

F B I

Date: **Sept. 28, 1959**Transmit the following in _____
(Type in plain text or code)Via **AIRTEL** **AIR MAIL**
(Priority or Method of Mailing)**TO: DIRECTOR, FBI (7-115)****FROM: SAC, DENVER (7-7)****GEORGE KELLY BARNES, AKA, ETAL
CHARLES F. URSCHEL
KIDNAPING
OO - OKLAHOMA CITY****Re Denver airtel 9/16/59.**

Further inquiry at the Tenth Circuit Court of Appeals, Denver, Colorado, reflects that that office has now been advised that notice of appeal was filed on 9/15/59 by ORA L. SHANNON and KATHRYN THORNE KELLY with the U. S. Supreme Court at Washington, D. C.

RUC.

**3 - Bureau
1 - Oklahoma City (7-6)
1 - Denver**

(5) *b7c***REC- 94****EX- 105****15 SEP 30 1959****58 OCT 9 1959**

Special Agent in Charge

Sent _____ M

Per _____

F B I

Date: 9/4/59

Transmit the following in _____

(Type in plain text or code)

Via AIRTEL

AIR MAIL

(Priority or Method of Mailing)

TO: DIRECTOR, FBI (7-115)
FROM: SAC, OKLAHOMA CITY (7-6)
GEORGE KELLY BARNES, aka;
ET AL;
CHARLES F. URSCHEL
KIDNAPING
(OO: OC)

ReOClet to Director, 6/12/59.

[REDACTED] Court Reporter, has completed transcription of record of second trial in Case #10478-Cr., involving only GEORGE and KATHRYN KELLY, and copy made available to this office.

Report of SA [REDACTED] Oklahoma City, 7/11/58, sets forth affidavit of KATHRYN THORNE KELLY, which includes among others, a claim that she was denied compulsory process for her defense in that the court refused to delay trial in order to permit her counsel to obtain handwriting experts. Transcript of record reflects testimony of D. C. PATTERSON, Certified Public Accountant and handwriting expert of Oklahoma City, during which he concluded that two letters, both postmarked at Chicago, Illinois, 9/18/33, and each bearing the fingerprint impressions of GEORGE R. KELLY, one addressed to CHARLES F. URSCHEL and the other to the "Daily Oklahoman," were written by the same person as was a letter postmarked at Indianapolis, Indiana, 6/5/33, addressed to Mr. and Mrs. R. G. SHANNON, Paradise, Texas. The latter item had previously been admitted to evidence as the known handwriting of KATHRYN KELLY.

③ - Bureau
① - Oklahoma City
[REDACTED]

(4)

REC-4 7-115-2597
EX-105

SEP 7 1959

Approved: _____

Special Agent in Charge

Sent _____

M Per _____

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Date: _____

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

OC 7-6

While PATTERSON was still on stand, KATHRYN KELLY's attorney offered him specimens of handwriting and requested that he identify the writer or writers. The witness declined by reason of the fact that such an examination would take time, but agreed on redirect examination that he would also appear for the defense, if they so desired, and could have the results of his examination ready on the following day. At one point during the discussion the Court remarked, "Well, I am not going to continue this case all fall." The transcript is silent as to any further testimony by PATTERSON or any other handwriting expert, although it does reflect that while under redirect examination in her own defense, KATHRYN KELLY was presented with a piece of paper by her attorney which she identified as being specimens of handwriting of her own and GEORGE KELLY, she having seen the latter write a portion of the specimen. This piece of paper was admitted as an exhibit for the defendants, and consists of two specimens containing the text of the address on the envelope of the letter addressed to Mr. URSCHER from Chicago, which was received by him during the course of the first trial. These specimens were examined by the jury.

During the hearing on the motion for new trial in June, 1958, KATHRYN KELLY's attorney, J. J. LAUGHLIN, in his opening statement to the court, said: "I think we can also show, your Honor, as to the failure to permit Mrs. KELLY to have compulsory service of process, because her guilt to a large measure depended on certain documentary evidence, the Government contending, and the jury believing, that the notes, the writing, were in her handwriting; when if the attorneys had been vigilant and had not been under this fear, they could have produced handwriting testimony to the effect that it was not her handwriting. That was alleged." During the course of testimony by KATHRYN KELLY during this hearing, she was asked:

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

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Date: _____

Transmit the following in _____
(Type in plain text or code)Via _____
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OC 7-6

Q- All right now, Mrs. KELLY, in the trial was there some testimony or was there some evidence introduced as to hand writing, or ransom notes, or documents, or hand-writing?

A- Yes.

Q- Tell the court what that was.

A- The Government had a handwriting expert and they showed him various -- I suppose they were ransom notes -- They showed several notes and then my attorney had me write my name and a few words on a little piece of paper and he handed it to the jury; and he had my husband write his name and something else on a piece of paper and everybody looked at it and it ended up with the handwriting expert saying that I wrote the ransom notes and I did not. My husband and I write similarly. So I asked Mr. MATHERS (attorney for KATHRYN KELLY) to call in a handwriting expert for us and the court wouldn't grant him time. They said they did not have time to call anyone, the best I remember.

Q- I did not hear the last.

A- The best I remember, he said the court did not have time to call in another handwriting expert and he didn't call one in. It was useless I presume.

Q- And it is your testimony that you did not write the notes?

A- I did not. I never saw ransom notes. Even Mr. HOOVER has conceded that.

Later during the same hearing while HERBERT K. HYDE, former United States Attorney, was on the stand, the

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(Priority or Method of Mailing)

OC 7-6

Government produced a document which Mr. HYDE identified as a Photostat of the original ransom note, and it was clearly brought out that this document was typewritten rather than handwritten. The matter of handwriting examinations or handwriting testimony was not pursued further in this hearing prior to its adjournment on 6/16/58, when the Court ordered a new trial.

The two letters in question are set forth completely in the report of SA GUS T. JONES, 10/5/33, at Oklahoma City. Both were postmarked at Chicago, Illinois, 9/18/33, and according to SA JONES' report, were apparently attempts to intimidate CHARLES F. URSCHEL. The file in this office reflects the two Chicago letters, as well as the one from KATHRYN KELLY to the SHANNONS from Indianapolis, were sent to the Bureau for examination by letter of 9/20/33. That letter pointed out that these documents had been afforded a brief examination by a local handwriting expert who was of the opinion that KATHRYN KELLY had written them.

In response to a telegraphic request on 10/2/33, the Bureau returned these letters to Oklahoma City by letter the same date, accompanied by a Laboratory report by Mr. C. A. APPEL, dated September 23, 1933. The report of the examination reflected that KATHRYN KELLY did not write the two letters mailed at Chicago. The report reflected that on comparison with the signatures of GEORGE KELLY, it was indicated he may have written them, but no conclusion was reached because of the limited known specimens of GEORGE KELLY's handwriting.

The letter and Laboratory report referred to above were received at Oklahoma City on 10/4/33. The next report prepared in this case at Oklahoma City was that of SA JONES, referred to above, on 10/5/33, which reflects an investigative period extending through 9/30/33. Although

- 4 -

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

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Date:

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(Type in plain text or code)Via _____
(Priority or Method of Mailing)

OC 7-6

this report does make mention of the receipt of the two letters in question, it does not reflect the results of any examination except a " cursory " one by D. C. PATTERSON, made prior to their transmittal to the Bureau.

No further report was prepared at Oklahoma City in this case until 10/23/33, when SA R. H. COLVIN (deceased) reported the sentences imposed as a result of the convictions in the first trial, which was concluded on 9/30/33, and the trial results and sentences of GEORGE and KATHRYN KELLY, which trial lasted from 10/9 to 10/11/33. This report does not reflect the results of the examination made by Mr. APPEL and a careful review of the file fails to reflect any record of any communication by which the United States Attorney was ever advised of Mr. APPEL's findings. It is, of course, possible that the findings were orally furnished to the United States Attorney and no notation to that effect was made.

The originals of the three documents which served as a basis for the testimony of D. C. PATTERSON are presently in the files of the United States Attorney at Oklahoma City. Although PATTERSON was under subpoena as a witness in the hearing in June, 1958, he since died on 11/24/58. In the event the present proceedings should result in further hearings on the motions for a new trial, it is entirely possible that these examinations may be further pursued by the defendants, particularly since copies of the transcript are now available. On the other hand, should the proceedings result in a new trial, it would appear possible that the United States Attorney might not desire to introduce these letters, since according to Mr. APPEL's findings, they were written by GEORGE KELLY, now deceased, and thus would not be admissible against KATHRYN KELLY.

It will be noted that neither of the letters in question had any direct connection with the original conspiracy

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

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

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to kidnap and hold Mr. URSCHER for ransom. The letter to Mr. URSCHER threatened acts of violence against him in the event the SHANNONS were convicted. The one to the "Daily Oklahoman" enclosed a letter to the public, proclaiming the innocence of the SHANNONS and protesting the Government's action in convicting innocent people. Both were signed "GEO. R. KELLY."

Since D. C. PATTERSON is now deceased, it would appear that another handwriting examination would be necessary at this time should the United States Attorney desire to introduce these letters in either a resumption of hearings on the motions for new trial or in a new trial itself. On the basis of such re-examination, the United States Attorney would be aware, of course, of the possibility of conflict with the previous record of testimony and would be in a position to determine what course of action he desired to pursue.

This matter is being brought to the Bureau's attention since it appears that the record of testimony in the trial of GEORGE and KATHRYN KELLY reflects testimony which may have been based on an erroneous conclusion by D. C. PATTERSON. In view of the circumstances, no action is being taken to bring this matter to the attention of the United States Attorney at this time. Should any inquiry be received from the United States Attorney on this particular point, the Bureau will be immediately advised and no action will be taken pending Bureau instructions.

GRAPP

- 6 -

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

October 6, 1959

AIRTEL

To SAC, Oklahoma City (7-6)

From Director, FBI (7-115)

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

If you have not already done so, insure that WFO is furnished with sufficient information and is requested to follow with the Supreme Court the notice of appeal reportedly filed by Ora L. Shannon and Kathryn Thorne Kelly on 9/15/59.

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

53 OCT 12 1959

MAIL ROOM ☐ TELETYPE UNIT ☐

MAILED 10
OCT - 6 1959
COMM-FBI

REC-19 7-115-2598

25 OCT 7 1959

All b7C

7

SAC, Oklahoma City

10/7/59

Director, FBI

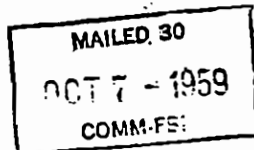
**GEORGE KELLY BARNES, AKA., ET AL.;
KIDNAPING**

From a review of information you have submitted in this case relative to testimony by D. C. Patterson which might have been based on an erroneous conclusion by Patterson, it is not clear why you do not desire to bring the matter to the attention of the U. S. Attorney at this time. Sulet explaining fully the reasoning leading to that conclusion.

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All b7C

REC-8



7-115-2599
25 OCT 8 1959

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Parsons _____
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Trotter _____
W.C. Sullivan _____
Tele. Room _____
Holloman _____
iv _____

57 OCT 13 1959

MAIL ROOM ☒ TELETYPE UNIT ☐

FBI

Date: October 7, 1959

Transmit the following in _____

(Type in plain text or code)

Via AIRTEL

AIRMAIL

(Priority or Method of Mailing)

TO: DIRECTOR, FBI (7-115)
FROM: SAC, OKLAHOMA CITY (7-6)
GEORGE KELLY BARNES; AKA.
CHARLES F. URSCHER - VICTIM
KIDNAPPING

(OO: OC)

ReBuairtel to Oklahoma City dated 10-6-59.

For information of WFO, on 6-16-59 the U. S. District Court, Oklahoma City, Oklahoma, acting upon motion of ORA L. SHANNON and KATHRYN THORNE KELLY under Section 2255, Title 28, USCA, set aside the original life sentences received by these defendants September and October, 1933, and remanded their case for retrial.

On 10-21-58, the U. S. Attorney, Oklahoma City, for the Government, appealed to the U. S. Circuit Court of Appeals, Tenth Circuit, Denver, Colorado, which, on 7-27-59, reversed U. S. District Court and remanded the case for further hearing under Section 2255.

On 9-15-59, JAMES J. LAUGHLIN, attorney for SHANNON and KELLY, filed notice of appeal with the U. S. Supreme Court, Washington, D. C.

WFO follow action on this appeal with Clerk of U. S. Supreme Court and advise the Bureau and Oklahoma City.

GRAPP

3 - Bureau
2 - WFO (7-9)
1 - Oklahoma City

REC-7 7-115-2600

16 OCT 9 1959

(6)

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

Office Memorandum • UNITED STATES GOVERNMENT

TO : Director, FBI (7-115)

DATE: 10/9/59

FROM : SAC, Oklahoma City (7-6)

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

ReOCairtel to Bureau dated 10/6/59, and Bulet to
OC dated 4/30/58.

Assistant U. S. Attorney GEORGE CAMP, Oklahoma
City, Oklahoma, has requested that legally admissible proof of
the death of deceased witnesses in previous trials in this
case, whose testimony was material to the involvement of
ORA L. SHANNON, KATHRYN KELLY and HARVEY BAILEY, be obtained
against the possible need of introducing previous testimony
from the record in any retrial of these subjects.

Referenced Bureau letter sets out that Agents
J. F. BLAKE, R. H. COLVIN and E. J. DOWD are deceased.

The Bureau is requested to furnish the Oklahoma
City Office with information as to the place of death of these
Agents, if available to the Bureau, in order that certified
copies of death certificates may be obtained, unless the
Bureau itself is in a position to furnish legal proof of the
death of these Agents in which event the Bureau is requested
to do so.

2 - Bureau
1 - Oklahoma City
(5)

All b7C

REC-38

7-115-2601

OCT 13 1959

SAC, Oklahoma City (7-6)

October 16, 1959

Director, FBI (7-115) - 2601

REC-13

GEORGE KELLY BARNES, aka., et al.
CHARLES F. URSCHER - VICTIM

10-13

Re your letter dated 10-9-59.

The following information has been obtained
from a review of material contained in Bureau files:

Ralph Howison Colvin died in Tulsa,
Oklahoma, on 11-29-51.

Edward J. Dowd died in Lakewood,
Ohio, on 1-26-48.

Frank J. Blake died in Midlothian,
Texas, on 6-27-48.

[REDACTED]

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[REDACTED]

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

MAIL ROOM ☐ TELETYPE UNIT ☐

MAILED 10
OCT 17 1959
FBI - OKLAHOMA CITY

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (7-115)

DATE: 10/15/59

FROM : SAC, OKLAHOMA CITY (7-6)

SUBJECT: GEORGE KELLY BARNES, aka,
ET AL.;
KIDNAPING

ReBulet to Oklahoma City, 10/7/59.

Information concerning the testimony of handwriting expert D. C. PATTERSON, who appeared as a Government witness during the trial of GEORGE and KATHRYN KELLY, was brought to the attention of the Bureau in order that these circumstances and their potential as a source of embarrassment to the Bureau might be fully evaluated and considered prior to the time that any action was taken by this office to inform the U.S. Attorney. PATTERSON was a private handwriting expert presumably hired by the U.S. Attorney at Oklahoma City. He is now deceased.

As has been pointed out previously, it is KATHRYN KELLY's contention in her motion for vacation of sentence that she was denied the opportunity to engage the services of a handwriting expert to refute the Government's testimony that she had written certain ransom notes. Although the transcripts of the proceedings establish that there was no attempt by the Government to prove that KATHRYN KELLY or any other individual defendant wrote the ransom notes in this case, the transcript of the record of the second trial in 1933 does establish that she was identified by a Government witness, D. C. PATTERSON, as the writer of the two letters mailed from Chicago, Illinois, on 9/18/33 during the course of the first trial involving her mother, ORA SHANNON, and others. It should be borne in mind that the transcript of the second trial, which involved only GEORGE and KATHRYN KELLY, was not available at the time of the hearings on the motion in June, 1958, and it was not then known exactly what handwriting testimony might have been used against these persons. *ny*

Should action be taken at this time to acquaint the U.S. Attorney with these circumstances, it is not improbable he might take the position that he was obligated to acknowledge to the Court and the defendants at this time that the testimony

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62 FEB 4 1960

OC 7-6

of the Government witness on this particular point of evidence was possibly based on an erroneous conclusion, even though it did not relate to actual ransom notes as alleged by KATHRYN KELLY in her motion. As was indicated in earlier communications to the Bureau, it was clearly brought out during the hearings in June, 1958, that the ransom notes were typewritten and that the Government had not sought to establish their origin through handwriting testimony in either of the 1933 trials.

The FBI file and the USA's file in this case do not indicate that the USA's office was ever made aware of the fact that the two letters mailed from Chicago on 9/18/33 had been submitted to the FBI Laboratory in 1933 for a handwriting examination or that the FBI Laboratory conclusion was contrary to that of PATTERSON. There is not any information indicating the USA's office was informed of the results of any examination other than that made by PATTERSON. To disclose the results of the earlier examination by the Bureau to the U.S. Attorney now, could be the basis of some embarrassment to the Bureau, and would probably result in a request from him for a re-examination to resolve any conflict.

As the Bureau is aware, the attorney for the defendants on 9/15/59 filed notice with the U.S. Supreme Court, appealing from the decision of the U.S. Circuit Court of Appeals, 10th District, on 7/27/59. By the latter decision, the matter was remanded to the District Court for further hearing on the motion to vacate sentence. Should the pending appeal result in a continuation of the hearings on the motion, it is entirely possible that this particular phase of the case might not be further pursued since it was covered by testimony offered prior to the time hearing was discontinued. On the other hand, should the counsel for the defendants reopen this phase of the case in the hearings in view of the information now shown by the transcript, it would appear that further handwriting examinations would be requested since Mr. PATTERSON is now deceased. On the basis of such re-examination, any error in Mr. PATTERSON's conclusions would be brought out and could thus be considered by the Court without raising any question regarding the possibility of any earlier examination by the Bureau.

In the event the pending appeal should result in a new trial, it would, of course, be the decision of the U.S. Attorney as to what items of evidence and testimony he

OC 7-6

desired to use. Should he elect to use the two letters in question, he would of necessity request further handwriting examinations in view of Mr. PATTERSON's death. Through such examinations, the U.S. Attorney would be aware of the conflict with the previous testimony and would not be in the position of having to disclose the conflict in open court or to inquire as to any earlier examination.

It will be noted that the motion as filed on behalf of KATHRYN KELLY reads in part as follows:

"... and therefore this phase of the case would not have gone to the jury virtually uncontested. The jury was of course, deceived and misled as to this aspect of the case and this was vital and fatal to the affiant."

As has been pointed out in earlier communications, the two letters mailed from Chicago had no direct connection with the original conspiracy to kidnap and hold the victim for ransom. The extent to which the introduction of these items against KATHRYN KELLY may have influenced the jurors cannot, of course, be determined. However, the Government can definitely establish that there was no evidence introduced in any trial to connect KATHRYN KELLY with the writing of the ransom notes.

Inasmuch as it is highly probable that if the question of handwriting is brought out in any further hearing or re-trial in this case, it will necessarily result in a re-examination of this evidence, thus revealing any erroneous conclusions in PATTERSON's examination, there would appear to be no useful purpose in advising the U.S. Attorney concerning this conflict of opinion, at least until such time as a decision is made regarding the appeal now pending before the U.S. Supreme Court.

Bureau advice requested.

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. DeLoach

DATE: October 16, 1959

FROM : M. A. Jones

SUBJECT: "SOUNDS OF EDEN"
TELEVISION PORTRAYAL OF URSCHER KIDNAPING
PLAYHOUSE 90
WTOP-TV
CHANNEL 9
9:30-11:00 p.m., 10-15-59

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

The above-captioned portrayal of the Urschel kidnaping was monitored by SA [REDACTED] Crime Research Section. The name of Urschel was never mentioned, although the play was obviously based completely on this case.

Robert Kennedy, former counsel for the McClellan Committee, commented briefly at the introduction and conclusion of the play concerning the need for citizen participation in combating the problem of organized crime which is today more acute than ever.

The Bureau was depicted in a favorable light and while the mannerisms of the Agent interrogating Urschel appeared at times somewhat domineering, this was an essential element of the plot as the Agent's perseverance and tenacity in questioning the kidnap victim resulted in identifying the sounds heard by Urschel while enroute to the site of his confinement at Eden, Oklahoma; hence the title "Sounds of Eden." There was a rather theatrical display of submachine guns by Agents arresting members of the kidnap gang, but the portrayal of Agents was generally very favorable and in good taste.

The Bureau's policy of not interfering in the decision of whether ransom money should be paid and of not jeopardizing the life of the victim by the surveillance of those who deliver the ransom money, is made quite clear.

The investigation relating to the apprehension of Urschel's kidnapers is shown to be swift and thorough, although this dramatization principally depicts the anguish and suspense experienced by the kidnap victim and his wife.

RECOMMENDATION:

For information.

1 - Mr. DeLoach
1 - Mr. Rosen

ADDENDUM: [REDACTED] 10/16/59

We had no prior knowledge of this television show. It was first noted in a newspaper advertisement 10/15/59 and instructions were given to monitor this program accordingly.

52 OCT 28 1959

F B I

Date: Oct. 6, 1959

Transmit the following in PLAIN TEXT
(Type in plain text or code)Via A I R T E L AIR MAIL
(Priority or Method of Mailing)

TO : Director, FBI (7-115)
FROM : SAC, Oklahoma City (7-6)
SUBJECT: GEORGE KELLY BARNES, aka.; ET AL
CHARLES F. URSCHER - VICTIM
KIDNAPING

(OO: Oklahoma City)

Re Oklahoma City airtel to Director dated 9/4/59.

AUSA GEORGE CAMP, Oklahoma City, has requested that efforts be made to locate the chain with which CHARLES F. URSCHER was shackled during his captivity at the ARMON SHANNON home, 7/24 thru 7/31/33 and the tin cup from which he drank during this time. Mr. CAMP also stated that it is important for the office of the U. S. Attorney at Oklahoma City to be informed as to what, if any, statements or comments were made by Mr. HOOVER in any speech or publication, relating to the handwriting testimony given in the trial of KATHRYN KELLY in Oct., 1933, or expressing an opinion to the effect that KATHRYN KELLY suggested the phraseology of the ransom notes. He asked that further efforts be made to locate such speech or publication or to confirm the non-existence of same, if all logical leads to this end have not been exhausted.

The Oklahoma City file in this case contains a letter from the Bureau dated 7/28/37 directing that the original ransom notes be obtained and forwarded to the Bureau for permanent retention. The Oklahoma City file also reflects that the Bureau, by letters dated November 2 and 21, and December 5, 1933, directed the .351 Winchester rifle taken from HARVEY BAILEY at the time of his arrest at the R. G. SHANNON farm, Paradise, Texas, the chain used to shackle Mr. URSCHER, and other articles relating to the URSCHER case, which might be appropriate for exhibition, be forwarded to the Bureau. Further, by letter to the Director dated November 25, 1933, SAC R. H. COLVIN indicated

③ - Bureau
2 - Oklahoma City

REC-37-7157-2114
OCT 8 1959

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Approved: _____
Special Agent in Charge

Sent _____

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Per _____

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Date:

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

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that the rifle, chain and other articles would be delivered to the Bureau by SA [REDACTED] shortly after that date.

By airtel dated 4/25/58, the Bureau advised the Oklahoma City Office that the Article Index of the Bureau's Crime Records Section, and the Readers' Guide Index of the FBI Library had been searched for a "recent publication" regarding handwriting on the URSCHER ransom notes, with negative results.

The Bureau is requested to advise the Oklahoma City Office as to the existence and availability at the Bureau of the above mentioned chain, tin cup and original ransom notes.

If such has not been done, the Bureau is requested to cause an exhaustive search to be made of the above mentioned indices for any articles relating to the subject matter outlined in the request of Mr. CAMP.

GRAPP

- 2 -

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

AIRTEL

REGISTERED MAIL

From Director, FBI (7-115) - 2404

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

In your airtel 10/6/59, you requested the Bureau to advise Oklahoma City as to the existence and availability at the Bureau of the chain with which Urschel was shackled during his captivity 7/24 thru 7/31, the tin cup from which he drank during this time, and the original ransom notes. In addition, you also stated the Assistant U. S. Attorney desired to be informed as to what, if any, statements or comments were made by the Director in any speech or publication relating to the handwriting testimony given in the trial for Kathryn Kelly in October, 1933, for expressing an opinion to the effect that Kathryn Kelly suggested the phraseology of the ransom notes.

The Bureau file contains a letter from Oklahoma City dated 8/5/37, forwarding the original ransom letters. These ransom letters have been located and are being attached in order that they may be available to your office. In your letter of 8/5/37, you advised there was also being forwarded by express two Thermos jugs of one gallon capacity and four glass quart fruit jars which were used to bury ransom money. The Bureau file indicates that the Thermos jugs and the glass fruit jars have been destroyed.* (*7-115-2058) (**62-29709-344)

In your letter of 11/25/33, you referred to pistols taken from George Kelly Barnes, the vessels in which the Urschel money was buried, the wig worn by Kathryn Kelly, the chain with which Urschel was chained, and a .351 automatic rifle. You stated these articles would be delivered to Washington by Agent [REDACTED]. Bureau files indicate that the chain and the wig were destroyed 7/23/51. Also destroyed was a money belt. (*7-115-1025)

Tolson _____
Belmont _____
DeLoach _____
McGuire _____
Mohr _____
Parsons _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Room _____

Enclosures (2)

(4)

MAIL ROOM ☐ TELETYPE UNIT ☐

MAILED 25

OCT 1 1959

COMM-FBI

All b7C

Airtel to SAC, Oklahoma City (7-6)

An exhaustive review failed to locate any indication of the receipt of the tin cup at the Bureau. The Bureau files indicate that on 7/23/51, a "Thermos" vacuum jug was destroyed on 7/23/51.* Oklahoma City is requested to advise whether reference to the tin cup was intended to mean the top of a Thermos jug. (*62-29709-685)

As you have already indicated, you have been advised that the Article Index of the Bureau's Crime Records Division and the Readers' Guide Index of the FBI Library had been searched for a "recent publication" regarding handwriting on the Urschel ransom notes with negative results. In addition, older publications are being reviewed. The book "10,000 Public Enemies" by Courtney Ryley Cooper contained no reference. The book "Persons in Hiding" by J. Edgar Hoover on page 163 referred to the threatening letters. It states "In a frenzied effort to abort conviction, Kathryn, through her dominance, caused Machine-gun Kelly to affix his fingerprints to letters threatening the judge, the witnesses, and all others who might take part in the conviction, even to an Assistant Attorney General of the United States. While the attack was made from this angle, Kathryn indited soulful missives to the Urschel family, proclaiming the innocence of herself and her family, and blaming everything on that terrible person who had led her astray, George (Machine-gun) Kelly. These ruses failing, the pair fled from Chicago, taking their decoy, the child, with them." The review of periodicals and books is continuing and you will be advised of the results.

Memorandum for Mr. Tamm

Re: George Kelly Barnes, Was; et al;

Charles F. Urschel - Victim

Kidnaping

instructed that in the event a future hearing, appeal, or new trial is conducted, the Oklahoma City Office should endeavor to see that each and every false allegation made against the FBI, both in defendants' affidavits and in their oral testimony, is clearly, fully, and unequivocally refuted on the record of the court by competent witnesses. I also instructed the Oklahoma City Office to advise the Bureau in detail as to which allegations were not completely refuted on the record and to follow all proceedings with the U. S. Attorney and advise the Bureau of all developments. This has been furnished to the Investigative Division so it can follow Oklahoma City.

RECOMMENDATION: None...informative.

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (7-115)

DATE: 10-19-59

FROM : SAC, KANSAS CITY (7-8)

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

OO: Oklahoma City

Re Kansas City letter to Bureau 9-21-59.

A review of the records of the U. S. Penitentiary, Leavenworth, Kansas, regarding HARVEY BAILEY, an inmate, made available by [REDACTED] to SA [REDACTED] on 10-12-59 reflect no change in the status of BAILEY at the institution.

The Kansas City Office will continue to follow this matter closely and will advise the Bureau of any change in BAILEY's status at the institution.

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

(4)

REC-94

All b7C

7-115-2605

OCT 21 1959

EX-135

58
OCT 23 1959

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (7-115)

DATE: 10/22/59

FROM : SAC, WFO. (7-19)

SUBJECT: GEORGE KELLY BARNES, aka
Charles F. Urschel - VICTIM
KIDNAPPING11/10
Re Oklahoma City airtel to Director dated
10/7/59.

On 10/15/59, contact was made with [REDACTED], Clerk's Office, United States Supreme Court. [REDACTED] advised that on 9/15/59, a petition for a writ of certiorari was filed with the United States Supreme Court in the case entitled KATHRYN THORNE KELLY and ORA L. SHANNON, Petitioners versus United States of America, Respondent, [REDACTED] advised that this case has entered as #321 Miscellaneous of the October, 1959, term of United States Supreme Court.

All
b7C
[REDACTED] made available a copy of the petition filed in this matter for KELLY and SHANNON by JAMES J. LAUGHLIN, Attorney, Washington, D.C. A photostatic copy of the petition filed is being enclosed to the Bureau and a copy is also being enclosed to the Oklahoma City Division.

Contact will be maintained with the United States Supreme Court to obtain a copy of the brief in opposition to be filed by the Solicitor General for forwarding to the Bureau. P.

- ②-Bureau (7-115) (Encls - 1)
- 2-Oklahoma City (7-6) (Encls - 1)
- 1-WFO (7-19)

(5)

ENCLOSURE ATTACHED

REC-21

7-115-2606

EX 104

20 OCT 27 1959

ENCLOSURE

67 FEB 8- 1960

321 Misc
15

SUPREME COURT OF THE UNITED STATES

NO. 321 MISC.

Office-Supreme Court, U.S.
FILED
SEP 15 1959
JAMES R. BROWNING, Clerk

KATHRYN THORNE KELLY and
ORA L. SHANNON,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
TENTH CIRCUIT

Petitioners Kathryn Thorne Kelly and Ora L. Shannon respectfully pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Tenth Circuit entered on July 27, 1959, reversing the action of the United States District Court for the Western District of Oklahoma vacating and setting aside the judgments of conviction entered against petitioners.

OPINION BELOW

The opinion of the United States Court of Appeals for the Tenth Circuit is as yet unreported and is found in the Record at Pages 3 to 13.

JURISDICTIONAL STATEMENT

This is a final judgment of the United States Court of Appeals for the Tenth Circuit reversing the judgment of the United States District Court for the Western District of Oklahoma, vacating and setting aside convictions entered against your petitioners.

QUESTIONS PRESENTED

1. Can the United States appeal an order granting a vacation of judgments of convictions previously entered when the United States refused to comply with an order of Court, thereby thwarting the trial and preventing the trial to go forward?

2. Is not the ruling of the Tenth Circuit holding the order of the United States District Court for the Western District of Oklahoma appealable in conflict with rulings of other Circuit Courts?

3. Was not the reasoning and the rationale of the Jencks rule applicable in the instant case?

4. Did not the action of the United States deny the petitioners due process of law?

STATEMENT OF THE CASE

The petitioners Ora L. Shannon and Kathryn Thorne Kelly are mother and daughter. In 1933, each was convicted in the United States District Court for the Western District of Oklahoma of conspiring to kidnap Charles F. Urschel at Oklahoma City, transport him into Texas, and there hold him in concealment for the payment of ransom. Each was sentenced to imprisonment for life, and on appeal both judgments and sentences were affirmed. Shannon v. United States, 76 F.2d 490; Kelly v. United States, 76 F.2d 847.

At the time, the case was a cause celebre. The so-called Lindbergh law had only been recently enacted. The person most sought in the case was George Kelly who had the underworld name of "Machinegun" Kelly. Some ten to fifteen persons were indicted. Mrs. Kelly, one of the petitioners herein, is the widow of George Kelly. The case received publicity from coast to coast. In the transcript of record, Pages 2 to 14, the petitioner Kathryn Thorne Kelly, in her affidavit in support of motion to vacate and set aside the judgment of conviction, said this:

"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."

And her affidavit said this:

"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."

See Laska v. United States, 82 F.2d 672, Cert. denied, 298 U.S. 689.

Her affidavit also set forth that she "was hurried to trial and the trial was held in the midst of passion, public excitement and prejudice," and "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," and "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," and she stated further in her affidavit "as she was led into the building from the street she was subjected to hissing, hooting and shouting and that many persons tried to strike her and that the FBI agents made no effort to protect her and added to the insults, humiliation and injuries inflicted upon her". Her affidavit set forth 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." The affidavit of Mrs. Shannon is of similar import.

When the motion for relief under Section 2255, Title 28 of the New Judicial Code was heard by the Honorable William R. Wallace, United States District Judge for the Western District of Oklahoma, the various contentions were urged by counsel for the petitioners. There was considerable testimony to the effect that the attorneys in 1933 were harassed, intimidated and coerced by the agents of the Federal Bureau of Investigation. This aspect of the case is very critical in this petition for certiorari. The motions to vacate and set aside the judgments of conviction were sustained as a result of the failure of the United

States to comply with the order of Judge Wallace. In the transcript of record, Page 374, we find this in the ruling of Judge Wallace:

"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 investigation.

"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."

It will be seen in the argument made in support of this petition that the Government, after being ordered by the trial judge to produce the documentary evidence requested, was granted various extensions of time within which to comply and it was only when it appeared that the Government had no intention to comply with the order of Judge Wallace that the motions to vacate the judgments of conviction were sustained. The petitioners were released on bond and the Government appealed the ruling of Judge Wallace to the United States Court of Appeals for the Tenth Circuit. On July 27, 1959 the Court of Appeals reversed the action of the United States District Court for the Western District of Oklahoma vacating and setting aside the judgments of conviction entered against the petitioners.

ARGUMENT

- I. The Government cannot appeal an order granting a vacation of judgments of conviction previously entered when the United States refused to comply with the order of Judge Wallace, thus thwarting the trial and preventing the trial from going forward.

In our view the order of Judge Wallace was not appealable. In the instant case the hearing was in progress. It could not proceed without the production of the documents ordered by Judge Wallace. In that view of the case it is difficult to see how the Government could interfere with the progress of a trial and then if the result is unfavorable to them, appeal from their action making it impossible for the trial to proceed. It will be seen that the Government's right to appeal is confined within certain limits. An appeal may be taken by and on behalf of the United States from the District Courts to a Court of Appeals in all criminal cases in the following instances: (Section 3731, Title 18, U.S.C.)

"From a decision or judgment setting aside, or dismissing any indictment or information, or any count thereof except where a direct appeal to the Supreme Court of the United States is provided by this section; from a decision arresting a judgment of conviction except where a direct appeal to the Supreme Court of the United States is provided by this section."

In Umbria Co. v. United States, 258 Fed. (2d) 625, the Government attempted to appeal from an order setting aside a conviction. The Court of Appeals in holding the Government had no standing had this to say:

"The action of the trial court was neither an order setting aside or dismissing an indictment nor an arrest of judgment within the meaning of Section 3731."

By Act of Congress, July 7, 1958, 72 Stat. 348, there was given the right to appeal an interlocutory order. Section 1292(b) provides:

"When a District Judge, in making in a civil action an order not otherwise appealable under this Section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order, provided, however, that application for an appeal hereunder shall not stay proceedings in the District Court unless the District Judge or the Court of Appeals or a judge thereof shall so order."

As to this proviso, an immediate appeal can be taken from an order of the District Court if the District Judge certifies that the order "involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal * * * * may materially advance the ultimate termination of the litigation."

In the case of United States v. Nardolillo, 252 F.2d 755, the trial judge directed that the Government furnish certain documents and files for inspection. The Government refused. Whereupon the indictment was dismissed. The Government appealed. The Court of Appeals for the First Circuit held that it was not an appealable order and the appeal was dismissed.

II. The ruling of the Tenth Circuit holding the order of the United States District Court for the Western District of Oklahoma appealable is in conflict with rulings of other Circuit Courts.

As to whether the order was appealable, the Court of Appeals in its opinion said this:

"A preliminary question is presented relating to the lack of jurisdiction of this court to entertain the appeal. Appellees urge the contention that the order directing the production of the files was a mere interlocutory order from which no appeal will lie. But the argument rests upon a misconception. The Government did not appeal from the directive of the court for the production of the files. The appeal was taken from the order vacating and setting aside the judgments and sentences in the two criminal cases. Such order was predicated upon the refusal to make the files available to the court. But the scope and effect of the order was to vacate and set aside the judgments and sentences in the two criminal cases."

In support of the Court's position, United States v. Williamson, 255 F.2d 512, was cited. We believe, however, that case is distinguishable. In the instant case we could not proceed with the trial in that the Government refused to produce the documents requested. It is undoubtedly true that the trial judge could have disciplined by means of contempt or otherwise the United States Attorney for failure to produce but he took the course we believe that was followed in United States v. Nardolillo, 252 F.2d 755. In any event we believe that the ruling of the

Tenth Circuit in this case is in conflict with Umbria Co. v. United States, 258 F.2d 625, and United States v. Nardolillo, 252 F.2d 755.

III. The reasoning and the rationale of the Jencks rule is applicable in the instant case.

In holding that the petitioners were not entitled to the documentary evidence in the FBI files, the Tenth Circuit relied on the Palermo case recently decided by this Court, Palermo v. United States, 360 U.S. 343. The Palermo case made it plain that it was not being decided on a constitutional basis and that the statute as interpreted did not reach a constitutional issue. This is reflected in Note 11 of the opinion. The majority opinion recognized discretion left in trial and appellate courts to see that justice was furthered in each individual case. We call particular attention to the language of Justice Brennan:

"Take the case of a memorandum of a government agent simply stating that a person interrogated for several hours as to his knowledge of the defendant's alleged criminal transactions, denied any knowledge of them. Then suppose that person is called as a government witness at the trial and testifies in great detail as to the defendant's alleged criminal conduct. The agent's summary would not be a detailed account of the several hours interrogation of the witness by the Government, and would not meet the definition of statement in subsection (e) of the statute; but it is inconceivable that Congress intended, by the Jencks statute, to strip the trial judge of discretion to order such a summary produced to the defense."

We feel, therefore, that the Palermo case is not support for the Tenth Circuit in holding that the petitioners were not entitled to the documentary evidence in the FBI files.

IV. The action of the United States denied the petitioners due process of law.

As we have stated before, the critical point was whether the petitioners had a fair trial in 1933. Before the petitioners concluded their case we find in the Record at 286 the following:

"Mr. Laughlin: Now your Honor, there is one problem and it may well be that you can give us your view on it now. I feel that this case cannot be concluded until we get the F.B.I. reports of 1933 that would reflect interrogations of various attorneys in connection with the Shannon and Kelly cases, for this reason: Mr. Hyde has made a statement, and made it emphatically that no attorney was investigated or interrogated directly or indirectly until after he left office in January, 1934. Our evidence is to the contrary, and in my view, the Jencks case in the Supreme Court of the United States is the authority for that, and also there is further authority by the statute that was later passed by Congress following the Jencks case. Because since he has made that emphatic statement and made it as an officer of the Government and to whom reports came, I want to show that the F.B.I. interrogated and questioned various attorneys in the case and questioned other persons with respect to these attorneys, so I would like to be heard on that point, your Honor. I think we are entitled to that evidence.

The Court: We will hear you on that. All right, court will recess until 9:30 in the morning."

A subpoena was prepared which called upon the United States Attorney to produce the following: (R. 311)

"All records of 1933-'34 reflecting investigation of attorneys in Criminal No. 10,476 this court having to do with their representation of any and all defendants. * * *

A motion was made to quash and we find at Record 324 the Court made the following observation:

"No one has any higher regard for the F.B.I. than I do, and no higher respect for them, and their great ability. I agree with you with regard to the confidential relationship of their files, to the extent that they ought to be protected in every way except if a legal matter comes up, then of course the Court -- I have handled these matters before. I am not in favor of just turning over the F.B.I. files to anybody anywhere any time on any occasion, on anything; and I think that J. Edgar Hoover, of course, has done as wonderful a job as any man in the world. The matter, though, comes up here to me on a legal point, and of course I have to decide it."

Then, at Record 326, the Court made this observation:

"The only way the Court would permit any of this testimony to come in would be for the Court to examine the files and determine after he had examined the files as to whether or not there was any evidence in that that should be admitted in this case. I'll tell you now that I am not going to give him the subpoena. I haven't heard his argument, but I am not going to give him a subpoena under the information that I have now. Of course I haven't heard from him; but my attitude in the matter at the present time is like I have always done in these cases: To go through the file myself, after it has been handed to me, and determine whether or not there was anything in there that would be pertinent to the particular issue that has been raised with regard to Mr. Hyde's testimony."

Then at Record 331 the Court made this observation:

"Yes, I'm not interested in that issue now. Here's the thing about this matter as I see it: In this Jencks case, Justice Brennan, quoting from Chief Justice Marshall, said it was the duty of the United States Government to see that justice was done in its prosecution. The sole thing is not to send a man or a woman or anybody else, to convict them. The main thing, as you have pointed out, is the fact that justice be done; and that's the real issue that I have before me. * * * But I think the issue in this case, of course, is whether or not these folks had a fair and impartial trial. I think that the Government should be just as much interested in that as you are."

The Court considered the matter until the conclusion of the noon recess. Then the Court made this statement (Record 332):

"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 defendants 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. * * *

"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 Jencks 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 cases, 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, having in mind only the 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. That is my ruling in this case."

The trial judge held up proceedings from 11:45 A.M. until 1:00 P.M., then until 3 P.M., then until 9:30 the following morning. A recess of three days was granted. Then there was a recess until 11 A.M. and another recess until 1:30 P.M. when the trial judge entered his order. This has already been referred to. Therefore it must be plain that the trial judge was endeavoring to accord these petitioners a fair trial in 1958 (2255 hearing) when it was apparent they did not have a fair trial in 1933. The Government's own acts prevented a fair hearing in 1958 before Judge Wallace. Therefore it would not be in accord with justice to say that they can profit by their action in preventing the trial from going forward.

We believe the ruling of the Second Circuit in Andolsche v. United States, 142 F.2d 503, has application. In that case the Court of Appeals, speaking through Judge Learned Hand, said this:

"* * * While we must accept it as lawful for a Department of Government to suppress documents, even when they will help determine controversies between third persons, we cannot agree that this should include their suppression in criminal prosecutions, founded upon those very dealings to which the documents relate 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 connection the documents may possess; it must be conducted in the open and will lay bare their subject matter. The Government must choose; either it must leave the transaction 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. Not only would such a distinction be extremely difficult to apply in practice, but the same reasons which forbid suppression in one case forbid it in the other, though not perhaps quite so imperatively. We hold that the regulations should have been read in to exclude the reports here in question. We cannot, of course, know, as the record stands, how prejudicial the exclusion may have been, but the uncertainty alone requires a new trial; for it does not affirmatively appear that the error was insubstantial within the meaning of 28 U.S.C.A., Section 381."

In view of the above we ask this Court to grant the petition for the writ of certiorari.

For James J. Laughlin
James J. Laughlin
National Press Building
Washington, D. C.
Counsel for Petitioners

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE OKLAHOMA CITY	OFFICE OF ORIGIN OKLAHOMA CITY	DATE OCT 28 1959	INVESTIGATIVE PERIOD 9/29/58 - 10/8/59
TITLE OF CASE GEORGE KELLY BARNES, aka.; ET AL; CHARLES F. URSCHER - VICTIM		REPORT MADE BY [REDACTED] b7C	CHARACTER OF CASE KIDNAPING

REFERENCES

7-19 Reports of SA [REDACTED] dated 8/11/58 and 9/25/58, at Oklahoma City.

Oklahoma City airtel to Bureau dated 4/1/59.

Bureau airtel to Oklahoma City dated 4/8/59.

Oklahoma City airtel to Dallas dated 4/30/59 (IO).

Oklahoma City airtel to Bureau dated 6/8/59.

Oklahoma City airtel to Bureau dated 6/12/59.

Oklahoma City airtel to Bureau dated 7/31/59.

Oklahoma City airtel to Bureau dated 10/6/59.

Oklahoma City letter to Bureau dated 10/9/59.

- P -

APPROVED <i>WJB</i>	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW	
COPIES MADE: 1 - Bureau (7-115) 2 - USA, Oklahoma City 2 - Albuquerque 2 - Atlanta 2 - Birmingham 2 - Cleveland (Encl) 2 - Dallas (Encls. 13) 2 - Denver (Encls. 6) 2 - Los Angeles (Encl: 1) 2 - Minneapolis (Encl: 1) 2 - New Haven 2 - Phoenix 2 - San Antonio (Encls. 2) 2 - Seattle (Encl. 1) 2 - Oklahoma City (7-6)		7-115-2607	REC-18
		25 NOV 2 1959	
		STAT. SECT.	

67 FEB 8 1960

OC 7-6

ENCLOSURES

TO THE CLEVELAND OFFICE

1. Exhibit 84 in the trial of BATES; ET AL.

TO THE DALLAS OFFICE

1. Exhibit 53 in the trial of BATES; ET AL.
2. Exhibit 26 in the trial of BATES; ET AL.
3. Exhibit 50 in the trial of BATES; ET AL.
4. Exhibit 51 in the trial of BATES; ET AL.
5. Exhibit 52 in the trial of BATES; ET AL.
6. Exhibit 44 in the trial of BATES; ET AL.
7. Exhibit 45 in the trial of BATES; ET AL.
8. Exhibit 46 in the trial of BATES; ET AL.
9. Exhibit 47 in the trial of BATES; ET AL.
10. Exhibit 48 in the trial of BATES; ET AL.
11. Exhibit 49 in the trial of BATES; ET AL.
12. Government Exhibit 20 in the trial of BATES; ET AL.
13. Government Exhibit 72 in the trial of BATES; ET AL.

TO THE DENVER OFFICE

1. Government Exhibit 34 in the trial of BATES; ET AL.
2. Government Exhibit 22 in the trial of BATES; ET AL.
3. Government Exhibit 23 in the trial of BATES; ET AL.
4. Government Exhibit 24 in the trial of BATES; ET AL.

OC 7-6

5. Government Exhibit 25 in the trial of BATES; ET AL.
6. Government Exhibit 86 in the trial of BATES; ET AL.
7. Government Exhibit 88 in the trial of BATES; ET AL.
8. Government Exhibit 92 in the trial of BATES; ET AL.

TO THE LOS ANGELES OFFICE

1. Government Exhibit 89 in the trial of BATES; ET AL.

TO THE MINNEAPOLIS OFFICE

1. Government Exhibit 83 in the trial of BATES; ET AL.

THE SAN ANTONIO OFFICE

1. Government Exhibit 18 in the trial of BATES; ET AL.
2. Government Exhibit 44 in the ALVIN H. SCOTT;
ET AL trial.

THE SEATTLE OFFICE

1. Government Exhibit 55 in the ALVIN H. SCOTT;
ET AL trial.

LEADS

To all offices, the Bureau has advised that there is to be no delay in the covering of any leads in this case.

All offices will conduct investigation to locate and determine the availability of each witness within its territory as listed below. In each instance where information, in addition to that set out in the briefs of testimony, hereinafter in this report, concerning a later address of a witness, is available, it is set forth following the name of the witness under leads. Otherwise, no additional information is available and that set forth in the briefs of testimony is the latest information available to the Oklahoma City Office.

C

COVER PAGE

OC 7-6

The attention of all offices is invited to the fact that in most instances more detailed information as to the last known address of a witness will be available in the files of the office from which the witness was originally subpoenaed than exists in the Oklahoma City file in this case. It appears as a consequence that a review of the file in each office is indicated in order to develop lead material for the location of the witnesses.

Will as located, interview each witness to ascertain the extent of testimony witnesses can now give from independent recollection and the extent to which the memory of each witness can be refreshed. It is noted that Assistant U. S. Attorney GEORGE CAMP, Oklahoma City, has suggested that attempts to refresh the memory of a witness take the form of detailed and properly phrased questions concerning his previous testimony rather than reading the brief or showing it to the witness.

The above does not apply, of course, to signed statements previously furnished by a witness or to exhibits furnished by and/or introduced in evidence by a witness. In such instances the exhibit, or copy thereof, should be exhibited to the witness. Photo copies of available documentary evidence furnished by and/or introduced in evidence by each witness are enclosed herewith to the interested offices for exhibition to such witnesses. In instances where a witness has died, positive confirmation of death, preferably a certified copy of the death certificate, should be obtained. This information is desired by Assistant U. S. Attorney GEORGE CAMP, Oklahoma City, against the possible need of introducing testimony from the record in the absence of a deceased witness.

THE ATLANTA OFFICE

At Atlanta, Georgia b7C

1. [REDACTED] (page 46). As of February, 1933, a salesman for the Colt Firearms Manufacturing Company working out of Atlanta, Georgia.

OC 7-6

At [REDACTED]

1. W. A. RORER (page 132), [REDACTED]

THE ALBUQUERQUE OFFICE

At Albuquerque, New Mexico

1. [REDACTED] (page 91), [REDACTED]

THE BIRMINGHAM OFFICE

At Birmingham, Alabama

1. [REDACTED] (page 45). As of February, 1933, salesman for Wimberly and Thomas Hardware, Sporting Goods Department, Birmingham. Rerep SA [REDACTED] 9/15/33, at Birmingham.

THE CLEVELAND OFFICE

At Cleveland, Ohio

1. [REDACTED] (page 119). As of 8/8/33, with Cadillac Motor Company, Cleveland.

THE DALLAS OFFICE

At Bridgeport, Texas

1. [REDACTED] (page 40). As of September, 1933, Western Union Company, and agent for Rock Island Railroad at Bridgeport.

At Coleman, Texas

1. [REDACTED] (page 48).
2. CASS COLEMAN (page 129)
3. [REDACTED] (page 50). Possible can be located through [REDACTED]

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At Dallas, Texas

1. [REDACTED] (Page 36). As of September, 1933, an official of the Western Union Telegraph Company, Dallas.
2. [REDACTED] (page 95). As of September, 1933, a Detective of the Dallas Police Department.
3. [REDACTED] (page 96). As of September, 1933, a Detective of the Dallas Police Department.
4. [REDACTED] (page 97). As of September, 1933, [REDACTED] of Identification, Dallas Police Department.

At Decatur, Texas

1. [REDACTED] (page 37). As of September, 1933, [REDACTED] of Western Union Office, and agent for the Fort Worth and Denver Railroad, Decatur.

At Fort Worth, Texas

1. [REDACTED] (page 47). As of September, 1933, in the sporting goods and firearms business, Wolf and Klar, Fort Worth.
2. Will endeavor to locate and contact [REDACTED] and [REDACTED] (page 9). As of 1933, Detectives of the Fort Worth Police Department. As indicated on page 9 of this report Thompson submachine gun, No. 4907, was delivered to above Detectives about 1/6/34. The availability of this weapon, as evidence in a possible future retrial in this case, should be ascertained.
3. [REDACTED] (page 44). As of September, 1933, official of the Fort Worth National Bank.
4. [REDACTED] (page 67), now [REDACTED]

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At Paradise, Texas

1. [REDACTED] (page 38). As of September, 1933, agent for the Rock Island Railroad, and [REDACTED] Western Union Telegraph Company.

2. ARMON SHANNON (page 64). Paradise.
[REDACTED]

It is noted that a very material point in the testimony of ARMON SHANNON in the trial of GEORGE and KATHRYN KELLY was a statement to the effect that on Sunday, 7/23/33, when KATHRYN KELLY came to his home to take his wife and child to Fort Worth, she spoke to him in a low voice out of the hearing of his wife and told him to expect GEORGE KELLY to come and for him to remain there in anticipation of KELLY's arrival.

3. [REDACTED] (page 117). As of September, 1933, rural mail carrier, Paradise.

4. [REDACTED] (page 62). Located through ARMON SHANNON, Paradise.

5. R. G. SHANNON (page 112), Paradise.

THE DENVER OFFICE

At Denver, Colorado

1. [REDACTED] (page 29). As of September, 1933, [REDACTED] of the Sterling Apartment House, 1275 Pearl Street.

2. [REDACTED] (page 26). As of September, 1933, [REDACTED], Pencil Apartments, 1476 Pennsylvania Avenue, Denver.

3. [REDACTED] (pages 27 and 28). As of September, 1933, [REDACTED] of the Corinthian Apartments, 1801 Grant Street, Denver.

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1933, [REDACTED] (page 30). As of September, Temple Garage, Lincoln and Sherman on 18th, Denver.

5. [REDACTED] (page 31). As of September, 1933, Powerine Oil Station, across the alley from the Corinthian Apartments, address above.

6. [REDACTED] (page 32). As of September, 1933, Richard Weicker Transfer and Storage Company, P. O. Box 631, Denver.

7. [REDACTED] (page 35). As of September, 1933, [REDACTED] Western Union, Denver.

8. [REDACTED] (page 79). As of September, 1933, Detective, Denver Police Department.

9. [REDACTED] (page 8). As of September, 1933, Police Officer, Denver.

10. [REDACTED] (page 81). As of September, 1933, Police Officer, Denver.

11. [REDACTED] (page 82). As of September, 1933, Sergeant of Police in Charge of City Jail, Denver.

12. [REDACTED] (page 83). As of September, 1933, Custodian of Stolen Property, Denver Police Department.

13. [REDACTED] (page 86). As of September, 1933, Police Officer, Denver Police Department.

THE LOS ANGELES OFFICE

At [REDACTED]

1. VAL C. ZIMMER (page 84), [REDACTED]

THE MINNEAPOLIS OFFICE

At Minneapolis, Minnesota

1. [REDACTED] (page 118). As of September, 1933, Western Union, Minneapolis.

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2. [REDACTED] (page 75). As of September, 1933, [REDACTED] Hennepin State Bank, affiliate of the First National Bank and Trust Company, Minneapolis.

3. SAM FREDERICK (page 76). As of September, 1933, truck driver-laborer, Fort Wolk Transfer Company of Minneapolis.

4. [REDACTED] (page 78). As of September, 1933, [REDACTED] St. Anthony Falls Branch of the First National Bank and Trust Company of Minneapolis.

THE NEW HAVEN OFFICE

At Hartford, Connecticut

1. [REDACTED] (page 46). At the Colt Patent Firearms Manufacturing Company endeavor to locate a record of [REDACTED] who was a salesman for that company working out of Atlanta, Georgia, in late 1932 and early 1933, with a view to locating him and causing him to be interviewed as set forth in general lead hereinabove.

THE PHOENIX OFFICE

At [REDACTED]

1. R. C. COULTER (page 77), [REDACTED]

THE SAN ANTONIO OFFICE

At San Antonio, Texas

1. [REDACTED] (page 74). As of September, 1933, a trustee of the Slick Estate. May be located through CHARLES F. URSCHER, National Bank of Commerce, San Antonio.

2. CHARLES F. URSCHER (page 55), National Bank of Commerce, San Antonio.

In view of the death of JOHN CATLETT, who introduced the "Dear John" letter in the previous trials in this case,

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a photo copy of this letter, which was originally written by Mr. URSCHER, is being enclosed for exhibition to Mr. URSCHER with a view to his introducing it in evidence in a future trial in this case. ("Dear John" letter, Government Exhibit No. 18.)

In view of the death of SA E. J. DOWD, Government Exhibit 44 in the third or ALVIN H. SCOTT; ET AL trial, a list of serial numbers of ransom bills taken from the trousers of HARVEY BAILEY at the time of his arrest at the SHANNON farm, Paradise, Texas, is being enclosed for exhibition to Mr. URSCHER, who, according to a note on the face of this exhibit, checked these serial numbers with one [REDACTED] in the presence of E. J. DOWD.

3. Mrs. CHARLES F. URSCHER (page 59). Locate through Mr. URSCHER above.

4. GUS T. JONES (page 87), [REDACTED]

At Austin, Texas

1. J. C. WHITE (page 92), [REDACTED]

THE SEATTLE OFFICE

At Tacoma, Washington

1. CLARA FELDMAN (page 23), [REDACTED]
as of September, 1950.

2. EDWARD GEORGE FELDMAN (page 25). Attempt to locate through his mother, CLARA FELDMAN, above.

THE OKLAHOMA CITY OFFICE

At Oklahoma City, Oklahoma

1. [REDACTED] (page 136). As of October, 1933, Fingerprint Expert, Oklahoma City Police Department.

2. Will review instant file in an effort to discover additional leads looking to the location of GERALDINE ARNOLD.

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3. Will make further efforts to identify the newspaper writer who was the author of the "Daily Oklahoman" article of 9/29/33, which dealt with an interview of HARVEY BAILEY.

4. Will follow and report progress of the HARVEY BAILEY hearing under Section 2255, Title 18, presently pending USDC, Oklahoma City.

5. WALTER R. JARRETT (page 60). Confirm death through Mrs. JARRETT, [REDACTED]

6. Mrs. WALTER R. JARRETT (page 61), [REDACTED]

7. [REDACTED] (page 41), [REDACTED] Black Hotel.

8. [REDACTED] (page 42), [REDACTED] Huckins Hotel, Oklahoma City.

9. [REDACTED] (page 43). As of September, 1933, Southwestern Bell Telephone Company.

10. [REDACTED] (page 69). As of September, 1933, an official of the First National Bank and Trust Company.

11. [REDACTED] (page 70). As of September, 1933, First National Bank and Trust Company.

12. [REDACTED] (page 94). As of September, 1933, Deputy Sheriff, Oklahoma County.

13. [REDACTED] (page 137). As of September, 1933, Clerk of U. S. District Court, Oklahoma City.

14. D. C. PATTERSON (page 138). As of September, 1933, Certified Public Accountant, Oklahoma City.

At Stratford, Oklahoma

1. [REDACTED] (page 33). As of September, 1933, [REDACTED] Santa Fe Railroad Company and Western Union, Stratford.

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2. T. M. COLEMAN (page 52). As of September, 1933, Stratford.

3. Mrs. T. M. COLEMAN (Page 53). As of September, 1933, Stratford.

At Tulsa, Oklahoma

1. JOHN CATLETT (page 71). As of September, 1933, oil producer, Tulsa. Reported as died in February, 1958.

2. E. E. KIRKPATRICK (page 73), [REDACTED] b7C
[REDACTED] Tulsa, as of September, 1958. Business address,
1208 Atlas Life Building, Tulsa.

ADMINISTRATIVE

It is noted that the Bureau has been requested by separate communications to furnish the place of death of Agents E. J. DOWD, RALPH COLVIN and FRANK BLAKE in order that death certificates may be obtained.

It is further noted that the Bureau has been requested to furnish information concerning the location and availability of the chain with which Mr. URSCHER was bound while in captivity, the cup from which he drank and the original ransom

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notes in this case. It is indicated in the Oklahoma City file that these items of evidence may be part of an exhibit in the Bureau.

In the matter of refreshing the memory of the witnesses from the briefs of testimony in this report, as set forth at the beginning in a general lead, AUSA GEORGE CAMP, Oklahoma City, on 9/15/59, suggested to SA [REDACTED] b7C that attempts to refresh the memory of a witness take the form of properly phrased and searching questions rather than reading to the witnesses from the briefs inasmuch as the reading of the brief to a witness or the showing of such brief to him could pave the way for defense attorneys to demand the production of such briefs in court. He further suggested that since Agents will not be interviewing witnesses based upon new information, a demand for such briefs in court is a definite possibility and he requested that copies of all such briefs be made on unnumbered pages against this possibility. This report is being prepared on multilith and in compliance with Mr. CAMP's request, an extra report will be assembled with unnumbered pages and will be retained in the 1A section of the Oklahoma City file in this case.

On 10/8/59, Mr. CAMP, above, telephonically requested that an extra copy of this report be furnished the U. S. Attorney at Oklahoma City. This request is being complied with.

The lengthy period of this report was occasioned by the fact that activity in the case has been largely confined to Appellate Court proceedings with the exception of time consuming searches of official records and other investigation at Oklahoma City to locate the record of proceedings in the trial of GEORGE and KATHRYN KELLY in October, 1933, which was finally found in the form of original stenographic notes of the Court Reporter, and with the further exception of the review and briefing of the transcripts of proceedings in the BATES; ET AL, KELLY and SCOTT; ET AL trials. The later work was dependent upon the completion of the transcription of the original stenographic notes in the KELLY trial of [REDACTED] the Court Reporter originally recording same. It is noted that [REDACTED] is of advanced age and declining vigor and he required considerable assistance in the form of file research on the part of the Agent handling this case.

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The Bureau and interested offices have been kept currently advised of developments by appropriate communications.

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ADMINISTRATIVE

On Page 1296 of Volume 2 of the Transcript of Proceedings in the case entitled U.S. vs. ALBERT L. BATES; ET AL, United States District Court, Oklahoma City, Criminal Docket Number 10478, a note was made by the court reporter that a flash-light picture was taken of the witness, Chief of Police JOSEPH A. LEHMEYER, Minneapolis, Minnesota. It is noted that this is the first such notation in this record and that, at this point in the proceedings, the defense of the SHANNONS, BAILEY, and BATES, was finished and the defense had rested. It is recorded in the transcript that Mr. CARY, attorney for the "money changers" or Minneapolis defendants, stated that, in addition to this flash-light picture, moving pictures had been taken previously while the Government was putting on its case; that such conduct was prejudicial to the defendants and he asked the court to withdraw the jury and declare a mistrial in view of these circumstances.

The court asked the witness if the photographer disturbed him. The witness answered in the negative. The court overruled Mr. CARY's motion and objection stating, "If you had any objection, or any attorney in this case had made any objection at the proper time, this would have been excluded."

It is noted that the United States Attorney at Oklahoma City is aware of the existence of the above in this record.

By letter dated June 4, 1959, the Special Agent in Charge, Minneapolis, advised that On May 22, 1959, [redacted] advised b2 b7C that [redacted] to find out when HARVEY J. BAILEY is to be released from the U. S. Penitentiary, Leavenworth, Kansas.

It is noted [redacted] and was b7C believed to be in contact with [redacted]

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to: 2 - USA, Oklahoma City

Report of:

SA [REDACTED] b7C

Office: Oklahoma City, Oklahoma

Date:

OCT 23 1959

Field Office File #:

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Bureau File #: 7-115

Title:

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

Character:

KIDNAPING

Synopsis:

Section 2255, Title 28, hearing of HARVEY BAILEY pending USDC, Oklahoma City, Oklahoma. No date set for hearing. BAILEY has rejected parole and application withdrawn in favor of efforts under Section 2255, Title 28, USCA. On Government's appeal, Tenth Circuit Court of Appeals, Denver, Colorado, on 7/29/59, reversed 6/16/58 ruling of USDC, Oklahoma City, which set aside convictions of ORA SHANNON and KATHRYN KELLY and remanded for retrial. On 9/15/59, SHANNON and KELLY filed with U. S. Supreme Court Notice of Appeal of Tenth Circuit Court's decision. Efforts to locate author of article in the "Daily Oklahoman" of 9/29/33, unproductive to date. Film "Killers All" showing courtroom scenes in trial of ALBERT BATES; ET AL viewed but not clear whether or not court in session or recessed at time motion pictures taken. Sentencing of convicted subjects by Judge VAUGHT depicted. Court Reporter's original stenographic notes of "KELLY" trial located and transcribed. Exhibits located. Testimony of pertinent witnesses in BATES; ET AL, KELLY and SCOTT; ET AL trials briefed from transcripts.

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I. LEGAL PROCEDURE AND INVESTIGATIVE RESULTS

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On September 29, 1958, ROBERT HOFFMAN, Assistant Attorney General, State of Kansas, Topeka, Kansas, telephonically advised the Kansas City Office of the FBI that the Sheriff's Office of Leavenworth County, Kansas, was forwarding, on that date, a warrant to the Sheriff's Office, Oklahoma County, Oklahoma City, Oklahoma, for HARVEY BAILEY arising out of a 1933 hold order for BAILEY in connection with time owed in the State of Kansas for escape.

On December 2, 1958, [REDACTED] Sheriff's Office, Oklahoma County, Oklahoma City, advised SA [REDACTED] that the files of her office failed to reflect the receipt of a warrant for the State of Kansas for the escape of BAILEY in 1933.

On October 14, 1958, the file of HARVEY BAILEY at the United States Penitentiary, Leavenworth, Kansas, as made available by [REDACTED], reflected that BAILEY was continuing his efforts in Federal Court to obtain release from his present sentence through his attorney JAMES J. LAUGHLIN. This record further reflected that a letter had been received at the Penitentiary, Leavenworth, dated August 29, 1957, from Colonel G. C. REXROAG, Director of Penal Institutions for the State of Kansas, which advised that on August 1, 1957, the Parole Board for the State of Kansas, acting in the case of HARVEY BAILEY, Escapee Number 3045-KSP then in Federal custody, moved and passed a recommendation to commute the sentence of BAILEY through the Governor of the State, after which the Parole Board would place him on parole to run concurrently with his Federal parole if the latter were granted him.

The files of the United States Attorney, Oklahoma City, contain the following letter by HARVEY BAILEY, dated September 30, 1958, directed to the United States Board of Parole, Washington, D. C.:

"Gentlemen:

"Much has appeared in the public press as to the likelihood of a parole in my case. This is to inform you that a hearing on my part will be unnecessary as I will reject parole. Therefore eliminate my case from your consideration for the reasons set forth in the following paragraph.

"I am not guilty of this offense. I had nothing to do with the kidnaping. I was merely an innocent person at the scene. I was a victim of hysteria and prejudice. The man who was kidnapped was a wealthy man and wielded great influence in the State of Oklahoma and elsewhere. He has boasted that he will spend a million dollars to keep everyone in prison. It may well be that he has greased the palms of many persons. I am not saying that your Board has been corrupted but it does seem strange that after Mrs. Kelly and Mrs. Shannon obtained their release as a result of a hearing under Section 2255 of the New Judicial Code there was apparent action on your part. My constitutional rights were violated at the trial. The judge was prejudiced against me. In addition photographers were allowed to run riot in the courtroom. Newsreel cameras clicked away incessantly. The jury was in fear. Machine guns were placed at every entrance of the Court House. In addition the lawyers were intimidated and threatened. In fact one lawyer was indicted, convicted and sent to prison. Another lawyer was indicted and acquitted. Therefore I did not get effective assistance of counsel as required by the Constitution. By accepting parole I would be admitting guilt and my future activities would be restricted. In view of all of this I wish to advise you that I will reject parole and ask that you no longer consider my case. I want a full and complete hearing in the Federal Court so that I can prove the efficacy and validity of my contentions.

"Very truly yours,

/s/ "Harvey Bailey
"Harvey Bailey"

By letter dated December 10, 1958, United States Attorney PAUL W. CRESS, Oklahoma City, advised the Oklahoma City Office that Mr. JAMES J. LAUGHLIN had indicated that the application for parole of HARVEY BAILEY had been withdrawn on his recommendation and that he was endeavoring to have the Section 2255, Title 28, hearing applied for by BAILEY, set for an early date, contending that Mr. BAILEY was being denied his freedom.

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On December 22, 1958, information was received by the Kansas City Office of the FBI from Warden TRACY HAND that a warrant had been filed as a detainer against the release of HARVEY BAILEY at the United States Penitentiary, Leavenworth, Kansas, by the officials of the Kansas State Penitentiary at Lansing, Kansas, and that arrangements had been made for the officials of the United States Penitentiary at Leavenworth to notify the officials of the Kansas State Penitentiary, Lansing, of any plans or actions relative to the movement of HARVEY BAILEY to the District of Oklahoma. He advised that the officials of the United States Penitentiary, Leavenworth, were to forward with BAILEY the warrant to be delivered by the United States Marshal who moves BAILEY to the local authorities who would have jurisdiction over BAILEY should BAILEY be released by the District of Oklahoma. He further advised that, upon receipt of notification that BAILEY is to be removed to Oklahoma, the Kansas State Penitentiary will forward to the appropriate officials in Oklahoma another copy of this warrant to be placed as a detainer against BAILEY.

The record of HARVEY BAILEY at the United States Penitentiary, Leavenworth, Kansas, as made available by [REDACTED], to SA [REDACTED] reflected no change in the status of BAILEY at the institution.

On February 5, 1959, United States Attorney PAUL W. CRESS, Oklahoma City, advised SA [REDACTED] that the motion of HARVEY BAILEY to vacate his previous sentence had not been set for hearing and that it was indicated that the case would be set for trial after the appeal of the Government in the case of KATHRYN KELLY and ORA SHANNON is passed on by the Tenth Circuit Court of Appeals, Denver, Colorado.

With reference to the 2255 motions of ORA SHANNON, KATHRYN KELLY, and HARVEY BAILEY, on September 25, 1958, PAUL W. CRESS, United States Attorney, Oklahoma City, advised SAC WESLEY G. GRAPP and SA [REDACTED] that there had been listed for showing at the Rialto Theater, Oklahoma City, a movie entitled "Killers All" and that this movie allegedly shows court room scenes of the original trial or trials in instant case.

On September 29, 1958, SA [REDACTED] observed a showing of the moving picture "Killers All" at the Rialto

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Theater in Oklahoma City and it was observed that in the picture court was announced to be in session and the judge, EDGAR S. VAUGHT, was shown entering the court room; that a few court room scenes were shown depicting individuals involved in this case but that it was not clear whether or not court was in session or in recess at the time these motion pictures were taken. The film further showed the jury returning to the court room after which Judge VAUGHT, in a sound picture, was shown sentencing ALBERT L. BATES, HARVEY J. BAILEY, R. G. SHANNON, ORA L. SHANNON, and ARMON SHANNON.

Relative to the article which appeared in the Oklahoma City newspaper, "The Daily Oklahoman," under date of September 29, 1933, which concerned an interview with HARVEY BAILEY and ALBERT BATES, the Washington Field Office conducted the following investigation:

On November 10, 1958, [REDACTED] Associated Press News Bureau, Washington, D. C., Evening Star Building, telephonically advised that he was not at all certain as to who may have interviewed HARVEY BAILEY and ALFRED BATES. [REDACTED] informed that one [REDACTED] was probably the Federal Court reporter at the time BAILEY was charged in connection with this matter. [REDACTED] stated it was possible that [REDACTED] may have interviewed BAILEY. [REDACTED] stated that the name ALFRED BATES does not bring to mind any individual connected with instant matter. [REDACTED] further informed that there was also a possibility that one [REDACTED] who was also connected with the "Daily Oklahoman," may have interviewed BAILEY.

[REDACTED] stated that he has been out of touch with his former associates on the "Daily Oklahoman" and the last he heard of [REDACTED] was approximately ten years ago when he was reportedly connected with the Associated Press in California, city unknown. He also said that [REDACTED] was separated from his wife and the last he heard of his former wife was that she was teaching school in New York, the school believed to be the Finch School for Girls. Regarding [REDACTED] [REDACTED] said he could not recall just when he heard or who told him that [REDACTED] was somewhere in Texas employed as a representative for the American Automobile Association.

[REDACTED] said that he had no idea as to where [REDACTED] or [REDACTED] may be at this time and suggested that if they had not been already located and interviewed that probably old-time

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employees of the "Daily Oklahoman" might know of these individuals' present whereabouts.

In connection with efforts to locate the author of the "Daily Oklahoman" news article recording the above-mentioned interview with BAILEY and BATES, [REDACTED] of "The Detroit Free Press," Detroit, Michigan, was interviewed on December 4, 1958, in his office, Detroit Free Press Building, 321 West Lafayette Street, Detroit, by SAC THOMAS J. GEARTY and SA [REDACTED] following arrangements made on December 3, 1958.

[REDACTED] stated that he was employed by the "Oklahoma News" during the entire URSCHER matter. He advised that he had been on the staff of the "Daily Oklahoman" until the early or middle part of 1932. With reference to the URSCHER matter, [REDACTED] advised that he followed the entire matter from the time of the actual kidnaping until after the conclusion of the trial. He advised he does not now recall the specific text of the stories he wrote following interviews with BATES and BAILEY and would appreciate an opportunity to review photostats of the same. He stated that any quotes which appeared in any stories he wrote would be accurate because he always used shorthand in recording the interviews, and thus attains absolute accuracy.

[REDACTED] recalls that BATES and BAILEY were held only briefly in the County Jail. Because of the possibility of their being rescued by their associates, BATES and BAILEY were maintained in some sort of cell at the Federal Building during the entire length of the trial. [REDACTED] recalled interviewing both of these men but his present recollection is that he did not get "too much out of them."

[REDACTED] stated that the files of the "Oklahoma News" probably were given to the Public Library when the newspaper went out of business in about 1939. He also stated it was possible that the "Daily Oklahoman" took over these same files.

[REDACTED] stated he would appreciate the opportunity of discussing the matter further after seeing copies of his own stories. He advised that a [REDACTED] (phonetic) was a fellow employee and assistant to him during the URSCHER matter. [REDACTED] present whereabouts are unknown to [REDACTED] but it is possible that he is in the area of Chapel Hill,

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North Carolina, and affiliated with the University of North Carolina. [REDACTED] recalled that [REDACTED] went to the University and later wrote some plays.

It will be seen from the above that [REDACTED] was not employed by the "Daily Oklahoman" during the pertinent period but was employed by the newspaper, "Oklahoma News."

On February 9, 1959, SA [REDACTED] discussed developments to that date in this case at length with U. S. Attorney PAUL W. GRESS, including investigation to locate the author of the above-mentioned "Daily Oklahoman" news article and to locate the missing transcript in the trial of GEORGE and KATHRYN KELLY. Mr. GRESS indicated that it was highly desirable that the missing KELLY transcript be located and requested that efforts to this end be continued.

The files of the U. S. Attorney, Oklahoma City, reflect that Notice of Appeal from the U. S. District Court, Oklahoma City, ruling of June 16, 1958, setting aside the convictions of ORA L. SHANNON and KATHRYN THORNE KELLY and remanding their cases for retrial was filed on July 28, 1958, by the U. S. Attorney, Oklahoma City, in U. S. District Court, Oklahoma City. This file further reflects that on October 21, 1958, a Motion for Appeal in this matter was forwarded to the U. S. Circuit Court of Appeals, 10th Circuit, Denver, Colorado, by the U. S. Attorney, Oklahoma City.

On March 9, 1959, Assistant U. S. Attorney GEORGE CAMP, Oklahoma City, advised SA [REDACTED] that the U. S. Tenth Circuit Court of Appeals, Denver, Colorado, would hear arguments on the Government appeal in the case of KATHRYN KELLY and ORA SHANNON on March 24, 1959.

In discussions on March 30, and 31, 1959, with SA [REDACTED], Assistant U. S. Attorney GEORGE CAMP, Oklahoma City, requested investigation to ascertain all evidence and testimony presently available bearing upon the case of KATHRYN THORNE KELLY, ORA L. SHANNON, and HARVEY BAILLET and the identity of persons competent to introduce same in order that the feasibility of completely retrying these subjects might be determined. He indicated that arguments concerning the Government's appeal to the Tenth Circuit Court of Appeals, Denver, in the case of ORA L. SHANNON and KATHRYN KELLY had been heard by the Tenth Circuit Court of Appeals on March 24, 1959. Mr. CAMP requested a report briefing the testimony of all witnesses in the original trials who gave evidence relative to BAILLET, ORA SHANNON, and KATHRYN KELLY. He also requested that all available witnesses be interviewed to determine extent of testimony they

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are able to give at this time. He requested that investigative efforts be made to locate all exhibits from the original trial still available and that persons competent to introduce them into evidence be identified and contacted to this end.

Mr. CAMP further requested that it be ascertained if all leads to locate LUTHER WILLIAM ARNOLD and his daughter, GERALDINE, have been exhausted and, if not, that further efforts be made to locate them. It is noted here that available leads to locate the ARNOLDS have been exhausted with negative results. It is recalled that on May 9, 1958, [REDACTED]

[REDACTED] Bowie, Texas, advised SA [REDACTED] that she last saw Mrs. FLOSSIE MAE ARNOLD about 1944 in California and that she learned that LUTHER WILLIAM ARNOLD was deceased at that time. [REDACTED] further advised that FLOSSIE MAE ARNOLD died sometime after 1944. According to [REDACTED], she was unable to recall the exact place of ARNOLD's death but indicated it was near Long Beach, California. Efforts to confirm the deaths of LUTHER and FLOSSIE MAE ARNOLD have been unsuccessful and no information has been developed concerning the whereabouts of GERALDINE ARNOLD.

On June 9, 1959, [REDACTED] Patterson Audit Company, 1256 First National Building, Oklahoma City, informed SA [REDACTED] that Mr. D. C. PATTERSON, who testified as a handwriting expert in the trial of the case U. S. vs. GEORGE and KATHRYN KELLY, died in November, 1958. This was confirmed by [REDACTED] of D. C. PATTERSON, who indicated that the date of D. C. PATTERSON's death was November 24, 1958.

In connection with the Thompson submachine gun, SN 4907, purchased by KATHRYN KELLY from Wolf and Klar Sporting Goods Co., Fort Worth, Texas, in February, 1933, and later seized by arresting officers on August 12, 1933, at the home of R. G. SHANNON, Paradise, Texas, as set out in testimony briefed hereinafter in this report, Mr. F. J. BLAKE, then Special Agent in Charge of the Dallas, Texas, Division of the FBI, by letter dated January 6, 1934, advised the Director of the FBI that he delivered to Detectives [REDACTED] and [REDACTED] of the Fort Worth, Texas, Police Department, a .45 caliber Thompson submachine gun, Number 4907.

In connection with efforts to locate evidence and to determine testimony presently available in this case, [REDACTED] Deputy Clerk, United States District Court, Oklahoma City, was contacted on April 17, 1959, by SA [REDACTED] at which time he stated it was the practice in his office to write, in connection with each matter on file, at intervals of five years, to all interested

attorneys to the effect that unless advised to the contrary exhibits involved in cases on file would be destroyed. He stated that no record is made of this but that it is and has been a routine practice in that office. He pointed out that only exhibits in cases which have been disposed of for a period of five years are considered for destruction.

[REDACTED] made available to the Agent such files as remain in the United States District Court Clerk's Office relating to the URSHEL Kidnaping Case. These were not maintained in regular filing cabinets but were contained in a large cardboard box. An examination of contents of this box revealed the following documents of possible interest in this investigation:

A. Praecipes for subpoenae other than on behalf of the United States as follows:

1) Praecipe issued by JOHN V. ROBERTS, attorney for defendants in the case U. S. vs. KATHRYN KELLY; ET AL, number 10478-Criminal, requesting subpoenae for [REDACTED] Asher, Oklahoma, to appear as witnesses on behalf of the defendant on October 11, 1933. This praecipe bore the notation "subpoenae issued October 11, 1933."

2) Praecipe for subpoenae issued by M. W. BURCH, attorney for defendants in the case U. S. vs. R. G. SHANNON; ET AL, number 10478-Criminal, such subpoenae to be directed to [REDACTED] all of Decatur, Wise County, Texas, and [REDACTED], of Paradise, Texas, to appear as witnesses on behalf of the SHANNONS on September 19, 1933. This document bears a notation that subpoenae were issued September 15, 1933.

3) Praecipe by H. G. WOODRUFF, attorney for R. G. SHANNON; ET AL, requesting subpoenae for [REDACTED], and [REDACTED] all of Asher, Oklahoma, to appear as witnesses on behalf of R. G. SHANNON; ET AL, on September 25, 1933. This document bears the notation that subpoenae were issued September 22, 1933.

4) Praecipe by H. G. WOODRUFF, attorney for R. G. SHANNON; ET AL, Defendants, requesting subpoenae for [REDACTED], Shawnee, Oklahoma, [REDACTED]

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Superintendent of Institute for Feeble Minded, Enid, Oklahoma, to appear as witnesses on behalf of R. G. SHANNON; ET AL, on September 25, 1933. This document bears the notation that subpoenae were issued September 22, 1933.

5) Praecipe by H. G. WOODRUFF, attorney for R. G. SHANNON; ET AL, requesting subpoenae to be directed to [REDACTED] and [REDACTED], all of Paradise, Texas, to appear as witnesses on behalf of R. G. SHANNON; ET AL, on September 25, 1933. This document bears the notation that subpoenae were issued September 22, 1933.

6) Praecipe by H. G. WOODRUFF, attorney for R. G. SHANNON; ET AL, requesting subpoenae for [REDACTED] Denton, Texas, and for [REDACTED] and [REDACTED] all of Paradise, Texas, to appear as witnesses on behalf of R. G. SHANNON; ET AL, on September 25, 1933. This document bears the notation that subpoenae were issued September 22, 1933.

7) Praecipe by BEN LASKA, Mathers and Mathers, attorneys for the defendant, in the case U. S. vs. ALBERT BATES; ET AL, requesting subpoenae for [REDACTED] both of Asher, Oklahoma, to appear as witnesses on behalf of the defendants on September 20, 1933. This document bears the notation that subpoenae were issued September 19, 1933.

8) A criminal subpoena issued by United States District Court for the Western District of Oklahoma to the individuals named in Number 7, above, to wit, [REDACTED] and [REDACTED] of Asher, Oklahoma, commanding them to appear in United States District Court for the Western District of Oklahoma on September 20, 1933, at 1:00 p.m. in the case U. S. Plaintiff and ALBERT BATES; ET AL, Defendants. This subpoena was signed by the Honorable EDGAR S. VAUGHT, District Judge of the United States, on September 19, 1933, and by [REDACTED], Clerk, by [REDACTED] Deputy Clerk.

This subpoena was stamped received by the United States Marshal's Office for the Western District of Oklahoma on September 19, 1933. It bore the United States Marshal's return to the effect that it was received on

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September 19, 1933, and telephonically served on September 20, 1933, to [REDACTED] at Asher, Oklahoma, who advised that he and his daughter would attend court as soon as possible, perhaps by the morning of the 21st. This return was signed W. C. GEERS, United States Marshal, by [REDACTED], Deputy.

B. A request by FRANCIS M. DUDLEY, Assistant United States Attorney, filed May 28, 1935, directed to the United States District Court requesting an order, by the court, directing the Court Reporter of the United States District Court, Oklahoma City, to deliver Government Exhibits 1 to 107, inclusive, and Defense Exhibits 1 to 20, inclusive, in the trial of U. S. vs. ALBERT BATES; ET AL, to the United States Attorney for assistance in preparation for trial the case U. S. vs. ALVIN H. SCOTT; ET AL, Criminal Docket Number 11024.

On April 20, 22, and 23, 1959, SA [REDACTED], assisted by [REDACTED] Office of United States Attorney, Oklahoma City, and by [REDACTED] Deputy Clerk of Court, United States District Court, Oklahoma City, searched the files and records of the United States Attorney's Office at Oklahoma City and the files of the United States District Court Clerk's Office at Oklahoma City for any records pertaining to the case U. S. vs. ALVIN H. SCOTT; ET AL, Number 11024-Cr., but with negative results.

On April 20, 1959, Deputy United States Marshal [REDACTED] searched the records of the Office of the United States Marshal, Oklahoma City, for any record of subpoena or other documents relating to the cases U. S. vs. ALBERT L. BATES; ET AL, Number 10478-Cr., and ALVIN H. SCOTT; ET AL, Number 11024-Cr., but with negative results.

During the course of searching the records pertaining to the URSCHER Kidnaping Case in the Office of the United States Attorney at Oklahoma City, certain exhibits were located as set out hereinafter in this report. The above were obtained from the Federal Records Center, Fort Worth, Texas, as indicated by the fact that the files of the United States Attorney at Oklahoma City contained a letter by Mr. PAUL W. CRESS to the Federal Records Center, Fort Worth, Texas, dated March 20, 1958, requesting the criminal file of the United States Attorney, Oklahoma City, in the case 10478-Cr., which were contained in FRC Container 129996.

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Information contained in the files of the United States Attorney at Oklahoma City indicated that records of the United States Attorney pertaining to the trial of the case 11024-Cr. had been sent to the National Archives and Record Service, Federal Records Center, Fort Worth, Texas, and were there contained in FRC Container Number 52781.

Information in the files of the United States District Court Clerk at Oklahoma City reflected that files of that office relating to the Case Number 11024-Cr. had been sent to the Federal Records Center at Fort Worth, Texas, and were there contained in FRC Container Number 63150.

Assistant United States Attorney GEORGE CAMP, Oklahoma City, on April 20, 1959, requested [REDACTED] Deputy Clerk of Court, United States District Court of Oklahoma City, to order from the Federal Records Center at Fort Worth all files, documents, and exhibits contained in FRC Container Number 63150. On this date, also Mr. CAMP forwarded a letter to the Federal Records Center at Fort Worth requesting all files, records, and exhibits contained in FRC Container Number 52781.

On April 22, 1959, Mr. CAMP received information from the Federal Records Center at Fort Worth to the effect that the requested records had been destroyed on March 17, 1958.

On April 24, 1959, [REDACTED] above, made available to SA [REDACTED] the records which he had received from the Federal Records Center, Fort Worth, Texas, in response to request referred to herein above, which had been contained in FRC Container Number 63150, but these records contained no transcript, excerpts from testimony, or exhibits. They contained only the outline documents indicating the results of the trial in the case U. S. vs. ALVIN H. SCOTT; ET AL, Number 11024-Cr.

On April 23 and 24, 1959, the following individuals were contacted by SA [REDACTED] in an effort to locate any transcript or any exhibits pertaining to any of the trials arising from the URSCHEL Kidnaping Case but with negative results: [REDACTED] and [REDACTED] both Huckins Hotel, Oklahoma City; [REDACTED] Black Hotel, Oklahoma City; [REDACTED] Southwestern Bell Telephone [REDACTED]

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Company, Oklahoma City; and [REDACTED]
Western Union, Oklahoma City.

All of the above individuals stated to the Agent that all records dating back to dates pertinent in this investigation had long since been destroyed in their respective offices.

The following investigation was conducted at Fort Worth, Texas, on May 12, 1959, by SA [REDACTED]

[REDACTED] of Disposal Section, Federal Records Center, stated that all records received from the United States Attorney's Office are destroyed 15 years after case is dismissed except in certain precedent cases. [REDACTED] stated that in connection with this case, he went over all of the files with a member of the United States Attorney's Office at Oklahoma City and at the direction of this employee, records were placed in Container Number 129996 and Container Number 129997. He stated that these two containers are supposed to contain the entire case. He stated that both of these containers were forwarded to the United States Attorney's Office in Oklahoma City on March 21, 1958. He stated that the file on this case which was forwarded to his office by the United States District Court at Oklahoma City was placed in Container Number 63145, and this container was forwarded to the United States District Court at Oklahoma City on March 24, 1958. He stated that the three above containers are still in Oklahoma City and that he has none of the files in connection with this case at the present time. He pointed out that Container Number 52768 contained all copies of records in this case which were singled out by the representative from the United States Attorney's Office of Oklahoma City and the records in that container have been destroyed. He pointed out that no record is maintained by his office of any documents which are destroyed. The only record which he maintains is the container number.

On May 28, 1959, SA [REDACTED] contacted [REDACTED] Court Reporter, United States District Court, Oklahoma City, and requested that he examine files and records in his custody and control in an effort to locate any transcript, particularly one recording the proceedings in the case U. S. vs. GEORGE and KATHRYN KELLY, or any exhibits pertaining to any of

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the trials arising out the URSCHER Kidnaping Case. [REDACTED] stated that he had, previously, examined all of the files and records in his possession to the requested end but had found nothing pertaining to the URSCHER Kidnaping Case.

[REDACTED] informed the Agent that, prior to 1945, the Court Reporter was designated by the United States District Judge at Oklahoma City as the official custodian of exhibits entered in evidence in cases recorded by such reporter and that, about 1945, the court made a rule designating the Clerk of Court the custodian of such exhibits.

[REDACTED] recalled that he was the court reporter in all three of the trials arising from the URSCHER Kidnaping and that he had received into his custody the exhibits entered in evidence in these trials. He also stated that to the best of his memory he had turned back to the Office of the United States Attorney the exhibits in the first two trials. [REDACTED]

[REDACTED] agreed to permit the Agent to go through all files and records in his possession in an effort to locate material of interest in this investigation. The results of such search by the Agent are as follows:

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OFFICE MEMORANDUM - UNITED STATES GOVERNMENT

TO: SAC, OKLAHOMA CITY (7-6)

DATE: 6/9/59

FROM: SA [REDACTED]

DATE

Dictated: 6/8/59

SUBJECT: GEORGE KELLY BARNES, aka, et al;
CHARLES F. URSCHEL - VICTIM
KIDNAPING

On 5/28/59, 5/29/59, 6/2/59, 6/5/59 and 6/8/59 a detailed search made of the records of [REDACTED] Court Reporter, U.S. District Court, Oklahoma City, Oklahoma, which are contained in two small rooms joining [REDACTED] office on the ninth floor of the Post Office Building, Oklahoma City, resulted in the location of the following items of interest in this case:

1. A copy of Volume I of the transcript of proceedings in the trial of the case U.S. vs ALBERT L. BATES, et al, U.S. District Court, Oklahoma City, Docket No. 10,478-Cr.
2. A partial transcription, in two volumes, of the proceedings in the trial of the case U.S. vs ALVIN H. SCOTT, et al, U.S. District Court, Oklahoma City, Docket No. 11024-Cr.
3. A copy of the transcript of exhibits in the above mentioned case of U.S. vs. BATES, et al.
4. The original stenographic notes of [REDACTED] as court reporter, in the above mentioned case of U.S. vs BATES, et al, contained in books numbered 18, 19, 20, 21 and part of 22, of 1933.
5. The original stenographic notes of [REDACTED] in the above mentioned case of U.S. vs SCOTT, et al, contained in books numbered 14, 15 and 16 of 1935.
6. The original stenographic notes of [REDACTED] in the case entitled U.S. vs GEORGE and KATHRYN KELLY, which also bears U.S. District Court, Oklahoma City, Docket No. 10478, contained in books numbered 22, 23 and 24 of 1933.

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7. Exhibits as follows, contained in good order, in a large manila envelope identified on the outside of the envelope by [REDACTED] as exhibits in the case U.S. vs SCOTT, et al, mentioned above, U.S. District Court, Oklahoma City, Docket No. 11024-Cr. The number of each exhibit, as indicated in transcript of exhibits and in the transcript of proceedings in the trial of U.S. vs BATES, et al, 10478-Cr, is also set forth.

Exhibit Number
in 11024-Cr

Exhibit Number
in 10478 (BATES,
et al, trial)

1	22
2	23
3	25
4	24
5	86
6	27
7	28
8	29
9	30
10	31
11	32
13	33
13	54
14	44
15	45
16	46
17	47
18	48
19	49
20	50
21	51
22	52
23 (or 14)	26
36	92
31	43
32	35
33	36
45	88
43	56
35	34
34	37
25	83

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Exhibit Number
in 11024-Cr

Exhibit Number
in 10478 (BATES,
et al, trial)

24
40
30
29
28
27
26
37, 38 & 42

53
8
42
41
40
39
38
18, 21 & 55

The three ransom notes. These were not in the file but the file contained a receipt for #38 and #42 in 11024-Cr "Original ransom notes addressed to E. E. KIRKPATRICK." Signed by EDNA CLARY CLARK, Assistant U.S. Attorney, dated 8/5/37. A further notation on this receipt is as follows: "Also Gov. Ex. 37, handwritten letter of URSCHER to DEAR JOHN" signed [REDACTED] Special Agent, Federal Bureau of Investigation dated 8/5/37. b7

44
39
41
55
57
69
72

Also defense exhibit number 2, bearing the signature of ALBERT BATES as "GEORGE L. DAVIS."

A number of other exhibits of 11024-Cr unrelated to defendants in the previous two trials.

Mr. PAUL W. CRESS, United States Attorney, Oklahoma City, indicated that he would obtain a listing of pertinent exhibits in this investigation, located in the files of [REDACTED] above, certified by [REDACTED] identifying each by its exhibit number in each of the trials in which it was used, by court order, in order that he might have them in his possession in positively identifiable form.

Mr. CRESS also indicated that he had obtained Departmental authority to cause a transcription by [REDACTED] of his original notes, which record the proceedings in the case U. S. vs. GEORGE and KATHRYN KELLY, Number 10478-Cr.

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The transcript of proceedings in the case U. S. vs. ALBERT L. BATES; ET AL, Number 10478-Cr., was briefed by SA [REDACTED] and the brief is set out hereinafter.

[REDACTED] above, on August 20, 1959, completed the transcription of his original stenographic notes recording the case U. S. vs. GEORGE and KATHRYN KELLY, Number 10478-Cr., and this transcript was made available to the Oklahoma City Office, by the Office of the United States Attorney, Oklahoma City, on August 21, 1959. This transcript has been briefed by SA [REDACTED] and such brief has been set out, in the case of each witness, immediately following the briefed testimony of such witness as taken from the transcript of U. S. vs. ALBERT L. BATES; ET AL.

Contact has been maintained with the Office of the United States Attorney at Oklahoma City in order to be advised of the developments in the Government's appeal of the ruling of the United States District Court, Oklahoma City, setting aside the convictions of ORA L. SHANNON and KATHRYN THORNE KELLY.

On July 27, 1959, there was filed in the United States Court of Appeals, Tenth Circuit, a ruling by that court in the case U. S. America Appellant vs. KATHRYN THORNE KELLY and ORA L. SHANNON, Appellees, Number 6020, concerning the appeal from the District Court of the United States for the Western District of Oklahoma, which ruling reversed the order of the United States District Court, Oklahoma City, vacating and setting aside the previous sentences of KATHRYN KELLY and ORA SHANNON, and remanding the cause to the lower court. Two copies of this ruling were made available by the Office of the United States Attorney, Oklahoma City, and one was forwarded to the Bureau July 31, 1959.

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Clerk [REDACTED] Clerk of Court's Office, U. S. Circuit Court of Appeals, Denver, Colorado, advised on August 21, 1959, after reviewing her files that an order was issued on August 6, 1959, by that court staying a mandate of that court dated July 27, 1959, which remanded this case to the lower court with the order that judgment and sentences should not be set aside as ordered by the lower court. [REDACTED] explained that this stay of the mandate had been issued in order that counsel for the defendants could have a petition filed with the Supreme Court of the United States. She added that if such petition were filed within 30 days from the date of August 6, 1959, that the mandate dated July 27, 1959, would be permanently stayed until such time as the U. S. Supreme Court rendered a decision.

On September 2, 1959, U. S. Attorney PAUL W. CRESS, Oklahoma City, advised SAs [REDACTED] and [REDACTED] that J. J. LAUGHLIN, attorney for KATHRYN THORNE KELLY and ORA L. SHANNON, had petitioned the Circuit Court of Appeals, Denver, Colorado, for an additional 10-day stay of that court's mandate, extending such stay to September 15, 1959, in order to permit a filing of a petition with the Supreme Court of the United States. Mr. CRESS indicated that he did not intend to file an objection.

On September 8, 1959, U. S. Attorney PAUL W. CRESS advised SAs [REDACTED] and [REDACTED] that he is in receipt of information to the effect that the Tenth Circuit Court of Appeals, Denver, Colorado, had granted a 10-day extension, to September 15, 1959, of the stay of the mandate of that court which mandate reversed the U. S. District Court, Oklahoma City, and remanded the case to such court for further action. He indicated that this additional stay of mandate was to permit further time for the filing of a petition with the Supreme Court of the United States by the attorney for KATHRYN THORNE KELLY and ORA L. SHANNON.

On September 15, 1959, Assistant U. S. Attorney GEORGE CAMP, Oklahoma City, requested that investigative efforts be made to locate the chain with which CHARLES F. URSCHER was shackled during his captivity at the ARMON SHANNON home, July 24 through 31, 1933, and the tin cup from which he drank during this time.

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On October 7, 1959, Mr. GEORGE CAMP, Assistant U. S. Attorney, Oklahoma City, requested that legally admissible proof of the death of the deceased witnesses in the previous trials in this, whose testimony had a bearing on the involvement of KATHRYN THORNE KELLY and ORA L. SHANNON and HARVEY BAILEY, be obtained against the possible need of introducing their previous testimony from the record in any future retrial of the subjects.

Under date of September 28, 1959, information was received from the Denver Office of the FBI to the effect that on September 15, 1959, Notice of Appeal was filed by ORA L. SHANNON and KATHRYN THORNE KELLY with the U. S. Supreme Court at Washington, D. C. This information came from the Office of the Tenth Circuit Court of Appeals, Denver, Colorado.

This information, together with necessary background, was furnished to the Washington Field Office of the FBI in order that this action may be followed with the Clerk of the U. S. Supreme Court, Washington, D. C.

On October 7, 1959, Assistant U. S. Attorney GEORGE CAMP, Oklahoma City, advised SA [REDACTED] that the hearing on the motion of HARVEY BAILEY, under Section 2255, Title 28, USCA, is presently pending before Judge W. R. WALLACE, U. S. District Court, Oklahoma City, and that no date for the hearing has been set.

A review of the record of HARVEY BAILEY at the U. S. Penitentiary, Leavenworth, Kansas, as made available by SA [REDACTED] by SA [REDACTED] on September 14, 1959, reflected no change in the status of BAILEY at that institution.

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II. BRIEFS OF TESTIMONY AND NOTATIONS
CONCERNING EXHIBITS

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Following are briefs of the testimony of pertinent witnesses as taken from the transcripts of proceedings in the trials of U. S. vs. ALBERT BATES; ET AL; U. S. vs. GEORGE KELLY and KATHRYN THORNE KELLY; and U. S. vs. ALVIN H. SCOTT; ET AL. Also included are notations concerning the present availability and location of exhibits introduced by these witnesses, where known.

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MRS. CLARA DAVIS, aka
Mrs. C. O. Feldman
Denver, Colorado

This witness, testifying in the case UNITED STATES vs. ALVIN H. SCOTT, ET AL, U. S. District Court, Oklahoma City, number 11024 Cr, identified Government exhibit number 39 as a photograph of GEORGE L. DAVIS, whom she married at Denver, Colorado, May 15, 1933, and whom she later learned was ALBERT BATES. She testified that she lived with this man at the Pencol Apartments in Denver "until the first part of January, 1933"; that she and her son, EDWARD GEORGE FELDMAN, lived with DAVIS (BATES) at the Corinthian Apartments in Denver, according to her best recollection, from the latter part of April, 1933, until July 17, 1933, when she moved to Portland, Oregon; that she returned to Denver the first week of August, 1933, moving into the Sterling Apartments, on Pearl Street, where, on August 9, 1933, she received a wire from DAVIS (BATES) from Omaha, Nebraska, to the effect that he was "arriving on the Burlington" the next morning. (It is noted this telegram is Government exhibit number 86 of the first trial); that he arrived that next morning with two grips which he left in the apartment; that he left that morning and that she had not seen him since. (It is noted that BATES, alias DAVIS, was arrested in Denver on August 12, 1933.)

Mrs. FELDMAN further testified that she next heard from BATES on Sunday, August 13, 1933; that about 9:00 a.m., on that date, she received two notes from him which were delivered by a trusty at the Denver County Jail, named [REDACTED] that one of these notes informed her that BATES was in jail and that there was money in BATES' brown grip and instructed her to give [REDACTED] \$200.00, after which she was to move. She stated this note was signed "GEORGE". She further testified that the second note contained a message to be sent by wire to Texas; that she did not read this note but told [REDACTED] to wire it to Texas. She stated that, instead, [REDACTED] gave it to her son, EDWARD, to send. The witness continued her testimony by stating that she cut open BATES' grip and, taking out \$200.00 in the form of twenty-dollar bills, gave them to [REDACTED] that she and her son, EDWARD, then packed their bag and on the night of August 13, 1933, went to Cheyenne, Wyoming, arriving there on the morning of August 14, 1933, where they rented a cabin; that her son went back to Denver and returned to Cheyenne, when she and her son looked into BATES' grip and found a large quantity

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of paper money in the form of twenty-dollar bills which, with the exception of about \$1500.00 which they retained, they buried in two thermos jugs. She further testified that, at this time, when they opened BATES' grip and after her son had returned from Denver, she learned that BATES was charged with the kidnaping of Mr. URSCHER and that the money which she had in BATES' grip was ransom money.

This witness identified Government exhibit number 55 (N11024 Cr) as a letter in the handwriting of GEORGE BATES.

The above exhibits (#39 and 55 in the US vs. SCOTT, ET AL. #11024 Cr) were located among the files and records of [REDACTED] Court Reporter, U. S. District Court, Oklahoma City.

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[REDACTED]

EDWARD GEORGE FELDMAN
Denver, Colorado

This witness, the son of CLARA FELDMAN, testifying in the case UNITED STATES vs. ALVIN H. SCOTT, ET AL, U. S. District Court, Oklahoma City, number 11024 Cr, identified Government exhibit number 39 as a photograph of GEORGE L. BATES, whom he previously knew as GEORGE L. DAVIS. He testified that he lived with his mother and BATES at the Corinthian Apartments on Grand Street in Denver, Colorado, for about one month, beginning about middle May, 1933; that they then moved to Portland, Oregon, returning to Denver, Colorado, about August 5, 1933, where they took an apartment at the Sterling Apartments on Pearl Street; that his mother received a telegram from BATES which was sent from Omaha, Nebraska, in which BATES said he would arrive at Denver the next morning on the Burlington; that BATES arrived at Denver on the morning of August 10, 1933, bringing two bags, a brown Gladstone and a smaller brown grip, which he left at the apartment; that BATES left the apartment that morning and that he had not seen BATES since.

EDWARD FELDMAN testified substantially the same as did CLARA FELDMAN concerning the receipt of the two notes delivered by the trusty from the County Jail in Denver and, further, that he read both notes; that, after his mother refused to send a telegram, as instructed in one of the notes, he agreed to send it; that the wire was addressed to "authorities in Ft. Worth, Texas" and that he caused a relative, [REDACTED], Denver, Colorado, to send it. He also testified that it was the trusty, [REDACTED] who cut open BATES' locked grip which contained the twenty-dollar bills.

All b7c

[REDACTED]
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[REDACTED]
Denver, Colorado

[REDACTED] testified that [REDACTED] of the Pencil Apartment House in Denver; that during January, 1933, he was so occupied and that the Pencil Apartments are located at the corner of Colfax and Pennsylvania Avenues in Denver; that he had access to records of rentals of apartments in this building; that a tenant named C. O. VELDMAN occupied apartment #104 in January and February, 1933, having moved there, according to the records of the apartment building, on December 30, 1932, and that VELDMAN occupied this apartment until Saturday, February 18, 1933. He testified that he knew C. O. VELDMAN and identified the defendant, ALBERT BATES, as VELDMAN.

All b7C

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1801 Grant Street
Denver, Colorado

[REDACTED] testified that he [REDACTED] of the Corinthian Apartments, 1801 Grant Street, Denver, Colorado, in April, May, June and July, 1933; that while he took a two-month vacation in June and July of that year, he stayed at the apartment; that he had a tenant by the name of GEORGE L. DAVIS in Apartment #202 from April 27 until the morning of July 17, 1933, when DAVIS moved; that DAVIS had a blue Buick Coupe which bore Illinois license plates. He identified the defendant, ALBERT BATES, in the courtroom as the GEORGE L. DAVIS who occupied the above mentioned apartment.

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[REDACTED]
1801 Grant Street
Denver, Colorado

[REDACTED] testified that she was the wife of [REDACTED]
[REDACTED] of the Corinthian Apartments in Denver; that she
resided with him at this apartment building; that during the months
April to July, 1933, one GEORGE L. DAVIS was a tenant in the
Corinthian Apartments and that DAVIS vacated this apartment on
July 17, 1933. She identified defendant BATES as the tenant,
GEORGE L. DAVIS.

All b7C

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1275 Pearl Street
Denver, Colorado

[redacted] 1275 Pearl Street, Denver, Colorado, testified that he was [redacted] of the Sterling Apartment House at 1275 Pearl Street in Denver; that [redacted] on August 7, 1933, [redacted] rented an apartment, number 11, to Mrs. G. L. DAVIS from July 8 to August 22 (1933); that Mrs. DAVIS had a son, approximately 22 years old, who had a black 2-door Chevrolet, which bore Indiana license plates; that the man whom he understood to be G. L. DAVIS was the defendant ALBERT BATES, whom the witness identified in the courtroom; that he saw that apartment number 11 was vacant about August 18; that he cleaned it and found papers and magazines therein. The witness identified government exhibits number 78 through 82 as the papers and magazines taken from this apartment.

These exhibits have not been located.

All b7C

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Denver, Colorado

[REDACTED] testified that he was [REDACTED] of the Temple Garage, Lincoln and Sherman on 18th, Denver, Colorado; that the Temple Garage is located one-half block from the Corinthian Apartments; that during April, May and June, 1933, he had business dealings with a man known to him as GEORGE L. DAVIS, who stored his car and had it serviced at the Temple Garage; that the car was a 1933 Master Buick Victoria Coupe, dark blue, and that it bore Illinois license plates; that GEORGE L. DAVIS had a Chevrolet Coupe at the Temple Garage "once or twice" which bore Indiana license plates. He further testified that his last business transaction with GEORGE L. DAVIS was on July 17, 1933, according to his records. He identified the defendant, ALBERT BATES in the courtroom, as the man he knew and did business with as GEORGE L. DAVIS.

All b7C

OC 7-6

Denver, Colorado

[REDACTED] testified that he was [REDACTED] of the Powerine Oil Station located across the alley from the Corinthian Apartments in Denver, Colorado; that he was so occupied during April, May, June and July, 1933; that he had business dealings with a man whom he knew as Mr. DAVIS; that he serviced DAVIS' car, which was a dark blue Buick Victoria Coupe bearing Illinois license plates; that he saw DAVIS in possession of a dark blue Chevrolet Coach; that he believed this Chevrolet bore Indiana license plates. He identified the defendant, ALBERT BATES, as the man he knew as Mr. DAVIS.

[REDACTED] further testified that he saw DAVIS loading suitcases in his car on July 17, 1933, and asked him if he was leaving town, and that DAVIS replied that he was.

All b7C

OC 7-6

Denver, Colorado

[REDACTED] testified that she was [REDACTED] for the Richard Weicker Transfer and Storage Company in Denver and that she was so employed on July 17, 1933; that she had a business transaction with Mr. G. L. DAVIS on Saturday, July 15, 1933, wherein she took an order for a "pick-up" of his goods in Denver to be stored; that he came in person and she talked to him; that an order was prepared. She identified Government Exhibit #34 as the storage order signed by G. L. DAVIS in her presence. This exhibit was entered in evidence.

[REDACTED] identified the defendant ALBERT BATES, as the G. L. DAVIS with whom she transacted business as set forth in her testimony above.

Government Exhibit #34 was located among the files and records of [REDACTED] Court Reporter, U. S. District Court, Oklahoma City, Oklahoma, as set forth elsewhere in this report.

All b7C

OC 7-6

Stratford, Oklahoma

[REDACTED] testified that he was [REDACTED] for the Santa Fe Railroad Company and manager of the Western Union Telegraph Company at Stratford, Oklahoma; that he knew T. M. COLEMAN who resided about five miles northeast of Stratford, Oklahoma. He identified Government Exhibit #27 as a duplicate, being the original record or first copy, of the original telegram received at the Western Union Office, Stratford, Oklahoma, addressed to T. M. COLEMAN and mailed to him, since Mr. COLEMAN had no phone. (It was noted that this telegram was dated January 24, 1933.) This exhibit was thereupon read to the jury.

The witness identified Government Exhibit #28 as the original carbon of a message received on February 21 (1933), addressed to T. M. COLEMAN, Route #1, Stratford, Oklahoma, which he had found in the files of the Western Union Company at Stratford. The exhibit was thereupon read to the jury. (It should be noted that this exhibit was dated at Kansas City, Missouri, February 20, 1933, and was signed "GEORGE, Box 4783, Station E".)

The witness identified Government Exhibit #29 as the original carbon of a night message received at Stratford, Oklahoma, addressed to T. M. COLEMAN, Route #1, Stratford, and which was mailed to Mr. COLEMAN at that address. This exhibit was thereupon read to the jury. (It is to be noted that Government Exhibit #29 was dated February 14, 1933, at Kansas City and was signed "GEORGE L. DAVIS".)

The witness identified Government Exhibit #30 as a carbon copy of a day letter received at Stratford, Oklahoma, on March 3 (1933) addressed to T. M. COLEMAN, Route #1, Stratford, Oklahoma, which was mailed to Mr. COLEMAN and which he, [REDACTED] found among the files of the Western Union Company at Stratford, Oklahoma. This exhibit was thereupon read to the jury. (It should be noted that Government Exhibit #30 was dated March 3, 1933, at Kansas City, Missouri, and was signed "GEORGE".)

[REDACTED] identified Government Exhibit #31 as a carbon of a night message received at Stratford, Oklahoma, addressed to T. M. COLEMAN, Route #1, and which was mailed to Mr. COLEMAN at that address. He testified that this was a part of the files of the Western Union Company at Stratford. The exhibit was thereupon read to the jury. (It is noted that Government Exhibit #31 was dated March 26, 1933, at Kansas City, Missouri and was signed "GEORGE, 8:23 a.m.".)

All b7C

OC 7-6

The witness identified Government Exhibit #32 as a carbon of a night message received at Stratford (Oklahoma) addressed to T. M. COLEMAN which was mailed to Mr. COLEMAN. He testified that he found this in the files of the Western Union at Stratford, Oklahoma. The exhibit was thereupon read to the jury. (It should be noted that Government Exhibit #32 was dated March 31, 1933, at Hot Springs, Arkansas and was signed "ED, 8:22 a.m.".)

The witness identified Government Exhibit #33 as a carbon copy of a telegram received at Stratford (Oklahoma) addressed to T. M. COLEMAN. The exhibit was thereupon read to the jury. (It should be noted that Government Exhibit #33 was dated April 2, 1933, at DeQueen, Arkansas, and was signed "ED".)

[REDACTED] further testified that on January 24, 1933, a lady called at the Western Union Office in Stratford for a message to T. M. COLEMAN; that he did not know her name; that she was about 30 years old and fairly good looking; that he thought she was dark; that he saw her again, perhaps once or twice, in connection with telegrams at the office; that she called for telegrams and, on one occasion he believed she filed one; that he did not have a copy of the telegram which he believed this young woman filed, but had requested that it be forwarded to him at Oklahoma City.

[REDACTED] was later re-called as a witness and identified Government Exhibit #54 as the original message filed on March 13 (1933) at 10:05 A.M., addressed to GEORGE L. DAVIS, will call, Western Union, 31st and Troost, Kansas City, signed R. G. SHANNON. He testified that this telegram was filed at his office and that he thought it was filed by the 30-year old, neatly dressed, woman to whom he referred in his previous testimony. The exhibit was thereupon read to the jury.

All of the above exhibits were located among the files and records of [REDACTED] Court Reporter, U. S. District Court, Oklahoma City, Oklahoma.

All b7C

00 7-6

Denver, Colorado

[redacted] (spelled elsewhere [redacted]), testified that he was [redacted] of Western Union in Denver, Colorado, and that he had been so employed for approximately six months; that he had access to the records of Western Union in Denver. He identified Government Exhibit #82 as an original night letter, explaining that by original, he meant the document filed by the sender, taken by him from the files and records of Western Union, Denver, Colorado; that it was filed January 24, 1933, was addressed to E. M. COLEMAN, Route #1, Stratford, Oklahoma, and signed C. G. FERDMAN, 104 Fenool Apartments.

This witness identified Government Exhibit #83 as an original day letter filed June 15 (1933) addressed to R. S. SHANNON, RFD phone 1806-F-11, Paradise, Texas, signed "GEORGE". He testified that he found this in files of the Denver Office of Western Union. This exhibit was read to the jury.

The witness identified Government Exhibit #84 as a water copy of a received telegram from Dallas, Texas, dated July 16 (1933), addressed to GEORGE E. DAVIS, Post Office Box 632, Denver, signed "GEORGE". According to the witness, this document was taken from the original files of the Western Union Telegraph Company of Denver and was dated July 16, 1933. This exhibit was read to the jury.

The witness identified Government Exhibit #85 as an original night message, filed July 16, 1933, addressed to R. G. SHANNON, Will Hall, Bridgeport, Texas, signed "GEORGE". He testified that it was taken from the original files of the Western Union Telegraph Office in Denver, Colorado.

The witness testified that he did not know of his own knowledge whether the above messages were delivered to the addressee in either Texas or Colorado and that he did not know of his own knowledge who wrote or sent them.

[redacted] was later re-called as a witness and on re-direct examination, identified Government Exhibit #86 as a "water color" of a received message which he had brought with him dated August 9, 1933, at Omaha, Nebraska, addressed to Mrs. G. L. DAVIS, 11 Sterling Apartments, 1275 Pearl Street, Denver, Colorado, signed "GEORGE". He testified that this message was received at his station and delivered to the addressee. This exhibit was read to the jury.

The above exhibits were located in the files and records of [redacted] Court Reporter, U. S. District Court, Oklahoma City, Oklahoma.

OC 7-6

Dallas, Texas

[REDACTED] testified that he was an official of the Western Union Telegraph Company in Dallas and was in charge of receiving money orders there; that he had been so employed for seven years and that he had access to the files and records of the Western Union Company at Dallas. [REDACTED] identified Government Exhibit #26 as a telegram dated July 16 (1933) to GEORGE L. DAVIS, Denver, Colorado, signed "GEORGE". He testified that it was the original copy of the telegram "handed us by the sender". (It is noted that this exhibit is handwritten in pencil.) This exhibit was thereupon read to the jury.

The above exhibit was located among the files and records of [REDACTED] Court Reporter, U. S. District Court, Oklahoma City, Oklahoma.

All b7C

057-6

Decatur, Texas

[redacted] testified that [redacted] of the Western Union Office at Decatur, Texas. He identified Government Exhibit #50 as an office copy of a telegram received from Denver, Colorado, May 13 (1933) addressed to R. G. SHANNON. He testified that this was found among the files and records of Western Union at Decatur, and that in his official capacity he had access to such records. The exhibit was read to the jury. (This exhibit was signed "GEORGE, 11:29 a.m.")

The witness identified Government Exhibit #51 as the original of a message filed May 4 (1933) at 10:37 a.m., addressed to Mr. JOE BERGLE, care Bergle Auto Company, 5400 West 22nd Street, Cicero, Illinois, signed R. G. SHANNON. The witness testified he had no independent recollection of who filed this message; that he found it among the files and records of the Western Union Office at Decatur and that Decatur is about eight miles north and a little east of Paradise, Texas. This exhibit was read to the jury.

The witness identified Government Exhibit #52 as the original telegram filed at Decatur, Texas, at 12:20 p.m., June 15, 1933, addressed to G. L. DAVIS, Post Office Box 2565, Denver, Colorado, signed "R.G.S.". The witness testified that he found this among the files and records of the Western Union Company at Decatur, Texas. The exhibit was read to the jury.

The witness further testified that he did not know the defendant, ALBERT BATES, R. G. SHANNON or Mrs. ORA L. SHANNON, and that he did not know if R. G. SHANNON or ORA L. SHANNON sent or received messages through his office.

The above exhibits were located among the files and records of [redacted] Court Reporter, U. S. District Court, Oklahoma City, Oklahoma.

All b7C

03 7-6

Paradise, Texas

testified that he was [redacted] for the Rock Island Railroad and Manager of the Western Union Telegraph Company at Paradise, Texas, and that he had been [redacted]

[redacted] identified Government Exhibit #44 as the original copy of a Western Union telegram from Denver, Colorado, addressed to R. G. SHANNON, RFD phone 1606-F-11, Paradise, Texas; that it was taken from the files of his office; that it was received at his office in Paradise, Texas; that he phoned it to the residence of R. G. SHANNON; that he talked to Mrs. R. G. SHANNON and that he was acquainted with her. He identified Mrs. R. G. SHANNON in the courtroom.

The witness further testified that he had known Mrs. SHANNON five or six years; that he was familiar with her voice over the telephone and that he was positive it was she with whom he talked. Government Exhibit #44 was read to the jury. (It should be noted that Government Exhibit #44 was dated June 15, 1933, at Denver, Colorado, signed "SHANNON, 4:40 p.m." and that a note appeared thereon as follows: "Phoned to Mrs. R. G. SHANNON, 5:02 p.m.".)

The witness identified Government Exhibit #45 as a Western Union telegram filed by Mrs. R. G. SHANNON over the telephone and received by phone from her by the witness. He testified that it was addressed to L. E. LANE, State Hotel, Kansas City, Missouri, filed at 3:00 p.m., May 15 (1933), and that he was positive it was Mrs. SHANNON who called him. The exhibit was read to the jury. (This exhibit was signed "SHANNON".)

The witness identified Government Exhibit #46 as a carbon copy of the original message filed at Chicago, Illinois, at 11:59 p.m., June 19 (1933) signed "LANE", addressed to R. G. SHANNON received at his office 12:47 p.m. on June 19th. He further testified "I called up the SHANNON residence and delivered the message to Mrs. SHANNON at 1:22 p.m. on June 19th. I am positive I talked with Mrs. SHANNON." This exhibit was read to the jury.

The witness identified Government Exhibit #47 as a service message filed at "n.c."; that these letters designate the office of Western Union in Chicago, Illinois; that service

All b7C

OC 7-6

message was filed on June 21 (1933); that this exhibit is a Western Union telegram and that the sender of a former message was, therein, requesting "us to get a quick answer to a message that had been filed two days before that. It is signed 'service' and addressed to Paradise." The witness testified that he received this message, went to the telephone office and called up the SHANNON residence; that "Mrs. SHANNON answered the phone and I said 'Mrs. SHANNON, we have a request from Chicago, a service message wanting us to get a quick answer to the message day before yesterday.' She said, 'We are not ready to answer the message.' I said 'What will I tell them?' She said, 'Tell them we will answer when we get the details,' or something to that effect, and I answered the message."

The witness identified Government Exhibit #46 as a service message which he filed to "R. G., Chicago" from his office in answer to the previous service message. Exhibits #47 and #48 were read to the jury.

The witness identified Government Exhibit #49 as a carbon copy of the original message filed at Chicago, Illinois, at 11:55 a.m., July 19 (1933), addressed to R. G. SHANNON, received at his office at 12:42 p.m., on July 19th, and that "I called up the SHANNON residence and gave it to Mrs. R. G. SHANNON over the phone at 1:32 p.m. I am positive I talked with Mrs. SHANNON." The exhibit was read to the jury. (This message was signed LAMB, 12:42 p.m. and a notation appears on the message, "Phoned to Mrs. R. G. SHANNON, 1:30 pm.")

The above exhibits were located among the files and records of [REDACTED] Court Reporter, U. S. District Court, Oklahoma City, Oklahoma.

All b7C

CC-7-6

Bridgeport, Texas

[redacted] testified that he was [redacted] of the Western Union Telegraph Company and [redacted] for the Rock Island Railroad Company at Bridgeport, and that [redacted] that, [redacted] of this Western Union office, he had access to the files and records of that company; that, during his duty hours of 8:00 a.m. to 4:00 p.m., he received messages for sending and delivered messages. He identified Government Exhibit #53 as a copy of a telegram received at his office July 17 (1933) signed "GEORGE" addressed to R. G. SHANNON. He further testified that "in my own handwriting, it shows 'delivered to CRA SHANNON by B.E.R.'. That is my personal signature." The witness further testified that this message was called for on July 18, 1933; that he was not positive, but "I think it is the lady....just directly in front of me (referring to CRA L. SHANNON) who called in person for this message."

It was noted by the prosecuting attorney that the date did not appear on this exhibit and questioned concerning this, the witness testified that it was received July 17, 1933. He also testified that Bridgeport is about five or six miles in an easterly direction from Paradise, Texas. The witness further testified that in case of "will call" messages, no notification of the receipt of a message was sent to the receiver. This exhibit was read to the Jury. (This message was dated Denver, Colorado, July 16, 1933.)

The above exhibit was located among the files and records of [redacted] Court Reporter, U. S. District Court, Oklahoma City, Oklahoma.

All b7C

OC 7-6

Oklahoma City, Oklahoma

[redacted] testified that he was [redacted] of the Black Hotel, Grand and Edison, in Oklahoma City, and that in his official capacity he had access to the files and records of that hotel. He identified Government Exhibit #35 as a registration card of the Black Hotel recording the registration of Mr. and Mrs. R. G. SHANNON on March 5, 1933, at which time they were assigned Room 1010. This exhibit was read to the jury.

The witness identified Government Exhibit #36 as a registration card of the Black Hotel recording the registration of G. L. DAVIS on March 4, 1933, at which time he was assigned Room 506. This exhibit was read to the jury.

The witness identified Government Exhibit #37 as a long distance telephone traffic sheet of the Black Hotel for March 6, 1933, which contains the name of SHANNON, room 1010. This exhibit was read to the jury. (It should be noted that this exhibit records a telephone call from SHANNON in room 1010 at the Black Hotel to telephone 1606-F-11, Paradise, Texas, which was the telephone at the home of R. G. and GRACE L. SHANNON.)

The above exhibits were located among the files and records of [redacted] Court Reporter, U. S. District Court, Oklahoma City, Oklahoma.

All b7C

OC 7-6

Oklahoma City, Oklahoma

██████████ testified that he was the ██████████ at the Huckins Hotel and that as such, he had access to the records of that hotel. He identified Government Exhibit #38 as a registration card of the Huckins Hotel, recording the registration of L. E. LANG, dated April 3, 1933. This exhibit was read to the jury. (It is noted that this exhibit indicated that LANG occupied Room 904.)

██████████ identified Government Exhibit #39 as a registration card recording the registration of R. G. SEANNON and wife, of New Orleans, Louisiana, dated April 3, 1933. The exhibit was read to the jury. (It is noted this exhibit reflects that R. G. SEANNON and wife occupied room 931.)

The witness identified Government Exhibit #40 as a registration card recording the registration of L. E. LANG of New Orleans, Louisiana, May 19, 1933, which he further identified as a part of the records of the Huckins Hotel. This exhibit was read to the jury. (It is noted that this exhibit indicates that LANG occupied room 519.)

The witness identified Government Exhibit #41 as a registration card reflecting the registration of G. L. DAVIS, New Orleans, Louisiana, May 9, 1933. The exhibit was read to the jury. (It is noted Government Exhibit #41 indicates that DAVIS occupied room 427.)

The witness identified Government Exhibit #42 as a registration card of G. L. DAVIS, Fort Worth, Texas, May 19, 1933. The exhibit was read to the jury. (It is noted the exhibit indicates that DAVIS occupied room 925.)

██████████ identified Government Exhibit #43 as a registration card of GEORGE L. MOORE, Tulsa, Oklahoma, dated July 2, 1933. The exhibit was read to the jury. (It is noted this exhibit indicates that MOORE occupied room 919.)

The above exhibits were located among the files and records of ██████████ Court Reporter, U. S. District Court, Oklahoma City, Oklahoma.

All b7c

OC 7-6

Oklahoma City, Oklahoma

[REDACTED] testified that he was [REDACTED] of the Southwestern Bell Telephone Company, Oklahoma City, and that in such capacity, he had access to the records of that company. He identified Government Exhibit #57 as the record of a long distance telephone call, on July 18, 1933, from telephone 30619, Oklahoma City, GEORGE L. MOORE, calling Paradise, Texas, telephone 1606-F-11; that Oklahoma City telephone number 30619 was the number of the pay telephone located in the lobby of the Euskins Hotel in Oklahoma City.

The witness identified Government Exhibit #58 as the record of a toll call, on July 19, 1933, from Oklahoma City telephone #30169, by GEORGE L. MOORE, to Paradise, Texas, telephone number 1606-F-11; that Oklahoma City telephone #30169 was the number of the telephone pay station in the Walgreen Drug Store in Oklahoma City.

The witness testified that the above two calls were station-to-station calls.

The above exhibits have not been located.

All b7C

OC 7-6
[REDACTED]

[REDACTED]
The Fort Worth National Bank
Fort Worth, Texas

[REDACTED] testified that he had custody and control of safe deposit rentals at the above bank; that he had some of the bank records with him, some including the record of a contract between the bank and Mr. and Mrs. R. G. SHANNON in connection with the rental of Box No. 1413-A on December 2, 1932; that he received no unusual instructions in connection with the rental of this box; that he was ordered by the Government to bring the contents of the box into court and that Government Exhibit No. 19 was a package containing currency totaling \$350.00, a diamond studded watch band, three diamond rings, and a half dollar, the same being the contents of the above-described safe deposit box.

The witness testified under cross-examination that the currency consisted of twenty-five \$10.00 bills and one \$100.00 bill. He also testified that Mr. and Mrs. R. G. SHANNON were personally unknown to him.

[REDACTED] testified under redirect examination that Government Exhibit No. 20 was the contract entered into in connection with the rental of the above safe deposit box in the name of Mr. and Mrs. R. G. SHANNON.

Government Exhibit No. 20 was located among the files and records of the United States Attorney, Oklahoma City, Oklahoma.

All b7C

Birmingham, Alabama

██████████ testified that he was ██████████ of the firm of Wimberly and Thomas in Birmingham and that he had been so employed for ten years. He further testified that he knew ██████████ a salesman for the Colt Arms Manufacturing Company; that during early 1933 he had a deal with ██████████ concerning a Thompson submachine gun; that he first saw this gun, which he sold to ██████████ at the Alabama Powder Company; that he kept it three or four months in his place of business trying to sell it to County, State and City officials without success, and that he examined the serial number of the gun while it was in his possession and that the serial number was 4907. ██████████ examined Government Exhibit #9 and testified it was a Thompson submachine gun and that it bore serial number 4907.

██████████ further testified that he contacted ██████████ to see if he could sell the gun and that ██████████ agreed to try; that ██████████ later called him from New Orleans and that he shipped the gun to ██████████ there, by express, and received a signed receipt.

A letter from the Dallas Office dated January 6, 1934, advised the Bureau that in compliance with instructions contained in Division letter of December 19, 1933, Mr. F. J. BLAKE, Special Agent in Charge, delivered to Detectives ██████████ and ██████████ of the Fort Worth, Texas, Police Department, a .45 caliber Thompson submachine gun, No. 4907.

All b7C

CC 7-6

Atlanta, Georgia

[redacted] testified that he was a traveling salesman; that he was acquainted with [redacted] that he received a Thompson submachine gun from [redacted] that he shipped the gun from Lake Charles, Louisiana, to [redacted] a customer at Fort Worth, Texas, to the firm doing business as Wolf and Klar; that, while he had no record of the serial number of the Thompson Submachine gun which he shipped to [redacted] it was the same gun which he received from [redacted]. [redacted] testified that his records showed that he was in Lake Charles, Louisiana, on February 13, 1933, and testified "it may have been that date that I shipped it".

All b7C

OC 7-6

Fort Worth, Texas

██████████ testified that he was in the sporting goods and firearms business at Fort Worth; that he was acquainted with KATHRYN KELLY, having known her four or five years; that sometime in February (1933), Mrs. KELLY came to him and that he let her have the machine gun which he had obtained from ██████████ from Lake Charles, Louisiana; that he delivered the gun to Mrs. KELLY on February 20, 1933; that she paid him \$250.00 for it; that after looking at the gun, she said she wanted to make sure the "parties at the other end" could use the gun and called someone on the phone, after which she took the gun. He testified that he did not know to whom she made the telephone call and that he did not hear the conversation.

During the trial of GEORGE R. and KATHRYN KELLY, ██████████ testified in substance as previously. He identified KATHRYN KELLY in the courtroom. He also identified GEORGE KELLY in the courtroom, noting a change in the color of his hair. Upon cross-examination, Mr. KLAR denied any prior business transaction with GEORGE KELLY but stated that GEORGE KELLY had been in his place of business on an occasion when KATHRYN KELLY purchased a ring and a watch. He testified that this took place about one month prior to the transaction relative to the machine gun.

It is noted that, as set forth elsewhere in this report, ██████████ Chief Operator, Southwestern Bell Telephone Company, Paradise, Texas, testified concerning a telephone call from WOLF and KLAR, Fort Worth, Texas, to the home of R. G. SHANNON, Paradise, Texas, on February 20, 1933.

All b7C

[REDACTED]
Coleman County,
Coleman, Texas

Testified that he is [REDACTED]

that during the month of July, 1933, he was at T. M. COLEMAN's place near Stratford, Oklahoma; that on July 21, 1933 (which was Friday), GEORGE and KATHRYN KELLY, whom he called CLEO, were there; that GEORGE BATES came to the COLEMAN place that evening in a maroon two door Chevrolet, bearing Indiana license plates; that KELLY said they were going to Oklahoma City and that KELLY and BATES left in a Buick, carrying a suitcase, which had been transferred from the Chevrolet, and which looked like a "fiddle case". He further testified that KATHRYN KELLY also left that evening in a Ford Roadster, that he spent that night with another relative and returned to his grandfather COLEMAN's place the next morning, to find BATES, GEORGE and KATHRYN KELLY still in bed; that at the noonday meal he heard KATHRYN KELLY say that when she got some money, she was going to move her father from one hospital to another; that, to this, GEORGE KELLY said, "We are going to have plenty of money pretty soon. There is going to be a kidnapping in Oklahoma City tonight. There is more than apt to be." [REDACTED] identified the defendant, ALBERT BATES, as the GEORGE BATES to whom he referred before, and, concerning the above quoted conversation, testified that [REDACTED] Mr. and Mrs. COLEMAN, KATHRYN KELLY and GEORGE KELLY were all present when this conversation took place.

During the trial of GEORGE R. KELLY and KATHRYN KELLY, October 9 to 11, 1933, [REDACTED] testified in substance as in the previous trial. He could not, however, recall whether KATHRYN KELLY also left on Friday evening, July 21, 1933, or whether she stayed at the COLEMAN place. He testified that GEORGE KELLY, GEORGE BATES and KATHRYN KELLY were all at the COLEMAN place when he returned the following morning. He repeated his testimony concerning a statement by KATHRYN KELLY to the effect that she would move her father from one hospital to another if she had the money and that GEORGE KELLY said that there was more than apt to be a kidnaping in Oklahoma City that night.

[REDACTED] could not recall whether KATHRYN KELLY was actually present when GEORGE KELLY made this statement. [REDACTED] denied that he heard any statement by KELLY, BATES or KATHRYN KELLY as to where they were going.

All b7C

OC 7-6

It will be noted that in his previous testimony he said they had indicated they were going to Oklahoma City.

Under cross-examination it was brought out that [REDACTED] who was then in jail in Texas in connection with this same case.

b7C