, were being interrogated and investigated with respect to counsel. Affiant says that one attorney was indicted and sent to prison. Another attorney was indicted but acquitted. Affiant attorney, therefore, was in fear of a criminal indictment, embarrassment and humiliation and as a result thereof was afraid through such fear to properly represent the affiant.

2. Affiant was hurried to trial in an atmosphere of feeling, passion and prejudice. The feeling against affiant and others was at fever pitch. When the trial got under way it was not possible to enter the courtroom without spectators being searched. In fact no one could enter the courtroom unless there was a pass signed by the trial judge. This denied affiant a

public trial, contrary to Davis v. United States, 347 U.S. 284, and Quinn v. Washington, 377 U.S. 21. Affiant says further that photographers were given free rein in the courtroom and newsreel cameras rolled noisily. The popping of flashlight bulbs and the clicking of the newsreel cameras distracted from the orderly course of the trial and worked to the prejudice of affiant. Affiant says further that machine guns were stationed at every entrance of the courtroom. He further says that he was brought into the courtroom handcuffed and shackled, all this to his prejudice.

3. Affiant says further that there was constant quarreling and bickering between the then United States Attorney Mr. Hyde and the Assistant Attorney General Mr. Keenan who was sent from Washington to conduct the case. Affiant says that when Mr. Keenan arrived in Oklahoma City for the trial he told Mr. Hyde that he was unceremoniously fired. Affiant says Mr. Hyde refused to even fired and pulled wires and exerted political influence with certain persons in Washington to permit him to stay on the job. Affiant says this wholly spectacle distracted from the orderly conduct of the trial and since there was divided authority and petty jealousy existing between Mr. Hyde and Mr. Keenan there was no one in authority to censure the affiant's method of confinement.

4. Affiant says that he had nothing to do with the kidnapping but that Mr. Hyde and Mr. Keenan put on the witness stand a telephone operator who was forced against her will to reveal an intercepted message. Although Mr. Hyde and Mr. Keenan knew this to be a violation of the law and insisted that the operator give false testimony which they knew to be false.

5. Affiant says further with respect to his constitution, that the attorney representing him in fact was serving the interests of other defendants and there was a conflict in interest.

JAMES J. LAUGHLIN
ATTORNEY AND COUNSELLOR AT LAW
NATIONAL PRESS BUILDING
WASHINGTON, D. C.

NATIONAL 5-2001 FOR ATTORNEY GENERAL

Division
Section

July 7, 1938

U.S. CITY OKLAHOMA CITY
STANDARD TIME
REPLY DATE

AIR MAIL

Mr. R. Lee Jenkins, Clerk
United States District Court
Post Office and Federal Building
Oklahoma City, Oklahoma

Asst U.S. Attorney
Date

Dear Mr. Jenkins:

I am enclosing Motion to Vacate and Set Aside Judgment of Conviction in the case of United States v. Bailey, Criminal No. 10478. I would appreciate it if you would file same.

In my opinion the same points raised at the hearing involving Mrs. Shannon and Mrs. Kelly will be applicable here.

While I am not conversant as to just how your procedure works as to the assignment of cases, it would seem to me that it would be expeditious if this motion were referred to Judge Wallace. I will forward to you, in the next day or two, an affidavit in forma pauperis. Therefore it would be my request that when the date for hearing is set that arrangements should be made to have Bailey brought from Leavenworth to Oklahoma City.

I would be very much obliged to you if you would let me know as soon as possible when this matter will be set down for hearing.

I am mailing copy of this motion and affidavit to Mr. Cress, United States Attorney.

Thanking you and with kindest regards, I am

Sincerely yours,

James J. Laughlin

James J. Laughlin

Enclosure
JJL:lk

cc: Mr. Paul W. Cress
United States Attorney
Post Office and Federal Building
Oklahoma City, Oklahoma 7-115-2487

within the meaning of Classer v. United States, 215 U.S. 457.

Harvey Bailey

HARVEY BAILEY

Subscribed and sworn to before me
this 1st day of July, 1938.

/s/

Notary Public, Parole Officer

"Authorized by the Act of July 1, 1938,
to administer oaths (18 U.S.C. 1004)."

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. BOARDMAN *Wes 7/17/58*

DATE: July 14, 1958

FROM : A. ROSEN *L*SUBJECT: GEORGE KELLY BARNES, WAS., ET AL
CHARLES F. URSCHER - VICTIM
KIDNAPING

Tolson _____
Boardman _____
Belmont _____
Mohr _____
Nease _____
Parsons _____
Rosen _____
Tamm _____
Trotter _____
Clayton _____
Tele. Room _____
Holloman _____
Gandy _____
W. C. Sullivan

I called SAC Carroll Doyle at Oklahoma City with regard to the above-entitled matter in order to insure that all necessary action was being taken at this time even though the hearing has tentatively been set for September 30, 1958.

I instructed SAC Doyle to immediately line up all potential witnesses in order that they can be completely and thoroughly interviewed at this time and signed statements taken from them in anticipation of possible testimony.

Doyle states that the United States Attorney has indicated that he is desirous of limiting the Government's witnesses to three persons, namely, Assistant U. S. Attorney Hodges, U. S. District Judge Vaught, and James H. Mathers, who originally defended Bailey. Hodges assisted USA Hyde and Judge Vaught heard the case. It is recalled that Hyde is responsible for having directed the Court's attention to the fact that FBI files would back up his statement that no investigation was conducted regarding defendants' attorneys up until January, 1934 while he was in the United States Attorney's Office.

I advised Doyle that even though the Government might desire to limit the witnesses to the aforementioned three individuals that it is obvious Attorney James J. Laughlin would want to parade the same witnesses that were previously used and if the Government did not call them certainly Laughlin would call USA Hyde. (The hearing on the request for the release of Bailey will be before Judge Wallace who heard the Shannon and Kelly case.) Doyle was instructed to confer with the United States Attorney and insure that all possible action is taken.

EX-139 REC-66 7-115-2488

It is to be particularly pointed out to the United States Attorney that the question of interviewing the jurors in the original trial to ascertain what they may say today concerning their recollection of events during the original trial in 1933 should be taken up and resolved and the Bureau should be advised if the United States Attorney desires that the jurors be contacted.

AR

68 JUL 25 1958

F125 *Wes*

7-115

antel Oc
7/15/58

All b7C

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI

(7-115)

DATE: 7/24/58

FROM : SAC, WFO

(7-19)

SUBJECT: GEORGE KELLY BARNES, was, et al
CHARLES F. URSCHEL, VIKID
OO: OC

REFERENCE: Oklahoma City airtel 7/22/58

WFO copies of referenced communication are forwarded as follows for the reason indicated:

() TO BALTIMORE (Enc.)
 () NEW YORK "
 XXXXXX(XXX) RICHMOND "
 () ST. LOUIS "

(The lead is within investigative jurisdiction of indicated office at Federal Records Center to locate missing transcript of testimony in trial KATHRYN THORN KELLY.

() TO IDENTIFICATION DIVISION (The lead is to check records of
 Enc.

cc: ① Bureau
 1 Richmond (Enc. 2)
 1 Oklahoma City (7-6)
 1 WFO

b7C

7-115-
 NOT RECORDED
 15 JUL 29 1958

90
 60 JUL 30 1958

b7C

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI

(7-115)

DATE:

JULY 15, 1958

FROM : SAC, OKLAHOMA CITY (7-6)

SUBJECT: GEORGE KELLY BARNES, WAS, ET AL
CHARLES F. URSCHER - VICTIM
KIDNAPING

ATTENTION - INVESTIGATIVE DIVISION

ReBulet June 17, 1958.

On July 13, 1958, U. S. District Judge WILLIAM R. WALLACE visited this office in connection with another matter. While speaking with Judge WALLACE I pointed out to him that in connection with the production of FBI files in the KELLY-SHANNON hearing, the Attorney General was the individual who made the final decision concerning the production of such FBI reports. I told the Judge that the FBI does not decide whether FBI reports shall be produced since this is the prerogative of the Attorney General.

Judge WALLACE stated he realized this since he had seen the telegram from the Attorney General to USA PAUL W. CRESS. Judge WALLACE also stated there was "nothing personal" in connection with the hearing. He stated he has the highest regard for the Director and had met him on one occasion when Oklahoma Baptist University conferred a Doctor's degree on the Director. Judge WALLACE also stated he has the highest regard for the FBI, and pointed out the fact that his son had been an FBI Agent for several years. Judge WALLACE stated that the hearing had taken some "unusual turns," but that he certainly could not criticize the FBI for anything that happened during the KELLY-SHANNON hearing.

This is being submitted to the Bureau as a matter of information.

CD/ (3)

Let to SAC
7/24/58

EX-117 REC-14 7-115-2489
They shouldn't have
seen fit to announce he
might have to send in 7 BP
and to jail for contempt. He
was just grabbing a head
line and the Director's
a Judge to do.

77 JUL 30 1958

All b7C

7-115-2489

Mr. Tolson	
Mr. Belmont	
Mr. Mohr	
Mr. Casper	
Mr. Parsons	
Mr. Rosen	
Mr. Tamm	
Mr. Trotter	
Mr. W. J. Sullivan	
Tele. Room	
Mr. Holloman	
Miss Gandy	

July 24, 1958

SAC, Oklahoma City (7-6)

Director, FBI (7-115)

7
GEORGE KELLY BARNES, WAS., ET AL.;
CHARLES F. URSCHEL - VICTIM;
KIDNAPING

Reurlet 7/15/58.

In your teletype of 6/12/58, you indicated that Judge Wallace stated that he might have to send an FBI Agent to jail for contempt.

In your letter of 7/15/58, you indicated that Judge Wallace stated "there was nothing personal" in connection with the hearing in which he ordered a new trial for Ora Shannon and Kathryn Kelly. If there was "nothing personal" in connection with the hearing then the Judge should not have seen fit to state he might have to send an FBI Agent to jail for contempt. It appears that he may have been seeking some publicity which should be beneath the dignity of the court.

E

(4)

REC-55 7-115-2490

EX-117

16 JUL 25 1958

COMM - FBI

JUL 24 1958

MAILED 27

Tolson _____
Nichols _____
Boardman _____
Belmont _____
Mohr _____
Parsons _____
Rosen _____
Tamm _____
Trotter _____
Nease _____
Tele. Room _____
Holloman _____
Gandy _____

60 JUL 30 1958

MAIL ROOM ☒

All b7C

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (7-115)

DATE: 7/24/58

FROM : SAC, KANSAS CITY (7-8)

SUBJECT: GEORGE KELLY BARNES, was., ET AL;
CHARLES F. URSCHEL - VICTIM
KIDNAPING
(OO - OC)

Re OC airtel to Bureau, dated 7/10/58 and
Bureau airtel to OC, dated 7/16/58.

On 7/17/58, an attempt was made to contact
Warden [REDACTED] Kansas State Penitentiary, Lansing,
Kansas, but information was received that Warden [REDACTED]
would not be available until the following week.

On 7/22/58, Warden [REDACTED] was interviewed by
SA [REDACTED] concerning this matter at which
time Warden [REDACTED] stated that he desired to have BAILEY
taken into custody to answer the escape charge from the
state of Kansas and to serve the sentence previously
imposed on BAILEY in Kansas State Court.

[REDACTED] advised that he desired to know if the
U. S. Marshal could hold BAILEY for the Kansas state
authorities should BAILEY be released by U. S. District
Court in Oklahoma and, if so, for how long he could be
held, whether or not it would be necessary to have a
representative from the Kansas State Penitentiary immediately
available to take custody of BAILEY should he be released by
court, or if he should go through local authority in
Oklahoma to facilitate taking BAILEY into custody should
he be released on the federal charge.

The Oklahoma City Office is requested to ascertain
from the U. S. Attorney what action should be taken by
Warden [REDACTED] to facilitate taking BAILEY into custody should
BAILEY be released by U. S. District Court.

The Kansas City Office will continue to follow
this matter closely keeping the Bureau and Oklahoma City
advised of any change in the status.

2-Bureau (7-115)
1-Oklahoma City (7-6)
2-Kansas City (7-8)

(5)

52 JUL 30 1958

All b7c

REC-55

EX-117

JUL 28 1958

F B I

Date: July 17, 1958

Transmit the following in _____
(Type in plain text or code)

Via AIRTEL

(Priority or Method of Mailing)

Mr. Tolson	_____
Mr. Belmont	_____
Mr. Mohr	_____
Mr. Nease	_____
Mr. Parsons	_____
Mr. Rosen	_____
Mr. Tamm	_____
Mr. Trotter	_____
Mr. W.C. Sullivan	_____
Tele. Room	_____
Mr. Holloman	_____
Miss Gandy	_____

TO: DIRECTOR, FBI (7-115)
 FROM: SAC, OKLAHOMA CITY (7-6)

GEORGE KELLY BARNES, was., ET AL;
 CHARLES F. URSCHEL - VICTIM
 KIDNAPING.

RE: HARVEY BAILEY.

ReBuairtel 7/15/58, and OC Airtel to Director, dated
 7-10-58.

The Oklahoma City Airtel enclosed copies of the motion to vacate and set aside the judgment and conviction of BAILEY. This motion alleges that defense counsel were fearful to properly defend BAILEY due to a threat of a criminal prosecution. The affidavit of BAILEY reflects under (1) that attorneys were being investigated and interrogated by FBI Agents.

It is noted that in the case entitled "HARVEY J. BAILEY, was.; THOMAS L. MANION; GROVER C. BEVILL, wa.; OBSTRUCTION OF JUSTICE, RELEASE OF FEDERAL PRISONER, HARVEY J. BAILEY, the Dallas Office was origin, Dallas File # 62-420. This investigation concerns the escape of BAILEY from the Dallas County Jail on September 4, 1933 and the fact he had been furnished hack saw blades and a 44 S & W pistol by the jailer, MANION. Both MANION and BEVILL, an associate of MANION, were prosecuted and convicted for this offense. The report of SA [REDACTED], dated 10/3/33 at Dallas, Texas, on page 12 and 13 reflect that JAMES H. MATHERS, and his son, JAMES C. MATHERS, were interviewed by SA [REDACTED] "while attending Court in Oklahoma City" and both executed affidavits September 23 and 25, 1933. These affidavits continue through the top of page 17. These affidavits are apparently in the file of the Dallas Office.

REC-21

JUL 19 1958

Approved: _____

Special Agent in Charge

Sent _____

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F B I

Date: July 17, 1958

Transmit the following in _____

(Type in plain text or code)

Via AIRTEL

(Priority or Method of Mailing)

PAGE TWO

In this same case, the report of SA [REDACTED] dated 9/19/33 at Dallas, Texas, reflects on page 68 that the following exhibits were retained in the file of the Dallas Office.

" (1) Pass issued by U. S. M., Dallas, Texas to SAM SAYERS to interview HARVEY BAILEY on 8-25-33.

(2) Pass issued by USM, Dallas, Texas, to SAM SAYERS to interview HARVEY BAILEY on August 30, 1933.

(3) Pass issued by USM, Dallas, Texas, to J. H. MATHERS and W. D. SCOTT dated 9/1/33".

It is to be noted that J. H. MATHERS represented HARVEY BAILEY during the first of SHANNON trial, and KATHRYN KELLY during the second trial. SCOTT, SAYERS and McLEAN represented defendants during the first trial, which began 9/18/33. The possibility exists that SCOTT and SAYERS were interviewed by Agents in connection with the above, although information available in the Oklahoma City Office does not reflect such investigation, or interview. The possibility also exists that someone in the SCOTT-SAYERS law firm may have informed Attorney JAMES LAUGHLIN about the interviews.

The above is being furnished for the information of the Bureau since it is entirely possible this is the investigation of defense counsel referred to in the allegations.

With regard to Buairtel 7-15-58 concerning the obtaining of signed statements from witnesses, Mr. PAUL CRESS, USA, Oklahoma City, has advised that he desires the witnesses interviewed to determine what they can recall of the facts; and that he may desire to refresh their memory with the transcript of testimony in a pre-hearing conference. CRESS pointed out that he does not desire signed statements from the witnesses, since unquestionably their memory of events twenty-five years ago would not be as complete now as they would after he refreshes the memories of witnesses. In view of the above, signed statements will not be obtained from the witnesses UACB.

DOYLE

(4)

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

All b7C

Attached at tel 7-17-58 from Oklahoma City refers one of the several allegations in Harvey Bailey's motion. This one refers to attorneys being investigated and interrogated by the FBI.

The report 10-3-33 deals with Bailey's escape. It shows affidavits obtained from (1) James H. Mathers, counsel for Bailey and Ora Shannon in the first trial and Kathryn Kelly in the second trial, and (2) James C. Mathers, son of James H. These affidavits show both Mathers' state they had no knowledge of escape plans and gave no aid to Bailey. These affidavits were dated 9-23 and 9-25-33, while the first trial was in progress.

Oklahoma City suggests possibility that someone in law firm of Scott and Sayers who represented defendants in first trial may have informed James J. Laughlin about these interviews.

Date: 7/22/58

Transmit the following in PLAIN TEXT

Via AIRTEL

AIR MAIL

TO: DIRECTOR, FBI (7-115)

FROM: SAC, OKLAHOMA CITY (7-6)

SUBJECT: GEORGE KELLY BARNES, was., et al;
CHARLES F. URSCHEL - VICTIM
KIDNAPING
(OO: Oklahoma City)

BUDED: INVESTIGATION MUST BE COMPLETED BY 8/10/58.

On 7/22/33 CHARLES F. URSCHEL was kidnaped from his home in Oklahoma City by ALFRED BATES and GEORGE KELLY BARNES. Victim was held hostage until a ransom of \$200,000.00 was paid for his release. He was released unharmed on 7/31/33.

During the time he was held, URSCHEL was kept on a farm near Paradise, Texas, which was owned by R. G. SHANNON. Mrs. R. G. SHANNON is the mother of KATHRYN THORNE KELLY, the wife of Subject GEORGE KELLY BARNES.

On 8/12/33 the SHANNON farm was raided by FBI Special Agents [REDACTED] GUS T. JONES, [REDACTED] and [REDACTED]. The Special Agents were accompanied by nine local officers and Mr. URSCHEL.

At the farm, HARVEY J. BAILEY was found sleeping in the yard on a cot. BAILEY was taken into custody and a search of his clothing disclosed some of the ransom money in his possession. He had approximately \$1,200.00 in his possession and the ransom money comprised \$700.00 of the total.

③ - Bureau	2 - New Orleans
2 - Albuquerque	2 - New York
2 - Boston	2 - Portland
2 - Chicago	2 - San Antonio
2 - Kansas City	2 - San Francisco
2 - Los Angeles	2 - Washington Field Office
2 - Minneapolis	4 - Oklahoma City

REC-55

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OC 7-6

BAILEY was transported to the Dallas County Jail on 8/12/33 where he was booked as SAM JONES.

On 8/14/33 an authorized complaint was filed in Oklahoma City charging HARVEY BAILEY, et al, with violating the Federal Kidnaping Statute, Section 408A, Title 18, USCA. This complaint was filed by SAC R. H. COLVIN before U.S. Commissioner GEORGE J. EACOCK. On 8/15/33 a fugitive complaint was filed before USC LEE R. SMITH at Dallas, charging BAILEY with the offense charged in the Oklahoma City complaint.

On 8/16/33 BAILEY appeared before Commissioner SMITH at Dallas, stated he was not guilty, and waived preliminary hearing. He was remanded to the Dallas County Jail in lieu of \$10,000.00 bail.

On 8/24 and 25/33 BAILEY was arraigned before U.S. District Judge JAMES C. WILSON of Fort Worth, Texas, and at that time waived removal. He was returned to the Dallas County Jail pending removal to Oklahoma City.

During interviews with SA [REDACTED] BAILEY at one time stated the ransom money found in his possession had been left at the SHANNON farm for him by an unnamed individual. He later stated he had been given the money by a slain Kansas City gangster named ANTONE. He also stated he had been taken to the SHANNON farm by JIM CLARK and BOB BRADY on or about 8/1/33 and stayed there until about 8/4/33. BAILEY also stated he had visited the farm on or about 7/12/33 at which time he spent the night and then proceeded to Paris, Texas. Mr. and Mrs. R. G. SHANNON in signed statements dated 8/21/33 reported that BAILEY left their home on or about 7/28/33 and returned 8/11/33. b7C

On 9/4/33 BAILEY escaped from the Dallas County Jail at approximately 7:20 a.m. He was captured at Ardmore, Okla., within four hours and was found in possession of a .44 Smith and Wesson revolver and some ammunition. He was then delivered to the Oklahoma County Jail at Oklahoma City where he was held for trial.

BAILEY was tried with several other defendants at Oklahoma City by U.S. District Judge EDGAR S. VAUGHT. The trial began 9/18/33 and was completed 9/30/33 when a verdict

OC 7-6

of guilty was returned against him. On 10/7/33 BAILEY was sentenced to life imprisonment. During his trial BAILEY was represented by JAMES H. and JAMES C. MATHERS, Oklahoma City attorneys.

~~HAROLD~~
Mr. ~~CHARLES~~ B. NATHAN, former Assistant Director, was in Oklahoma City during the investigation and prosecution of this case. When interviewed concerning the KELLY and SHANNON hearing he advised he was in Oklahoma City part of the time but had to leave due to other work in various parts of the country.

During the KELLY and SHANNON hearing it was stated that Mr. NATHAN was in charge of this case and dictated the confinement of the Subjects. Testimony introduced by the Government reflected the USM is in charge of all Federal prisoners until they are sentenced.

HARVEY J. BAILEY is presently incarcerated in the U.S. Penitentiary at Leavenworth, Kansas.

On 7/8/58 a motion was filed in U.S. District Court, Oklahoma City, by attorney JAMES J. LAUGHLIN of Washington, D.C., to vacate and set aside the conviction and sentence of BAILEY under the provisions of Section 2255, Title 28, USC. This matter has been set for hearing on 9/30/58, to be heard before U.S. District Judge WILLIAM R. WALLACE in Oklahoma City, Okla.

The motion to vacate and set aside the judgment and conviction of HARVEY BAILEY contains the following allegations:

At his trial his constitutional rights were violated and as a result the Court was without power to proceed to judgment and the resulting conviction and sentence were null and void.

1. He did not have adequate assistance of counsel in that counsel were fearful to properly defend him due to a threat of a criminal prosecution and in other respects were serving conflicting interests.
2. The prosecuting officials presented testimony that was false and known by the prosecuting attorneys to be false.

3. The defendant was denied compulsory service of process.
4. The atmosphere of the courtroom prevented a fair and impartial trial due to the feeling engendered and in fact the defendant was denied a public trial contrary to the Constitution and the trial was conducted in a circus atmosphere and was in fact a mockery of justice, a sham and in fact no trial at all.

The affidavit of HARVEY BAILEY contains the following allegations:

His constitutional rights were violated at his trial and therefore the Court could not proceed to judgment and the conviction and sentence imposed are null and void, for which reason he should forthwith be granted a new trial.

His constitutional rights were violated in many particulars but the main causes are:

1. Counsel was not given ample time to prepare for his defense, and BAILEY was not given the opportunity to confer privately with his attorney.

All attorneys were being investigated and interrogated by Agents of the FBI and other persons in addition to counsel were being interrogated and investigated with respect to counsel.

His attorney was in fear of a criminal indictment, embarrassment and humiliation and was, as a result, afraid to properly represent BAILEY.

Two attorneys indicted; one sent to prison, the other acquitted.

2. BAILEY was hurried to trial in an atmosphere of feeling, passion and prejudice.

When the trial got under way, spectators were searched and could only enter with a pass signed by the trial judge.

The photographers were given free rein in the courtroom and newsreel cameras clicked merrily.

The popping of flashlight bulbs and the clicking of newsreel cameras distracted from the orderly course of the trial and worked to the prejudice of BAILEY.

Machine guns were stationed at every entrance to the courtroom.

He was brought to the courtroom handcuffed and manacled.

3. There was constant quarreling and bickering between HERBERT K. HYDE and Assistant Attorney General KEENAN.

BAILEY said when KEENAN came to Oklahoma City to conduct the case he told Mr. HYDE that HYDE was unceremoniously fired.

HYDE pulled wires and exerted political influence to stay on the job.

This unholy spectacle detracted from the orderly conduct of the trial and since there was divided authority and petty jealousy between HYDE and KEENAN, there was no authority to ease the method of confinement of BAILEY.

4. BAILEY had nothing to do with the kidnaping, but HYDE and KEENAN put a telephone operator on the witness stand who was forced against her will to reveal an intercepted message although HYDE and KEENAN knew this to be a violation of the law, and insisted the operator give false testimony which they knew to be false.
5. BAILEY's attorney was serving the interests of other defendants and there was a conflict in interest.

In connection with the investigation of attorneys, mentioned in the affidavit, available information reflects that while BAILEY was incarcerated in the Dallas County Jail, the U.S. Marshal issued passes on 8/25/33 and 8/30/33 to attorney SAM SAYERS to visit BAILEY. On 9/1/33 the U.S. Marshal issued a pass to attorneys W. D. SCOTT and J. H. MATHERS to visit BAILEY.

After BAILEY escaped and was recaptured on 9/4/33, his attorney, JAMES H. MATHERS, told an acquaintance that he,

MATHERS, was suspected of smuggling hack-saw blades and a gun to BAILEY, but that he was not involved and had no knowledge of the escape other than information furnished him by BAILEY. MATHERS related that a jailer had been paid \$10,000.00 by KATHRYN T. KELLY. Mr. MATHERS and his son executed affidavits dated 9/23/33 and 9/25/33 denying any knowledge of implication in the escape of BAILEY. These affidavits were executed before SA E. J. DOWD of the Dallas Office. (Dallas file 62-420.)

The allegation that defense counsel was under investigation by the FBI was raised in a similar hearing for ORA L. SHANNON and KATHRYN THORNE KELLY heard by U.S. District Judge WILLIAM R. WALLACE at Oklahoma City on 6/9-16/58. The Court held this was a critical point and on being refused the files and records of the FBI concerning the investigation and prosecution of Subjects arising out of the URSCHEL kidnaping, granted SHANNON and KELLY new trials. It should be pointed out that the transcript of testimony in the KELLY trial has not been located despite extensive efforts by a number of FBI offices. The transcript of testimony in the SHANNON trial (when BAILEY was tried) is available.

Mr. PAUL CRESS, U.S. Attorney, Oklahoma City, plans to use as witnesses in the hearing U.S. District Judge EDGAR S. VAUGHT, retired; BILL HODGES of Bartlesville, Okla., who was an Assistant U.S. Attorney and assisted in this prosecution; and the defense attorney, Mr. JAMES H. MATHERS of Tulsa, Okla. In addition to interviews with Mr. HODGES and Mr. MATHERS, Mr. CRESS desires that the following investigation be conducted:

Determine whether Kansas State authorities desire custody of BAILEY in the event he is released from custody at this hearing, since BAILEY was serving a 10 to 50 year sentence and was an escapee from Lansing, Kans., at the time of his apprehension on instant charge. The Kansas City Office by separate communication has been requested to obtain this information.

Determine from newspaper reporters and photographers who attended the trials what the atmosphere in the courtroom was, and whether photographers and newsreel cameras actually took photographs during the trial. In the previous hearing there was conflicting testimony by witnesses to the effect that photographs were taken during the trial while others stated the

photographs were taken only during recess. Mr. CRESS is attempting to determine whether the courtroom atmosphere was "circus like" and whether the reporters observed a display of firearms on the part of the officers. The newsmen are listed as being:

[REDACTED] last known to be residing and editing a magazine for midget racers at Carlsbad, N.M.

[REDACTED] address unknown.

[REDACTED] address unknown.

[REDACTED] address unknown.

[REDACTED] a cab driver who resides in Oklahoma City.

The following witnesses who testified in the original trial should be interviewed in an effort to refute the allegations set forth in the motion and affidavit filed by BAILEY:

CHARLES F. URSCHER, National Bank of Commerce, San Antonio, Texas.

GUS T. JONES, former SA [REDACTED]

[REDACTED]

[REDACTED] former SA, [REDACTED]

[REDACTED] former SA, [REDACTED]

In an effort to locate the missing transcript of testimony in the KATHRYN THORNE KELLY trial which was held in Oklahoma City 10/9-12/33 the following Federal Record Centers have been checked with negative results:

East Point, Georgia
Fort Worth, Texas
Seattle, Washington

OC 7-6

Mr. CRESS states it is possible that some U.S. Attorney who had a similar case to try borrowed the transcript of testimony in the KATHRYN THORNE KELLY trial and failed to return it to the U.S. Attorney in Oklahoma City. He has requested that all Federal Record Centers be checked for this document. They are located as follows:

Post Office Building, Boston, Mass.

641 Washington Street, New York, N.Y.

King and Union Streets, Building 1,
Alexandria, Va.

7201 South Leamington Ave., Bedford Park,
(Chicago) Ill.

2306 Bannister Road, Kansas City, Mo.

401 Custom House Building, New Orleans, La.

Building 25, Denver Federal Center,
Denver, Colo.

Post Office Box 708, San Francisco, Calif.

2401 East Pacific Coast Highway, Wilmington,
Calif.

729 Northeast Oregon Street, Portland, Ore.

In addition to the above, the U.S. Attorney, Oklahoma City, has requested that a few of the jurors who heard these cases and who still reside in Oklahoma City or vicinity be interviewed to determine the general atmosphere in the courtroom and whether photographs were taken during the actual trial of the case. He desires to know whether the officers present made a display of firearms in the courtroom.

An Oklahoma City newspaper, the "Daily Oklahoman", under date of 9/29/33 published an article which reflects an interview with HARVEY BAILEY. The article reflects that BAILEY told the reporter he had received a fair trial. Investigation is being conducted to determine the name of the reporter so that he can be interviewed.

OC 7-6

THE ALBUQUERQUE OFFICE

At Albuquerque, N.M.

Will interview [REDACTED] to determine facts recalled by him concerning the arrest, interviews with, and handling of HARVEY J. BAILEY during 1933. Will determine through this interview if [REDACTED] can refute any of the allegations set forth in the motion or affidavit filed by BAILEY.

At Carlsbad, N.M.

Will endeavor to locate and interview [REDACTED] who was last known to be residing there and editing a magazine for midget auto racers. Will determine from him the general atmosphere of the courtroom when instant trials took place in September and October, 1933. Will determine whether photographers and newsreel cameramen had the Court's permission to take pictures during the actual trial of the cases, and whether the trial was conducted in a circus-like atmosphere.

Will determine whether U.S. District Judge EDGAR S. VAUGHT gave the photographers "free rein" to take photographs any time, anywhere, or from any place in the courtroom during the trial, or was that only allowed at the sentencing of the Subjects.

Will determine if possible the location of [REDACTED] and [REDACTED] newspapermen who allegedly covered both trials, so they can be interviewed for the same information desired from [REDACTED]

Submit in report form by BUDED.

BOSTON; CHICAGO at Bedford Park; DENVER; KANSAS CITY; LOS ANGELES at Wilmington, Calif.; NEW ORLEANS; NEW YORK CITY; PORTLAND; SAN FRANCISCO and WASHINGTON FIELD OFFICE at Alexandria, Va.

Will check the records of the Federal Record Centers in an effort to determine whether the missing transcript of testimony in the KATHRYN THORNE KELLY trial is contained in the records stored at those centers. Submit results in report form by BUDED.

OC 7-6

The Minneapolis Office by a previous communication has been requested to contact the appropriate U.S. Attorneys in the following cases in an effort to locate the missing transcript in the KELLY trial:

CHARLES JOSEPH FITZGERALD, was., et al;
WILLIAM A. HAMM, Jr. - VICTIM
KIDNAPING
(St. Paul file 7-5)

REO VERNE SANKEY, was., et al;
CHARLES BOETTCHER, II - VICTIM
KIDNAPING
(Aberdeen file 7-13)

The result of these contacts should be submitted in report form by BUDED.

The U.S. Attorneys at Oklahoma City and Tulsa, Okla., have been requested to check their records for the missing transcript of the KELLY case, particularly kidnaping cases tried between 1933 and 1936. This information will be submitted in report form.

THE SAN ANTONIO OFFICE

At Austin, Texas

Will interview former SA [REDACTED] to determine the facts recalled by him concerning the arrest, interviews with, and the handling of HARVEY J. BAILEY during 1933.

Will through this interview determine whether [REDACTED] can refute any of the allegations set forth in the motion or affidavit of BAILEY.

At San Antonio, Texas

Will interview Mr. CHARLES F. URSCHER, National Bank of Commerce Building, and Mr. GUS T. JONES, [REDACTED] for the same type information requested in the interview with [REDACTED] at Austin.

Will submit results in report form by BUDED.

OC 7-6

THE SAN FRANCISCO OFFICE

At San Francisco, California

Will interview Mr. ^{David} CHARLES B. NATHAN. [REDACTED] to determine the facts recalled by him concerning the handling of HARVEY J. BAILEY prior to and during the trial of this case, and whether he recalls any special instructions given or suggested by this Bureau concerning the incarceration of BAILEY in the Oklahoma County Jail, Oklahoma City, Okla.

The above lead is in addition to the lead to check Federal Record Center for the missing transcript of testimony.

Will submit results in report form.

THE OKLAHOMA CITY OFFICE

At Bartlesville, Oklahoma

Will interview Mr. BILL HODGES, former Assistant U.S. Attorney who assisted in the prosecution of this case in an effort to determine what he recalls concerning the trial of this case, and any information he may recall that would refute the allegations set forth in the motion and affidavit of BAILEY.

At Tupelo, Oklahoma

Will interview Mr. JAMES H. MATHERS, who defended BAILEY at instant trial, in an effort to determine what he recalls about this trial and any information he may have that would refute the allegations set forth in the motion and affidavit of BAILEY.

At Oklahoma City, Oklahoma

Will at the "Daily Oklahoman", Fourth and North Broadway, endeavor to identify the reporter who wrote the article published 9/29/33 describing an interview with BAILEY, during which BAILEY stated he had received a fair trial. Will thereafter locate and interview this reporter.

All b7C

OC 7-6

Will from the Clerk of the U.S. District Court determine the names of Oklahoma City jurors who heard the two cases and interview jurors from each jury to determine what the general atmosphere was in the courtroom during the trials. Will determine if the officers made a display of firearms in the courtroom, other than the firearms possibly introduced into evidence.

Will determine if the trials were "circus like" and whether news photographers and newsreel cameramen were allowed to take photographs during the actual trials. b7C

Will locate and interview [REDACTED] who in 1933 was a newsreel cameraman (who now drives a cab and resides in a small hotel on North Broadway) to determine the general atmosphere in the courtroom and whether news photographers were granted permission by the Court to take photographs at will during the trials of this case.

Will submit results in report form by BUDED
8/10/58.

DOYLE

July 25, 1958

AIRTEL

To: SAC, Oklahoma City (7-6)

From: Director, FBI (7-115)

GEORGE KELLY BARNES, was., et al.
CHARLES F. MURSCHEL - VICTIM
KIDNAPING

Re Harvey Bailey.

Re your airtel dated July 17, 1958.

If not already done, copies of the reports dated October 3, 1933, and September 19, 1933, at Dallas, Texas, should be made available to the United States Attorney, Oklahoma City. This refers to the interrogation of James H. Mathers and his son and also to the passes issued to attorneys to interview Bailey.

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REC-13

7-115-2494

CGIAA - FBI

JUL 25 1958

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EX-128

13 JUL 29 1958

Tolson _____
Boardman _____
Belmont _____
Mohr _____
Nease _____
Parsons _____
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Trotter _____
Clayton _____
Tele. Room _____
Holloman _____
Gandy _____

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AUG 1

MAIL ROOM

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Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: July 25, 1958

FROM : A. Rosen *R*

pk SUBJECT: GEORGE KELLY BARNES, WAS., ET AL.;
 CHARLES F. BURSHEL - VICTIM;
 KIDNAPING

Tolson _____
 Boardman _____
 Belmont _____
 Mohr _____
 Nease _____
 Parsons _____
 Rosen _____
 Tamm _____
 Trotter _____
 Clayton _____
 Tele. Room _____
 Holloman _____
 Gandy _____

The hearing on Bailey's motion to vacate his sentence is set for 9/30/58. In his motion he alleges denial of constitutional rights, inadequate counsel, intimidation of counsel caused by investigation and interrogation, constant quarreling between U. S. Attorney Hyde and J. B. Keenan, perjured testimony known to be false by the prosecutors, conflict of interest, and circus atmosphere in the court. He is represented by James J. Laughlin, Washington, D. C. *Sullivan*

FACTS REGARDING THE ABOVE ALLEGATIONS:

With regard to the allegations which are similar to those used by Laughlin in the Shannon and Kelly hearing, the following is submitted:

- (1) Bailey alleges he was denied his constitutional rights in that he did not receive a fair trial.
- (2) Regarding the allegation of inadequate counsel, he was represented by James H. Mathers, who is presently the County Prosecutor for Coalgate County, Oklahoma. He has handled many felony cases and had extensive practice in Federal court.
- (3) Regarding the allegation of intimidation of counsel caused by investigation and interrogation, he alleges counsel was afraid to properly defend him because of investigation by FBI Agents regarding the receipt of ransom money. We did not investigate counsel.
- (4) Regarding the allegation there was constant quarreling between U. S. Attorney Hyde and J. B. Keenan, he alleges Keenan on arrival in Oklahoma City fired U. S. Attorney Hyde and Hyde "pulled strings in Washington" to retain his position as U. S. Attorney. Nothing in file. *C*
- (5) Regarding perjured testimony known to be false by the prosecutor this allegation is the same as one used in the Shannon and Kelly hearing and refers to the telephone operator at Paradise, Texas, who is alleged to have testified to conversations on the telephone between Ora Shannon and George Kelly Barnes. The telephone operator denies she perjured herself. *REC-82 7-115-249*
- (6) Regarding the conflict of interest, Bailey alleges that James H. Mathers represented him and Ora Shannon in the trial. He alleges the serving of interests of the other defendant was to his disadvantage.
- (7) Regarding the circus atmosphere in the court, he alleges the court room was filled with news photographers, reporters, newsreel cameras and the atmosphere of the court room was to his prejudice. *108 12 JUL 29 1958*

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7-115

Memorandum to The Director
RE: GEORGE KELLY BARNES, WAS., ET AL.;
CHARLES F. URSCHER - VICTIM

BACKGROUND

A. Apprehension and Trial of Bailey:

Bailey was apprehended 8/12/33, at Paradise, Texas, with Ora Shannon, Boss Shannon, and Armon Shannon. While confined at the Dallas County Jail he escaped 9/4/33, and was apprehended the same day at Ardmore, Oklahoma. We conducted investigation regarding his escape and prepared reports on it. Bailey, Ora Shannon, Boss Shannon, Armon Shannon, and Albert Bates, and the group known as the "Money Changers from Minneapolis" were tried in Federal court on 9/18/33. A guilty verdict was returned 9/30/33.

B. Reports Involved in Current Bailey Hearing:

Oklahoma City refers to the report dated 10/3/33, in the case entitled "Harvey J. Bailey, Was., Et Al.; Obstruction of Justice; Release of Federal Prisoner" in which Dallas is the office of origin. This report deals with Bailey's escape on 9/4/33, and contains affidavits of James H. Mathers and his son, James C. Mathers, prepared by SA [REDACTED]. This report contains the following preface to the affidavits. "The following investigation was conducted by SA [REDACTED] while attending court in Oklahoma City." The affidavits of James C. Mathers, dated 9/25/33, and James H. Mathers, dated 9/23/33, are set out. They were interviewed because information had been received that they may have assisted in the escape of Bailey. Both denied any knowledge of the escape and denied giving any assistance to Bailey in making his escape. James H. Mathers on 8/30/33, traveled to Dallas, Texas, at the request of Sam Sayers, one of the attorneys for Shannon. Sayers retained James H. Mathers to represent Ora Shannon. He was present in Dallas two or three days prior to Bailey's escape. It is noted the affidavit of James H. Mathers relates he was "ashamed to say he was drunk on arrival in Dallas." All b7

The interviews in which the affidavits were taken may be significant as Bailey alleges intimidation of counsel was caused by investigation and interrogation. The interrogation took place during Bailey's trial.

C. Judge Wallace's Decisions in the Shannon and Kelly Hearing:

During the hearing which began 6/9/58, and concluded 6/16/58, Judge Wallace made several rulings dealing with the production of FBI reports: (1) Produce reports for in camera inspection or furnish an affidavit that no investigation was conducted regarding defense attorneys; (2) Produce the reports for inspection or be held in contempt;

Memorandum to The Director

RE: GEORGE KELLY BARNES, WAS., ET AL.;
CHARLES F. URSCHER - VICTIM

(3) Produce reports in open court or a new trial will be ordered. The production of the reports was based on a statement of former U. S. Attorney H. K. Hyde who said that while he was in office no investigation regarding defense attorneys was conducted. He left the U. S. Attorney's Office January, 1934.

D. Department Instructions in the Shannon and Kelly Hearing:

The facts with respect to investigation of defense attorneys in the Shannon and Kelly hearing are that the FBI did have a surveillance on Ben Laska, attorney for Albert Bates, in an effort to locate Kathryn Kelly and George Kelly Barnes who were in fugitive status. This surveillance by Denver Agents was concluded on 9/14/33, because Laska departed from Denver to represent Bates in the trial in Oklahoma City beginning 9/18/33. We also had a surveillance on the hotel room of Luther Arnold on 9/10/33, because he was supposed to know the whereabouts of the fugitives Kathryn Kelly and George Kelly Barnes. While this surveillance was in progress attorneys representing the defendants in the trial on 9/18/33, were seen entering Arnold's room. This activity is set forth in our report.

With respect to the above, at the time Judge Wallace ruled that FBI reports must be produced for in camera inspection or that he be furnished an affidavit that no investigation was conducted, the Department instructed U. S. Attorney Cress that he could in good conscience file such an affidavit that no investigation was conducted regarding defense attorneys. The Department reviewed the reports of the surveillances and stated this did not represent investigation of attorneys.

E. Testimony of James H. Mathers:

James H. Mathers testified he had no fear of investigation and had no knowledge that such investigations were even threatened while he was defending Kathryn Kelly. Mathers had represented Ora Shannon and Harvey Bailey in their trial 9/18/33, and Kathryn Kelly when she was tried.

ACTION:

This is for your information. The matter is being followed closely. The Oklahoma City Office has been instructed to carry out specific investigation in order that all possible angles will be fully covered in ample time before the hearing date.

FEDERAL BUREAU OF INVESTIGATION

Reporting Office MINNEAPOLIS	Office of Origin OKLAHOMA CITY	Date 7/31/58	Investigative Period 7/22, 23, 25, 28/58
TITLE OF CASE GEORGE KELLY BARNES, Was.; ET AL; CHARLES F. URSCHEL- VICTIM		Report made by [REDACTED]	Typed by [REDACTED]
		CHARACTER OF CASE KIDNAPING	

Synopsis:

Inquiry at office of USA, St. Paul, Minnesota, reflects their closed kidnaping files have been forwarded to Federal Records Center, Kansas City, Missouri. Inquiry at office of USA, Sioux Falls, reflects their SANKEY Kidnaping file sent to Federal Records Center, St. Louis, Missouri. GEORGE A. HEISEY, former AUSA, St. Paul, Minnesota, contacted and claims they never borrowed any transcripts of testimony from anyone.

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DETAILS

[REDACTED] Secretary, United States Attorney's Office, St. Paul, Minnesota, was contacted on July 22, 1958, regarding instant matter, and on July 23, 1958, she telephonically advised SA [REDACTED] that they do not have any index cards in their files for KATHRYN THORNE KELLY, or her husband, GEORGE R. KELLY. Neither could she find any index card for CHARLES F. URSCHEL, nor could a card be located for a CHARLES BOETTCHER, II.

Approved [Signature]	Special Agent in Charge	Do not write in spaces below	
Copies made: ① Bureau (7-115) 1 USA, St. Paul 1 USA, Sioux Falls 3 Oklahoma City (7-6) 1- USA, Oklahoma City 2 Minneapolis (7-8) 1-St. Paul (7-5)		7-115-2496	REC-1
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		[REDACTED]	
		[REDACTED]	

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In regard to [REDACTED] she advised he was the subject of their file #10-6240A and #10-6240B.

However, she advised above and various files mentioned hereinafter were all forwarded to the Federal Records Center, General Service Administration, 2306 East Bannister Road, Kansas City, Missouri, and that the [REDACTED] file is in Agency Container #432 and FRC Container #134689.

In regard to WILLIAM A. HAMM, JR., she stated their file was number 10-5414A, and it is Agency Container #382, and FRC Container #134639.

In regard to REO VERNE SANKEY, she stated their old file #7495 related to a National Prohibition Act case for an individual named VERNE SANKEY and it did not relate to a kidnaping case.

However, she stated her indices made reference to a kidnaping case involving [REDACTED] their file #10-5355B, and which is Agency Container #379 and FRC Container #134636.

It is to be noted that EDWARD BREMER was kidnaped at St. Paul, Minnesota in January, 1934, and the Barker-Karpis Gang were responsible for both HAMM and BREMER kidnappings, and this file was not mentioned.

[REDACTED] advised that the EDWARD BREMER file is #10-5615B and it is Agency Container #393, and FRC Container #134650.

[REDACTED] remarked that she thought it would be a lot better if the FBI would contact the Federal Records Center, Kansas City, Missouri, and personally review the files there, rather than having their office request the same, and if the files are voluminous, which they probably are, it would take much time to have them shipped from Kansas City, Missouri, to St. Paul, Minnesota.

[REDACTED] United States District Attorney's office, Sioux Falls, South Dakota, advised SA [REDACTED] on July 23, 1958, that their indices make reference to

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REO VERNE SANKEY - Kidnaping - February 12, 1933 - April 22, 1933, which file was closed July 18, 1935. It is 565 Central Division, U. S. File #4991, and she stated this file was sent to the Federal Records Center at St. Louis, Missouri, and they are in Container #41 and FRC Container #50503.

The above information was furnished to the Oklahoma City, Kansas City and St. Louis offices.

SA [REDACTED] recalls that GEORGE SULLIVAN was the United States District Attorney, St. Paul, Minnesota, at the time of the BREMER trials and later he became a Federal Judge but he is now deceased.

At the time of the first BREMER Kidnaping trial at St. Paul, Minnesota, SA [REDACTED] recalled that the case, held in the spring of 1935, was prosecuted by GEORGE A. HEISEY, who was then an Assistant United States District Attorney. Mr. HEISEY is presently a referee in bankruptcy, United States Courthouse, Minneapolis, Minnesota, Federal 2-5694, and telephonic inquiry on July 23, 1958, by SA [REDACTED] disclosed that he is out of town and will not return until July 25, 1958.

GEORGE A. HEISEY, mentioned above, telephonically contacted SA [REDACTED] on July 25, 1958, and advised that although he was an Assistant United States District Attorney and GEORGE SULLIVAN was the United States District Attorney, that he personally handled all of the major kidnaping cases that were prosecuted at St. Paul, Minnesota, during the early 1930's including the BREMER trials. Mr. HEISEY advised that he recalls that neither he nor GEORGE SULLIVAN, now deceased, ever borrowed from anyone any transcript of testimony nor did they borrow any other forms or papers to be used as a sample copy as he stated that their office in those days handled everything themselves.

He further advised that JOSEPH KEENAN, an Assistant Attorney General from Washington, D.C., was in St. Paul around 1932 and 1933 and prosecuted the ROGER TUOHY Gang

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for perpetrating the WILLIAM A. HAMM, JR., kidnaping. He said TUOHY and his associates were acquitted and that he does not know whether or not JOSEPH KEENAN ever borrowed such transcripts of testimony in the KELLY trial.

[REDACTED] Deputy United States Marshal, United States Courthouse, Minneapolis, Minnesota, advised SA [REDACTED] on July 25, 1958, that she has been connected with the U.S. Marshal's Office in St. Paul and Minneapolis since 1931 and that she has no knowledge of anyone ever borrowing a transcript of testimony in the KELLY case.

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