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FREEDOM OF INFORMATION AND PRIVACY ACTS

Subject: Death of William W. Remington

File Number: 70-22845

Part 2 of 2

FEDERAL BUREAU OF INVESTIGATION

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

FD-36

Mr. Tolson
Mr. Boardman
Mr. Nichols
Mr. Belmont
Mr. Harbo
Mr. Mohr
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Sizoo
Mr. Winterrowd
Tele. Room
Miss Holloman
Miss Gandy

AIRTEL

Transmit the following Teletype message to: BUREAU (70-22845)

PHI PHILA. 3/24/55

DIRECTOR

GEORGE JUNIOR MC COY, WAS, ET AL, CGR - MURDER, IFPI. RECORDS USP, LEWISBURG, PA., REFLECT THAT SUBJECT CAGLE WAS RELEASED FROM USP ON 3/23/55 AT EXPIRATION OF HIS FULL TERM SENTENCE TO CUSTODY OF DEPUTY MARSHAL, MDPA, WHO INCARCERATED HIM IN THE DAUPHIN COUNTY JAIL, HARRISBURG, PA.

MC CABE

END
WGH:ERG
70-523
(3-BU;1-PH

Mr. Rosen

70-22845- 102

RECORDED 71

70-22845-102

MAR 25 1955

EX-125

70-22845-102

Per

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Mr. Tolson
Mr. Boardman
Mr. Nichols
Mr. Belmont
Mr. Harbo
Mr. Mohr
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Nease
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

Transmit the following Teletype message to: BUREAU - ENCL. 1 (70-22845)

FBI PHILA. 3/23/55

DIRECTOR

GEORGE JUNIOR McCOY, ET AL, COR - MURDER, IFFI. ENCLOSED IS A COPY OF THE TRANSCRIPT OF ARGUMENTS HEARD U. S. DISTRICT COURT 1/24/55 AND 2/3/55. PARTICULAR REFERENCE IS MADE TO PAGES 48 TO 52, 55, 67, 73 TO 79, 85 TO 86, 94 TO 96, 109 TO 113 CONCERNING THE ALLEGATIONS AGAINST THE BUREAU. IT IS FELT THAT THESE ALLEGATIONS ARE REFUTED ON RECORD.

MC CABE

END
JPP:ERO
70-523

(3-BU;1-PH)

ENCL.

Mr. Rosen

70-22845-

RECORDED-107

MAR 24 1955

70-22845-103

1324

[redacted]

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :

vs. : CRIMINAL NO. 12583.

GEORGE JR. McCOY, ROBERT CARL PARKER, and LEWIS CAGLE, JR. :

BEFORE: Honorable Frederick V. Follmer, United States District Judge, Lewisburg, Pennsylvania, January 24 and February 3, 1955.

APPEARANCES: For the Government:

J. Julius Levy, Esq.
United States Attorney;
Stephen A. Teller, Esq.
Assistant United States Attorney;
Edwin Kosik, Esq.
Assistant United States Attorney
Scranton, Pa.

For the Defendant McCoy:

Charles Bickelspacher, Jr., Esq.
Charles A. Saybist, Esq.
Williamsport, Pa.

For the Defendant Parker:

[illegible], Esq.,
[illegible], Esq.
Scranton, Pa.

For the Defendant Cagle:

William J. Conroy, Esq.,
David J. Conroy, Esq.
Scranton, Pa.

REPORTER: John J. Butler

70-2284

BY THE COURT:

Gentlemen, I think I should state that last week prompted by various motions by counsel for the several defendants requesting information as to the mental status of their clients prior to arraignment and feeling that an impartial determination of this mental competency should be made by the Court in accordance with the provision of Title 18, Paragraph 4244, I arranged for such a psychiatric examination to be made by Dr. Francis J. Tartaglino, Clinical Director of St. Elizabeth's Hospital at Washington, D. C., and Dr. Edward R. Janjigian, the Chief of the Neuropsychiatric Section of the VA Hospital at Wilkes-Barre. This examination was made, I believe, on Friday, either late Friday or Saturday morning, probably both times, and I have before me their report which reads as follows:

"In connection with your request...[illegible] to me, of course, "....--we, the undersigned psychiatrists did examine the following prisoners--

BY MR. BIDELSPACHER:

Your Honor, I don't want to be in position of objecting, but in behalf of McCoy I wish it noted of record here that I knew nothing about this examination [illegible]

BY THE COURT:

Let me say, Mr. Bidelspacher, nobody knew anything about [illegible] me--I made counsel for the defendants. I did notify [illegible] United States Attorney because the costs would have to be [illegible] by the Government. It was necessary that the proper vouchers for the payment of this money be made by the Government. I acted in accordance with this clause:

"...Upon such a motion or upon a similar motion in behalf of the accused, or upon its own motion, the

court shall cause the accused, whether or not previously admitted to bail, to be examined as to his mental condition by at least one qualified psychiatrist, who shall report to the court..."

I did it purely on my own initiative because I thought there should be an independent, unbiased, impartial determination made of these defendants, and I don't know where I could have gotten two more highly qualified men than these two doctors.

BY MR. SIEGELSPACHER:

In behalf of McCoy, I wish to state immediately my objection on the record here to this procedure. I was appointed to represent McCoy. If he was going to be examined, I should have been notified as well as the United States Attorney of that examination. I want that on the record so that this man's right is preserved. I also move for a recess until I can go over that statute and make a determination. As I recall it, one of those statutes provides for a report in confidence. And I further want to object until counsel has had an opportunity to study the statute to the reading of this report in Court.

BY MR. GARVEY:

On behalf of the defendant Cagle, I also object to the reading of this in open Court until we have had an opportunity to read it ourselves. We had made arrangements also to have a psychiatrist examine him on our behalf. We had no notification [illegible] the Court and we object to [illegible] move at all on the [illegible]

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BY MR. KEIM:

Counsel representing the defendant Parker [illegible] a similar objection based on the fact that no expectation has been given [illegible]

time did counsel representing Parker make any formal request for such an inquiry.

BY MR. BIDELSPACHER:

I would like to add this. We have endeavored to find out the facts of this situation. We have made requests from the custodian of these records at the Penitentiary. We were denied the right to go over those records. We made a formal request of the United States Attorney. He said he is not responsible to make those psychiatric or medical or social records available to us. We are put in a position by the Government of having to evaluate a thing without the facts before us, and we have a motion pending right here and now to go over those records.

BY MR. LEVY:

I desire to answer Mr. Bidelspacher's statement as to the requests that were made upon the United States Attorney.

You mean you made a request upon the United States Attorney?

BY MR. BIDELSPACHER:

I made a request upon the United States Attorney, yes.

BY MR. LEVY:

We were here a little better than a month ago. From that day until last Friday there was not a single request or [illegible] communication from Mr. Bidelspacher to the United States [illegible] to his office for anything, and last Friday we received [illegible] the telephone from the Clerk of this Court the [illegible] affidavit in support of the motion by the defendant McCoy for a stay of arraignment and for an inspection of the social and psychiatric records of George St. McCoy kept in the United States [illegible]

Now, if the Court please, in that affidavit, which I received Sunday--that is yesterday--from counsel for McCoy, there was this statement made: That they had communicated with the United States Attorney about allowing counsel to inspect said records, and they say, "...nor had the said United States attorney himself inspected said records...," which is correct. The United States Attorney has no control over records that are in the prison. But they then go on to say, "...that request and demand is hereby made on...United States attorney... to make or cause to be made, said records available to the undersigned counsel for Defendant McCoy for the purposes aforementioned and to this end..." this affidavit is made.

If the Court please, the very first time since the demand was made on us for this particular defendant's psychiatric record was made on me through the Clerk's office on Friday, and on Sunday, yesterday, I received the written affidavit in which affidavit this request was made.

Now I will say this, if the Court please, in reference to that: If there is such a psychiatric report--and I don't know that there is--but if there is such a psychiatric report, it does seem to me that the defendant and his counsel are entitled to see it and to see it fully. But I want it distinctly understood that while I give that as my legal opinion because I believe that any man who is examined by a physician, while that becomes a confidential communication, can not be withheld from [illegible] himself, which has been [illegible] apparently if there [illegible] report. Yet I can not make a demand upon the warden or upon anybody in the Penitentiary to turn over the records of that Penitentiary to counsel or the defendants themselves. Now with that statement, as I said before, if there is such a [illegible] proper application

that application would have to be to the Court--the Court might order--and certainly with the consent of the United States Attorney--might order the turning over of that report, if there is such a report, to counsel.

BY MR. BIDELSPACHER:

Very well. Just to determine whether the United States Attorney means what he says, let's stipulate right here and now for an order so that I will no longer be denied these records of George Jr. McCoy--

BY THE COURT:

Just a minute! What records are you speaking of?

BY MR. BIDELSPACHER:

That was my next sentence. I was going to describe for the purpose of identification the records that I want to see.

The records contained in the United States Penitentiary entitled "Case of George Jr. McCoy" contained in a brown manilla folder. Within that brown manilla folder the papers are in two parts. The one set of papers has a brown front page, front piece, and those papers are attached underneath to that brown front piece. The second group of papers have a front piece of white paper and attached thereto is a series of sheets of paper of various colors attached to that white front piece.

I want to go over and have opportunity to study, copy by photostat, or microfilm, the papers in both of those [illegible] and I would like the opportunity to do that right away so that there is no removal of any of the papers from those particular folders of papers I have described.

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BY THE COURT:

You want the complete institutional record of your

BY MR. LEVY:

I haven't agreed to any such thing. I agreed to turn over the psychiatric reports if there were any—

BY MR. EIDELSPACHER:

I have been informed by the Warden that intertwined among these papers are medical, intelligence, psychiatric, etc., papers in the folder through there and it is impossible to segregate them. Now I want them all. I am not asking for anything unreasonable except that man's history while he has been at the institution, and I am informed that each and every one of those papers containing what I have described was compiled since the man was committed to the institution about two years ago, and that is not an unreasonable thing to look at that history.

Now either I am going to be permitted to find out the facts in this case, or I am not, and the facts in this case and what this man is, what his position is out there, what his intelligence is, is set forth in those papers; and I am either going to be permitted to defend this man knowingly, or I am going to be permitted to find out the facts promptly, or I am going to get out. It is as simple as that. And I want those records and there is no reason why I shouldn't have them.

BY THE COURT:

Just don't be too sure of that. You are entitled to everything the law will give you on this. I don't like any [illegible] as that. There [illegible] one who more wants to see [illegible] defendants get a fair trial than [illegible] Court—

BY MR. EIDELSPACHER:

Then the United States Attorney or Warden at the penitentiary—

I would like it in accordance with the law--

BY MR. BIDELSPACHER:

The United States Attorney has broken in while Your Honor was talking, while Your Honor was speaking. I would like to have him instructed when Your Honor is speaking he is not to break in. I can't answer him when he is talking himself--

BY MR. LEVY:

As I said before, there is a legal and orderly way to proceed here and if Mr. Bidelspacher doesn't know it, I will suggest that he turn to--

BY MR. BIDELSPACHER:

I don't need to learn my law from any--

BY THE COURT:

Gentlemen, let's start--pardon me? I am talking. I would like to set down a few rules and regulations here and let's try to abide by them. This is not a magistrate's court; this is not a police court; this is a case in which life or death of these three defendants is concerned; we think it calls for decorum and to conduct ourselves in conformity with that. I am hearing Mr. Levy.

BY MR. BIDELSPACHER:

The matter that I objected to was the remark I didn't know the law. I think my attorney is entitled to get up and [illegible] that--

[illegible] COURT:

I have had that something said to the Court. It never disturbed me too much.

BY MR. LEVI:

Title 18, Section 4244 distinctly lays down the procedure which counsel for the defendant, the United States Attorney and even the Court on its own motion may pursue to meet the question which he raises, and that is the question of prior to trial whether the man is competent to come in before the Court to enter his plea or defend his case.

Mr. Bidelspacher apparently has not seen fit to come in. The United States Attorney knows no reason in the world why this man is not perfectly mentally competent to come in and enter his plea and defend his case. The Court apparently on it own motion because of the papers that were filed here by Mr. McCoy, has directed that an examination be made of the defendants, and there is nothing in that particular section— as a matter of fact, the section provides that it is the Court's action and not anything that they could have done. They couldn't have come in and asked. They have a perfect right to have psychiatrists and the psychiatrists go in and examine their man and raise the defense of insanity. But in the first instance, if the Court please, it is the Court's business. I say that the Court has undertaken that business to see if these men are competent to appear in Court and enter their pleas.

So that statement I want to say that there isn't a solitary thing, unless it becomes oppressive to the Government—unless it jeopardizes the interest of the Government or we feel it is a fishing expedition, that the United States Attorney, where it is within his power to do so, will not consent to doing it because, as the Court has said, this is a very serious matter. I am not seeking—the United States Attorney has said—the United States Attorney is a

quasi judicial officer and it is as much his duty to see no innocent man is convicted as it is to see that no guilty man escapes. And under that rule of the United States Supreme Court and being entirely fair and honest with these people, I will say to each and every one of them that that which the United States Attorney feels is not oppressive, not jeopardize the interest of the United States Government, is not part of a fishing expedition and which is within the power and control of the United States Attorney, I shall see that it shall be furnished. But those things which will prejudice and jeopardize the interest of the Government, certainly I am not required to turn over. And those things that are not within my power and those things in other administrative agencies, that I will not and can not turn over.

BY MR. KELLY:

If the Court please, for the purpose of emphasis I want once again--I want to state on the record that no formal request is made to the Court for the appointment of any sort of sanity commission and that the defense of the defendant Parker is not in any way dependent upon a sanity commission of inquiry.

BY MR. GARVEY:

I would like to move for a recess at this time in order to examine the psychiatric records or records of psychiatric examination on Friday because I object strenuously to the [illegible] these reports until such time as counsel for the [illegible] have had an opportunity to examine the records.

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BY THE COURT:

I think that is entirely in order.

I thought at the time of doing that that I could probably [illegible]

of law in my file. This is a matter before the Court, obviously on preliminary matters and it seems to me so perfectly clear the Court had a definite function to perform here. I felt I was acting in conformity with the statute. I have the report before me. Of course, I expect to give it to you. I thought by getting it--I didn't think it was the kind of report that should be handled in chambers.

BY MR. MYERS:

Before we take a recess, on behalf of the defendant Parker we want to make it clear that on January 6 we made a request upon the United States Attorney for the complete prison files of all defendants including but not limited to physical, medical, mental and psychiatric reports contained in such--

BY THE COURT:

I am pretty clear on that right now. Gentlemen, you are certainly not entitled to that. Let me say this: I have had two conferences with Warden Wilkinson. In both conversations he has assured me that he has gone through these records and there are no formal psychiatric reports in the records. The fact of the matter is as late as this morning he called me and said as a matter of super-precaution on his part he made a further detailed examination of every single file and there is a matter relating only as to the defendant Parker, which Parker's counsel may want to discuss with the United States Attorney. It was [illegible] I understand, a report from the infirmary having to [illegible] and internment there because of [illegible]--I don't know, [illegible], or whatever it may have been. That is the only thing that the Warden gave me that this morning, as I say, as a matter of super additional precaution.

Now then, it seems to me that we are only wasting time

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in making a formal request of the United States Attorney to turn over that complete file. It is my considered opinion he has no right to stipulate to that. I will go one step further. As I see the law now, he would have no right to stipulate to that. The very most, it seems to me, he could do is take these files and go over them and anything which had to do with a psychiatric examination of any one of these three defendants, probably that might be turned over. But it seems to me that is the absolute maximum. Certainly the United States Attorney would have no right to stipulate that the files of the institution should be turned over bodily for investigation. And that has nothing to do with giving--either the willingness to give or refuse counsel for the defendants any information which they are legally entitled. That is the way I look at it now.

BY MR. MATTES:

May it please Your Honor, this case is peculiar in that the defendants have been under the control of the United States for varying lengths of time; the United States has the entire background of these defendants--

BY THE COURT:

Maybe--

BY MR. MATTES:

[redacted] not prepare a case without [redacted]

BY THE COURT:

Maybe you are referring to the motion--I don't know if you are referring to the motion--for a list of all the prisoners that have been discharged--

BY MR. MATTES:

[redacted]

Who are we trying in the Bureau of Prisons, or the Attorney General? We are trying three defendants. Suppose every single man who there was armed in some way or other, what has that got to do with motive, intent, the act of these three defendants charged as they are in this indictment?

BY MR. MATTES:

It has quite a bit to do with it.

BY THE COURT:

In my opinion it hasn't. I don't hesitate to say to you very boldly that request should be refused—will be refused.

BY MR. MATTES:

What does the Government have with a split personality—that the United States Attorney is one group and the Prison Bureau under the same administrative head have nothing to do—

BY THE COURT:

Mr. Myers, we will not engage in any psychological discussion on how to run an institution. I don't know how to run an institution. Whether it is run properly or not, it is not for me to say. If Congress doesn't like the way that institution is run, of course they can take action. I don't think it has any place in the courts.

BY MR. MATTES:

[illegible] trying to get at. At this stage [illegible] Attorney is washing his hands [illegible] I have [illegible]

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BY THE COURT:

I don't so understand his action. The United States Attorney has said very frankly if there is any psychiatric [illegible] he feels that counsel for that defendant is entitled

to them, and I am sure he will not interpose any objection. The fact of the matter is if he wouldn't turn them over, I would certainly see that they were turned over.

BY MR. BIDELSPACHER:

I have been informed by the Warden, Your Honor, that the defendant McCoy was given an intelligence test and that that intelligence test, according to what the Warden told me, listed or rated McCoy's intelligence at 62. If that be correct and the psychiatric work and men that I have consulted is correct, that puts McCoy well in the middle limit or the lower limit of a moron.

Now certainly, I am entitled to those records to evaluate whether there was a mind capable of forming malice, and I think that Your Honor unknowingly has put defense counsel at a terrible disadvantage in this case when on the one hand we are called upon to defend a man like McCoy and these other defendants and yet every effort we make to see those records is blocked and it is even blocked very courteously and quickly so that the United States Attorney can stand here in open Court today and say, "I am here to protect the rights of individuals as well as the Government" on the one hand, and on the other hand we are denied the right to look at those records. And then one thing or another—I don't know—three or four days ago from Your Honor—we still denied the right to look at these records to find out what there is in there about my man's mental capacity and Your Honor knows that I am seeking that information; it is in my motions; it is in my filed affidavits; it is every place— and I got a letter from Your Honor last week stating that Your Honor has decided in the interest of justice my client will be here today for an arraignment. Your Honor, I am still denied the right to look at those records and go over them. On the one hand

I am called upon to make a defense; on the other hand every avenue of inquiry is barred to me. I am not even told that my man is being examined by two psychiatrists while the United States Attorney was--

BY THE COURT:

Only for the purpose--he was not present--only for the purpose of making the payment.

BY MR. BIDELSPACHER:

You were informed by the Warden there was nothing in my man's, McCoy's, files about his mental record. I was informed by that same Warden in the presence of my colleague, Mr. Seybist, of this intelligence test given by the prison authorities and the result of it. Now, one way or another, it doesn't square up--

BY THE COURT:

Are you talking about a formal psychiatric report, or probably a school teacher's report? I don't know. I am only asking.

BY MR. BIDELSPACHER:

Your Honor, that is the very point. I have been denied the right to look at those records to find out. All I know is I was informed by Warden Wilkinson that my man was given--his intelligence quotient was determined at the prison and that the result of that determination [illegible] their records for an intelligent quotient of 82. Now certainly, I am entitled to go over those matters before I can intelligently advise my client as to what kind of plea to make.

BY THE COURT:

I don't think--Mr. Levy, do you know of any such records [illegible]

you know whether or not--I don't know what it would be worth--but is there some sort of report from the head of the educational department who felt that they evaluated this man's mentality as so much?

BY MR. LEVY:

I know nothing about it. I haven't checked or probed into any matters of the Penitentiary. I have not done it. If the Court please, so that the Court may know that this is not my own theory of this thing and that it isn't not only in the Middle District of Pennsylvania but all over the United States, I want to read to the Court that "Intragovernmental reports, records, summaries, memoranda, and worksheets--

BY MR. BIEDELSPACHER:

I object to the reading of that. Your Honor asked the United States Attorney a specific question and he is not answering--

BY MR. LEVY:

I am answering the specific matter--

BY MR. BIEDELSPACHER:

The Court asked you whether the McCoy file contains a certain thing and you haven't answered, and you won't find it in what you are reading.

BY THE COURT:

I suggest we go ahead until our recess. During the [illegible] I suggest that the United States Attorney contact the [illegible] and if there is such a report, let me see it.

BY MR. BIEDELSPACHER:

May I make this suggestion? The Warden is here some-place. Let's put him on the stand and I will prove what I have just charged here--that he told me that there was. I would [illegible]

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BY MR. LEVY:

I object to any examination of anybody in these proceedings. There are two motions here. One is a motion for quashing the indictment, dismissing the indictment, and the other are motions for the inspection of Grand Jury minutes and other matters. And I submit that none of it calls for an investigation or an examination of any witnesses whatsoever. And, so far as the Government is concerned, I think it would prejudice the interest of the Government to put any witness on the stand at this time.

BY MR. BIDELSPACHER:

Of course there is a motion pending right here that I filed, a motion by defendant to stay arraignment and for an inspection of the social and psychiatric records in the United States Penitentiary pertaining to the defendant McCoy. This is filed of record. Now, Your Honor, I have stated to you as an attorney there is a motion that I filed January 14, 1955 in behalf of McCoy--

BY THE COURT:

All right.

BY MR. BIDELSPACHER:

Now there is no question about that but that there is before the Court an application duly filed on January 14, 1955 for an inspection of those records. Now I have stated as an officer of record that the Warden has told me about this intelligence test and the results thereof indicated an intelligence quotient of 62, which would put him in the moron class. Now that I state is what the Warden has stated to me, and I can produce a witness here that will back me up on it if that is necessary, although it is about the first time my word has been called [illegible]

Your Honor asked the United States Attorney. He doesn't know what is in it because he hasn't looked at it. I would suggest, therefore, if there is any doubt or if it is going to be controverted--what I told the Court--that the Warden be put on that stand and I will prove what I said here.

BY MR. LEVY:

There is nothing before the Court.

BY MR. HIDELSPACHER:

There is a motion here for those very records filed on January 14, 1955.

BY MR. LEVY:

There is a motion here for those very records filed on January 15, 1955, and there is objection filed by the United States Attorney not upon the grounds that you are not entitled to it but upon the grounds that you are proceeding clearly in error. You have a right after the arraignment and before the trial--you have a right under Rule 16, you have a right under Rule 17(c) or (e) to come in with motions to get anything that they may desire and that they may be entitled to, and then we will answer it and if the Court decides against us at that time, all well and good. But these defendants haven't been arraigned. I don't know whether this case is going to survive. Nobody knows until after the argument on the motion to dismiss the indictment as to whether or not there is going to be a case. If this Court [illegible] the motion to dismiss the indictment, why that would [illegible] end of it except the United States Attorney would have to go out and reindict. This is no stage of the proceedings in which to bring up this kind of question.

BY MR. [illegible]:

I think there is one more factor that should be con-

sidered here. These defendants are going to be brought up very shortly--assuming the arraignment is very shortly--to answer the most important question that has ever been asked of them in all their lives. Now we come as Court-appointed counsel in an entirely different light with these men than the ordinary client. In most cases the client seeks out the attorney. It is to his interest to reveal everything to his attorney. In our case we come as Court-appointed counsel. Very frankly we are dealing with a boy who has been in federal penitentiary, or a part of it, since he was fourteen. Now you can imagine the suspicion and indignation in giving a full disclosure that that boy has than the usual. For that reason we have sort of an additional role. We are just coming as Court-appointed counsel. We have to be in a position to appraise the matter--what he says, what is true and what is not true--after proper consideration so that we can represent him as well as we can. For that reason it is only proper to at least give us as much background on the boy as the United States Attorney has so that we as attorneys can do the best possible job.

BY THE COURT:

Aren't you addressing your remarks to matters of proof at the trial?

BY MR. CONROY:

No, the arraignment.

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BY THE COURT:

Isn't it a fact regardless of arraignment--suppose he stands mute and the Court directs a "Not Guilty" plea be entered by the Clerk--whether he stands mute or whether he comes up and pleads "Not Guilty," that does not preclude him from a defense of insanity at the trial.

BY MR. CONROY:

just alone about the boy's psychiatric condition.

BY THE COURT:

It seems to me you are directing your remarks toward the trial, not the arraignment. I thought I was streamlining it. Maybe I guessed wrong. I probably should have proceeded with the arguments attacking the indictment, attacking the Grand Jury. That is actually all we are interested in today.

BY MR. CONROY:

My chief purpose in speaking is Mr. Levy said our request is in the nature of a fishing expedition. They are not fishing expeditions if they go to seek justice--

BY THE COURT:

Don't you think it would help matters if we would proceed? I will hear you all on what you have to say about the inadequacy of the indictment, the inadequacy of the Grand Jury, and then during the recess I think we can clarify these other matters.

Let me say when writing to counsel on the feasibility or probability of arraignment today I only had in mind--I wasn't prejudging the case. Don't forget I have had practically ten days from the time these motions came in. There has not been much done but study of these motions. At this time I think I have a fair grasp of the law and if that is the case, as I indicated at the start of the hearing, it certainly is not the kind of a case that should be rushed; by the same token, it certainly is not the kind of case that should be dragged out. I think it should proceed, as I indicated before, with all the decorum in the world. It is a very, very serious case.

BY MR. CONROY:

We are in agreement with all the things you said.

BY THE COURT:

[illegible] we had any agreement

Let's proceed with your argument. We will take them as the defendants' names appear in the indictment. Let me hear from counsel for the defendant Parker.

BY MR. MYERS:

May I preliminarily point out that Mr. Levy, representing the United States Attorney, has questioned the timeliness of such a request by defense counsel. I think it goes without saying with an offense of this serious nature, the most serious one under the Federal Statute, the timeliness of that request for the purpose of edification and education and assistance of defense counsel in a preparation should never be questioned. Notwithstanding that, I think Mr. Levy is in error in the law about that particular point--

BY THE COURT:

What are you addressing yourself to now?

BY MR. MYERS:

I am addressing myself now to the comment of the United States Attorney.

BY THE COURT:

We are only hearing your motion attacking the indictment and the arraignment now.

BY MR. MYERS:

All right, Your Honor. 70-82845-143

Your Honor, our first objection from point of oral [illegible] is Objection No. 4 of the defense counsel's, Parker's, [illegible] which I now submit to the Court. The specific objection is captioned: "The Grand Jury Was Not Summoned In Accordance With Law." If Your Honor please, there is a two-fold implication and ramification of that particular objection. The first is the [illegible] that the Grand Jury was summoned improperly in that

it was drawn only from a section of the District; and the result is that if the Grand Jury was to be summoned only from a section of the district, it necessarily had to include jurors from Union County.

Now if I may just say, Your Honor, I am very familiar with the established line of authority suggesting and indicating that it is proper for a Grand Jury to be drawn from a parcel of the district. However, I would like to point out that in United States v. Standard Oil Company, 170 F. 966, in which section substantially the greatest number of the Grand Jury panel was drawn from outside the city of Chicago--

BY THE COURT:

Is that a Grand Jury or Petit Jury?

BY MR. MYER:

That is a Petit Jury. But the sphere of the language would the same. As a matter of fact, I think, Your Honor, if I may suggest, if the language suggested in the Standard Oil Company case is to be considered as applying to a Petit Jury, it would a fortiori apply to a Grand Jury whose function is so much greater than that of a Petit Jury, one of inquisition on its own, investigation and inquiry--

BY THE COURT:

The Grand Jury is not passing on the guilt or innocence. I can see every reason in the world this statute provides a [illegible] offense committed on a Government reservation must be [illegible] the county in which the offense occurred. That is very different from a Grand Jury.

BY MR. MYERS:

I would enter a disagreement of defense counsel on this particular point. I think if we look at the historical foundation [illegible] particularly the Grand Jury--

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call Your Honor's attention to a reference in [redacted] particular brief--from the Assize of Clarendon in 1166, in which the framework of this entire structure was determined and established and founded, and the function of a Grand Jury I submit, Your Honor, is one of assembling all the facts appropriate to determine whether the suspicion leveled by any prosecuting party is justified. The function of a Petit Jury is to sit and hear all the evidence with an aim much greater than the Petit Jury--rather, than the Grand Jury which must take a composite of the entire picture, assemble it and determine if there is sufficient evidence to proceed--

BY THE COURT:

What becomes of the argument on a change of venue of the trial of the case where the defendant might not get a fair trial from the state of the public mind?

BY MR. MYERS:

There are two conflicting theories. There is, one, the absolute requirement in capital offenses it be tried in the county in which the offense was committed. Again I point out a change of venue comes into conflict with that--

BY THE COURT:

The statute gives the Court under circumstances which the Court deems advisable to move it out of the county.

BY MR. MYERS:

It may on motion of defense counsel. Accordingly, the absolute requirement of trying an offense in the county in which the offense was committed may be dispelled when necessary for the protection of hysteria or some other objection is raised. But, Your Honor, I am pointing out--I think this underlies the entire argument of each and every one of defense counsel in this proceeding--this is a capital offense, [illegible]

the Court may consider ordinary--objections should be considered and reflected upon before the Court says: "Well, the law normally suggests such and such; therefore, we can extend it here." There are peculiar statutes and rules of criminal procedure applicable to this particular proceeding and we think the entire intent of these statutes and rules of criminal procedure is to safeguard under all extraordinary measures the rights afforded to the defendant.

Now the language of the Standard Oil Company case--and that is adequate why a jury was drawn from outside the city of Chicago--I think it was a matter of--I think approximately two-thirds of the jurors came from Cook County. And, incidentally, from a point of figures, I may say that approximately 37% of the Grand Jurors came from the area in which the Grand Jury panel was assembled. I believe it was nine counties out of thirty-two. And I just call Your Honor's attention that there might be reasons why the court ought to, and of course could, direct that the jurors be drawn from those parts of the district outside of Chicago. In a proper case I do not think there would be any question but what the court has that power, but it is not an arbitrary power. There has to be some reason for it even in discretionary matters. There has to be some reason in this proceeding why the Grand Jury convened at Scranton. There was available the Grand Jury convened in the Williamsport-Lewisburg division summoned by Order of Court dated May 12, 1954. I submit it was just as convenient for the Grand Jury to have been assembled in the Lewisburg or Williamsport area as it was in the Scranton area--

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BY THE COURT:

And let me ask you this: Now it is highly likely that if [illegible]

there was over 100 miles away? I mean entirely aside from legal implications. It seems to me that was in all fairness to your client.

BY MR. MYERS:

That there may be prejudice in this case or in any proceeding on account of the Grand Jury convening in the county in which it meets, I don't particularly wish to opine on. But I do want to say if any prejudice exists in assembling a Grand Jury, then certainly that prejudice is going to exist to a much greater extent in the trial of a case. And accepting the suggestion of Your Honor that if a Grand Jury was taken out of here for the purpose of avoiding prejudice, the trial of the case itself, which is something we are not now urging--but it would seem the same prejudice would certainly carry over in the trial of the case.

Now, Your Honor, I would like to call Your Honor's attention to In re Petition for Special Grand Jury, 50 F. 2d 973. I would like to read this language to you.

"While a Grand Jury may be selected from a particular section of the District such method of selection should not be empowered unless found necessary; such method of selection has never been used in this District, and it might result in a prejudiced Grand Jury and an unfair investigation, and create an unwise precedent. Your Honor, in a decision [illegible] Middle District of Pennsylvania, the decision was rendered by Judge Johnson and Watson. Now if I may anticipate what the answer of the United States Attorney will be to that, I will say that in 1933 there was a formal order entered by the Circuit Court of Appeals permitting such a practice of parceling off a district. However, upon petition to that by federal statute there existed such an [illegible] the language of Judge John-

offense was committed and, therefore, if the trial must take place in the county in which the offense was committed, the Grand Jury proceeding must take place in that county--

BY THE COURT:

Have you got any law on that?

BY MR. MYERS:

I call Your Honor's attention to United States v. The Insurgents of Pennsylvania, 3 Dallas 513--

BY THE COURT:

What page is that?

BY MR. MYERS:

That is on Point 4, Subdivision (b), the second page.

BY THE COURT:

What are you talking from now?

BY MR. MYERS:

The United States v. Insurgents of Pennsylvania, 3 Dallas 513.

Your Honor might take note that that case was decided in 1799, but there is no case overruling that and, if anything, that particular decision has had an opportunity to mature and mellow--

Note: Page #26 of this transcript apparently was not Microfilmed.

BY THE COURT:

That has to do with the trial.

BY MR. MYERS: 70-22 Supp.

Your Honor, what that has to do with -- we will call the attention of the court to the attention of the Court -- the language of that case--and if I may just verify the facts--in that particular case a treason occurred in Northampton County, which was considered a capital offense then as it is now and would have the same application under all the laws applicable in capital [illegible] under the case between of great im-

convenience, namely, the susceptibility of the neighborhood to incite the townspeople, was removed from Northampton County and the Grand Jury convened in another county; then at the time the trial was to take place defense counsel moved that, although the Grand Jury convened in another county, the offense should go back to the original county. And the Court said:

> "And 2d....for as 'the indictment ought to be considered as inseparably incident to the trial, and in truth a part of it'..., can the trial be commenced here, and be terminated elsewhere?"

And the ruling of the court was no, it can not, that a step had been made, the Grand Jury had convened in a county outside where the offense had been committed, therefore the trial must take place there. But there was a reason for the Grand Jury convening outside the county in which the offense was committed. There was great inconvenience, there were rebellious activities going on, and it couldn't possibly take place.

In the instant case there was no inconvenience. If anything, there was great convenience for the Grand Jury to assemble here.

So, Your Honor, we submit that if the Grand Jury is inseparably incident to the trial under the language of the Insurgents case which has never been overruled, it certainly appears to be very well established at law today, the Grand Jury met in Scranton, the trial must take place in Scranton, Lackawanna County. But the trial of this case can not take place in Lackawanna County because there has been no great inconvenience shown. Therefore, the trial must take place in Union County and the Grand Jury proceeding must have considered jurors from Union County.

So, Your Honor, on the particular point of the Grand

situation parceling off a district is something that is to be rarely considered and very rarely applied, which I suggest in capital offenses should never be considered. And in support of that I call the Court's attention to the language of the Middle District of Pennsylvania, Judges Johnson and Watson's opinion. And second, I say that the Grand Jury being inseparably incident to the trial, the Grand Jury must have convened in Union County and since it convened in Lackawanna County, the trial would take place there. But the trial can not take place there and the Grand Jury properly should have been assembled here where the trial would normally take place.

Now, Your Honor, I would like to say that any and all arguments of any and all defense counsel are joined in agreeably with the other defense counsel. We have, of necessity, divided some of this work for the purpose of no over-duplication and for the purpose of your convenience in reading the brief. It is not to be considered in any way an abandonment because certain matters raised as objections are not dwelt upon by each and every one of defense counsel, but any objections raised by any defense counsel unless he declares otherwise is to be considered the objections of all defense counsel.

BY THE COURT:

I want to say to you, Mr. Myers, the part that was assigned to you has been beautifully performed. I must compliment you. That is a very splendid brief and it gives every 22845 of deep research and a lot of thought. It is a great satisfaction to the Court--you have in filling these assignments that unfortunately under the federal system indigent defendants must be supplied counsel without compensation and even at their own travel expense and so on--to find that defendants are so ably represented as these three defendants are by you six [illegible] is the way I

feel about it.

BY MR. MYERS:

There is another point I am going to develop. I would appreciate a rest at this time. I will call on Mr. Mattes at this particular point.

BY MR. MATTES:

If it please the Court, the Sixth Amendment--

BY THE COURT:

What are you addressing yourself to?

BY MR. MATTES:

I am addressing myself to the argument the indictment does not describe the acts--

BY THE COURT:

Not that I want to steal your thunder--have you gone over the Alcatraz case--Shockley? I am only trying to streamline it. That was the case in which they arraigned a prisoner at Alcatraz, tried in the District Court at California, went to the Circuit Court, in which, so far as I can see, the facts are almost a bit parallel with this case and there the indictment was sustained. I am only trying to streamline it. If you are familiar with that--if you aren't, you should see it.

BY MR. MATTES:

That is an Eighth Circuit case. 70-22845 - 103

BY THE COURT:

Is that the only thing that is wrong with it?

BY MR. MATTES:

I would like to go into that shortly.

BY THE COURT:

[illegible] we will be glad to hear

[illegible] for the defendant being acquainted of the nature and cause of the accusation. The Fifth, of course, provides that the method of being so acquainted is by the Grand Jury indictment.

The defendant is not objecting to any certain language that should have been used--language that was used surplusage. All that went out with the old, and with the modern procedure the technical words of art are not necessary so long as the substantive rights of the defendant are not prejudiced.

We are contending, Your Honor, that the indictment was so vague as to prohibit the defendant from preparing for trial for this case. The basis for this is that the murder statute contains many courses of conduct that could constitute murder under it. This defendant could be tried as an aider and abettor, as an actual killer, or under the so-called murder felony theory. And we believe the law is that we have to be informed of the nature and cause to such a degree that we can prepare. These various methods of trying the defendant, these various courses of conduct that could be complained of, under this indictment are scattered throughout the law. In other words, if he is to be tried as the actual wielder of the brick, there would be one section of the law; if he was an aider and abettor, he would be under another section of the law; if he was to be tried under a murder felony theory, he would be under many others because there the actual felony rule comes into play. We submit that the indictment does not inform us of this--

BY [illegible]:

You submit that the indictment does not inform you of what

BY MR. SATZ:

Now is the man charged--

BY THE COURT:

Isn't he charged with murdering another man?

BY MR. MATTES:

And under the murder act there are many courses of conduct--

BY THE COURT:

What do you mean--whether he killed him with an axe, a gun?

BY MR. MATTES:

whether he did the killing, whether he was an aider or abettor, or--

BY THE COURT:

What is the difference? Both go in as principal.

BY MR. MATTES:

Both go in as principal. Preparation for trial will be entirely different. Different sections of the criminal code are involved. The something goes only moreso under the murder felony rule. And we submit, Your Honor, we are entitled to know.

This is no ancient law that we are urging, the Sixth Amendment, and that less than a week ago was quoted by a Federal Court in throwing out an indictment against Owen Lattimore, and although I can not obtain an official report of the case because it is so recent, the court said, as reported again by a newspaper: "That the charges of the indictment would make a sham of the Sixth Amendment." The court said that Mr. Lattimore would have to be informed of the nature and cause of the action against him. An indictment is more than just a formal paper beginning a criminal proceeding.

There is another point, Your Honor, which it is my duty to cover and I would like an opportunity to discuss it with co-counsel to see if he agrees that it should be covered also

points.

BY THE COURT:

My attention has just been called to "Dallas." Where is that?

BY MR. MATTES:

3 Dallas 513. In those days--

BY THE COURT:

We are not dealing here with a situation of returning an indictment in the Western District of Pennsylvania.

BY MR. MATTES:

We are dealing in that particular case with a federal court which was reported under the old reporting system in the state reports.

BY THE COURT:

We will look it over during the lunch hour.

BY MR. MATTES:

I would like to defer discussion on the sufficiency of the evidence before the Grand Jury and I believe Mr. Garvey has some other points.

BY THE COURT:

All right.

BY MR. GARVEY:

May it please the Court, at the inception of the argument I would like to state that what was said by Attorney Myers and Attorney Mattes that counsel here in order to cover the ground and to cover it adequately have joined in the effort and what is said by the one pertains to the other--

BY THE COURT:

What are you addressing yourself to?

Grand jury minutes.

Your Honor, I would like to state in the beginning that the cases are legion wherein it is stated that whether or not the Grand Jury minutes will be inspected is within the discretion of the Court--

BY THE COURT:

When perjury is involved.

BY MR. GARVEY:

And I believe in other instances, too, Your Honor.

BY THE COURT:

Isn't that predicated on a claim that there was no competent evidence? Have you given me any good reason?

BY MR. GARVEY:

Yes, I have in the brief. I don't have the pages numbered, but if you will look at the bottom of Page 3, the case of the United States v. Amazon Industrial Chemical Corporation-- at the bottom of Page 3, the top of Page 4. In that case it gave five reasons why the Grand Jury--the historical reasons for and the extent of the secrecy of the Grand Jury. The first one was: "To prevent the escape of those whose indictment may be contemplated." That certainly does not apply in this case because the men are already incarcerated and were already incarcerated. The second reason is: "To insure the utmost freedom to the grand jury in its deliberations, and to prevent persons subject to indictment or their friends from importuning the grand jurors." That certainly does not apply 70-22845 either because the indictment has already been returned. The third reason is: "To prevent subornation of perjury or tampering with the witnesses who may testify before the grand jury..." That certainly does not apply because the indictment has already been returned. The fourth reason is: "To encourage free and untrammeled disclo-

by persons who have information with respect to the commission of crimes." Again that does not apply because the indictment has been returned. The fifth reason is: "To protect the innocent accused..." That does not apply here, insofar as this reason here, because the indictment again has already been returned--

BY THE COURT:

You are familiar with that opinion of Judge Hand in the Vielon case, 173 F. 501. I understand that has been almost universally followed by the courts.

BY MR. GARVEY:

It is submitted again what was said by Attorney Myers applies in this instance here, that here's a capital case in which all of these defendants should be given every right under the Constitution and under the laws of the United States.

BY THE COURT:

That is true. It seems to me it got to be done on a showing that something was wrong. Just the mere fact that a report--a Grand Jury made an investigation doesn't seem to me to indicate that there is anything wrong with it. Isn't it purely and solely a sort of--rough word--fishing expedition; isn't that about what it is, a fishing expedition?

BY MR. GARVEY:

It is not a fishing expedition for the simple reason that whether or not the inspection of Grand Jury minutes will be allowed is entirely within the discretion of the Court.

There are two reasons; one reason for disclosure, one reason for not disclosing them. Both of these reasons are based upon public policy. One reason is secrecy should prevail for these reasons which are given here. The other is that the defendant should be fully protected in this case.

In this case we believe all of the reasons that were for secrecy do not prevail in this case. Therefore, the compelling motive is to disclose the minutes of the Grand Jury because public policy demands in a case of this kind that the minutes of the Grand Jury be disclosed--

BY THE COURT:

Do you think so?

BY MR. GARVEY:

I believe so, Your Honor.

BY THE COURT:

Have you got any authority there on that?

BY MR. GARVEY:

I have here--and all of these cases that I have cited it is within the discretion of the Court to determine whether or not the Grand Jury minutes should be disclosed. And certainly in this case there are--

BY THE COURT:

The only reason you are giving me is it ought to be opened up and the Court should permit inspection because it is a capital case, no other reason at all. In other words, so far as you know, the proceeding was completely regular, there was not any incompetent evidence, there was not anything wrong with the department of the Government, there was not anything wrong at all except it is a capital case. Do I understand you correctly?

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BY MR. GARVEY:

No, that is not correct because my colleague has taken up this point. There was incompetent evidence before the Grand Jury. It has been alleged in these motions there was incompetent evidence before the Grand Jury--

Suppose there was two days, if there was one day competent, isn't that enough?

BY MR. GARVEY:

We have an argument on that.

BY MR. MATTHS:

Our position is--and we will take it up later--that the indictment was based solely upon incompetent evidence.

BY THE COURT:

Then you say it is your claim there was no competent evidence on which an indictment could be returned.

BY MR. MATTHS:

Correct.

BY MR. BIDELSPACHER:

I was just suggesting that point of no competent evidence before the Grand Jury probably logically should be argued next if Your Honor wants that.

BY THE COURT:

Do you want a recess at this time?

BY MR. GARVEY:

I would like to take one other point and then I will finish my side of the argument, if I may.

BY THE COURT:

You must have had a heavier breakfast than the rest of us. You go ahead.

BY MR. GARVEY:

All right, it is agreeable.

BY THE COURT: 70-22845- 103

Let me suggest this. Would you like to do this? We will adjourn until 2:00 o'clock. Would you like to have an

to do that for one-half hour?

BY MR. BIDELSPACHER:

With whom?

BY THE COURT:

Counsel for the Government, counsel for the defense. In other words, some of the things you were in disagreement this morning, what you had in mind about the warden, Mr. Bidelspacher.

BY MR. BIDELSPACHER:

Yes.

BY THE COURT:

Suppose you do that. I will not be with you. I will meet you at 2:30 o'clock.

(Recess)

(Court resumes at 3:02 P. M. with all defense counsel present)

BY MR. MYERS:

With the permission of the Court, we have here a petition to furnish a transcript and an order affixed thereto asking the Court to order that transcripts of all proceedings in this matter be made available to counsel for the defendants as soon as possible after transcription and the expense of furnishing such transcripts be borne by the United States Government. We would also like to say other defense counsel join in a similar motion.

BY MR. LEVY:

Under the circumstances I suppose we can arraign the prisoners. Can we? Doesn't this presuppose there is going to be a trial somewhere?

BY MR. MYERS:

appreciate being provided for the benefit of defense counsel.

BY THE COURT:

All right, gentlemen. I don't know who is next.

Mr. Bidelspacher.

BY MR. BIDELSPACHER:

May it please Your Honor, pursuant to Your Honor's suggestion that the United States Attorney and defense counsel confer with respect to the production or non-production of the records of the United States Penitentiary, we met--that is, defense counsel and the United States Attorney--met in the law library, and the results of that conference, as I see it, was as follows: Counsel for the defendant McCoy has filed a motion here on January 14, 1955, which we are all familiar with, entitled "Motion By Defendant McCoy To Stay Arraignment And For An Inspection Of The Social And Psychiatric Record Of The U. S. Penitentiary Pertaining To The Defendant McCoy." We reached an understanding with respect to those records as follows: That the United States Attorney would go over those records that I described here in Court this morning and make a determination in his own mind whether any of those records if disclosed would be prejudicial to the United States Government. If he found that some of them would, he would withhold those from us. If he found that none of them would, then he would make those available to me; that it would take him perhaps until sometime next week to go through those records and make that determination in his own mind at which time he would then get together with me and produce for me those that could be available--be made available under those arrangements.

If those all could be made available, I should have them. If I got them all, of course I would have no application to

there were certain records withheld and there was an honest difference of opinion between the United States Attorney and myself with the withholding, we could lay that matter then before the Court for determination at that time.

This was an effort on the part of the United States Attorney and myself to try to cut through this impasse here, and I believe that states it, as I see it, with respect to the defendant McCoy.

BY MR. LEVY:

Yes, I think that is a fair statement, if the Court please. The only thing I could add to it probably is I have told Mr. Bidelspacher that if it is a matter of my getting consent that I would make every effort to get that consent from those who are in charge at the Penitentiary, the Warden and those superior who would consent to it. If on the other hand they don't, I suggested upon his motion to the Court that I don't think that I would enter any strenuous objection to the same.

BY THE COURT:

Thank you very much.

BY MR. LEVY:

So I think the net result of our conference was that we have agreed that he is to see what he has requested here and that the only thing that was to be withheld was that which I thought was prejudicial to the Government, and then that would be ultimately submitted to the Court for decision if they decide to do it that way.

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BY THE COURT:

I am very happy about that, gentlemen, because frankly

I could have all counsel confer together--

BY MR. LEVY:

The only thing I want to say is there are no psychiatric reports on this particular defendant. The social report, which you talked about, and the intelligence quotient, that which is there, is the thing that we will take up--

BY THE COURT:

As I understand it, from what I have seen, nobody is making any false statements. What the Warden said was precisely the case, what Mr. Bidelspacher said was precisely the case. It was not what we generally understand to be a formal psychiatric report, so that at least--

BY MR. LEVY:

I don't think there is a controversy between them. They were talking about two different things. One is a psychiatric report; the other is an intelligence quotient.

BY THE COURT:

That may be so. I am hoping that all of that material may be made available.

BY MR. BAILEY:

If the Court please, for the record I would like to state that we believe that the motion which was made by Attorney Bidelspacher for the psychiatric and social records and an examination of them, that a similar request would be arranged for the defendant Cagle.

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BY MR. LEVY:

I think the United States Attorney had agreed whatever was shown to Mr. Bidelspacher would be shown likewise to the other two counsel for the other two defendants, and that the same rules would govern.

BY THE COURT:

That is right.

BY MR. MYERS:

If the Court please, for the purposes of the record counsel representing the defendant Parker would like to say we are agreeable to such a disposition, but under no circumstances it be considered a waiver prejudicing or precluding any other motion for obtaining information not recognized by the U.S. Attorney.

BY MR. BIDLOPACHER:

Your Honor, in behalf of the defendant McCoy, counsel would like the indictment--moves the indictment be quashed in these proceedings for an additional ground that arose here this morning. Your Honor, under the powers conferred upon him by that statute cited, apparently had the psychiatrists make an examination last Friday of each of the three defendants, including the defendant McCoy. It seems to me that the statute cited authorizes such examination, but the statute prescribes certain very definite substantive rights which we think were not accorded to the defendant McCoy. Specifically we refer to the final sentence of Title 28 U.S.C.A., section 4244--correction--Title 18. I believe that is the statute under which Your Honor proceeded, and it specifically--there is an admonition in the statute in the sentence that I have stated:

> "...such finding shall not be introduced in evidence on that issue nor otherwise be brought to the notice of the jury..."

We feel that the meeting of the doctors, the fact that an examination was held, the fact that the proceedings are continuing, the fact that there were newspaper men present, the fact that this is in the public press was an absolute derogation of the rights guaranteed to the defendant McCoy under the statute.

BY MR. GARVEY:

May it please the Court, counsel for defendant Cagle concur in what was said by Attorney Bidelspacher. We also wish to state that in our opinion we believe that a reading of the particular items which were read were highly prejudicial and deprive the defendant Cagle of any opportunity for a fair trial. We join in the motion that the indictment be quashed.

BY MR. MATTES:

On behalf of the defendant Parker, we make a similar motion for similar reasons.

BY MR. LEVI:

If it please the Court, I did interject just a moment ago to ask whether they presupposed an arraignment. If we are now proceeding to trial and there was some prejudice, I could see why the trial should be either continued or sent to another venue, or something of that kind. There has been nothing done in this case up to now and if this Court decides there is to be no arraignment because their motion to dismiss the indictment is good, why that is the end of it until there appears another indictment.

Let me point out one other thing. Grounds for a motion to quash the indictment is certainly not such grounds as is here set forth now.

BY MR. BIDELSPACHER:

It it please Your Honor, this statute provides the procedure to be followed and it also provides certain safeguards, and it is our position that those safeguards have been totally swept aside and the prospective jurors in the [illegible] 70-2245 - 108
are certaily going to read what occurred in Court here this morning, and we feel strong enough about this matter--we think this matter should be continued on all these motions until we

can file proper written motions on this point because the import is there and that is--they are a matter given to the public--

BY THE COURT:

Of course, that is assuming, Mr. Bidelspacher, that the public not taken en masse, individually reads everything that appears in the paper. Maybe they do; maybe they don't. If that has to do, as I understand it, of course with that report, it would not be proper to admit that at any place at the time of the trial. I had that in mind. I think I am fairly familiar with the provisions of the statute.

Are you through with all your arguments on the other motions?

BY MR. BIDELSPACHER:

On this motion--on this motion that I have just made to dismiss the indictment--are you inquiring whether I want further argument on that?

BY THE COURT:

I am prepared to rule, I think, on probably all the arguments this morning. I felt in deference to counsel--and that goes for all six of you, you have submitted briefs, you have spent a lot of time, the Court has not been idle during this interim and I think we covered the situation as fully as we could and I think I am fully advised and ordinarily would be prepared to rule right now and that is what I anticipated when I wrote those letters. I believe as a courtesy to all of you I should make a more thorough study of your briefs, and that is what I propose doing. While I feel very definitely that this matter of arraignment should not be unduly protracted,

to do with the arraignment and could be pressed at the proper time. And my original--as I have indicated to you, my original thought was to proceed with the arraignment today. However, under all the circumstances, I think probably the fair thing to do is defer the arraignment probably a week, sometime in the next week, at which time I shall hear any further motions.

Would next Monday at the same time be convenient?

BY MR. MYERS:

If the Court please, before Your Honor makes any determination as to the arraignment date, we would like to indicate we have additional arguments which we would like to submit to the Court at this time.

BY THE COURT:

That is what I had in mind a minute ago. I will hear you now if you would like to proceed.

BY MR. MYERS:

With the permission of the Court, Objection No. 5 of defendant, Parker's, motion to dismiss the indictment states: "It Was Improper For A Grand Jury To Return An Indictment While A Criminal Proceeding Was Pending Before A United States Commissioner And Further Improper To Deny Defendant A Hearing Before A United States Commissioner"--

BY THE COURT:

Aren't you familiar with the federal rules that do not require that?

BY MR. MYERS:

We are familiar with the [illegible] well-established rules. However, we would like to say that the reason for requiring a defendant to be brought before a United States Commissioner are [illegible]

BY MR. MYERS:

First, as a binding over process; and second, highly important--and I can imagine nothing more important in this case than--to afford the defendants the right to be advised of their rights in this matter--

BY THE COURT:

What rights--just at that time?

BY MR. MYERS:

At that time, Your Honor, according to Rule 5, the Federal Rules of Criminal Procedure, it provides that a defendant should be brought before a Commissioner without unreasonable delay; further, it demands of the Commissioner

"that the Commissioner is obligated..."--

quoting from the language of the rule itself,

"...to inform the defendant of certain rights including his right to retain counsel, his right to have a preliminary examination, the right to have the defendant advised that he is not required to make a statement and any statement made by him may be used against him."

BY THE COURT:

He hasn't been held in custody because of this. You had no question of being released on bail.

BY MR. MYERS:

That is only Part 1 of the obligation--without unreasonable delay to bring the defendant before a Commissioner. Part 2, which may be or may not be important generally in matters of lesser nature, that he should be advised of his rights.

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Now a capital offense--again I forgot--it goes without question. The third should be that the defendant is provided to the fullest with the safeguards provided by the Constitution and the safeguards further established by the United States

Now, Your Honor, there is—this particular argument leads into Argument No. 6 of the defendant, Parker's, motion which goes to the insufficiency of the evidence. But before we leave this, Your Honor, I would just like to call to your attention United States v. Wetmore, 218 F. 227, Western District of Pennsylvania, which said:

> "The right of a defendant to a preliminary hearing before a magistrate or commissioner, to be informed of the nature of the charge against him, to be confronted with his accuser, and to meet the witnesses against him face to face—these are high prerogatives of the citizen, established by immemorial usage and precedent in the interest of individual freedom; and they should only be departed from in those exceptional or extraordinary cases where the public interest, always paramount, would seem to justify it or demand it."

We say the public interest demands that these defendants be afforded all the safeguards that the laws—or rather the Constitution of the United States afford them.

In accordance with that particular sentiment is a decision in United States v. Jenks, 258 F. 763, which says:

> "The attitude of the Court for this District is in harmony with that outlined by Judge Thomson for the Western District in the case of United States v. Wetmore, 218 F. 227...."

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Now our objection is in the alternative. The particular factual situation of this case was that a complaint was sworn out before the United States Commissioner. Immediately succeeding that a warrant for their arrest was sworn out; that is in regards to the defendants Parker and Taylor. That was on November the

1954. The indictment was returned on December 1, 1954. An entire week elapsed before any judicial proceeding of any nature was had. We submit that is not what is contemplated by the Act when it says "should be taken without unreasonable delay." We further submit at no time prior to this was any of the defendants properly advised of their constitutional safeguards. So we say that the proceedings in itself was improper; and second, by reason of the first two of this—we say that the evidence which was subsequently adduced was incompetent as a result of failure to appear before a United States Commissioner.

BY MR. MATTOX:

If it please the Court, in regard to the point raised by the defendants that the evidence was based solely upon incompetent evidence, the test of evidence before a Grand Jury is the same test that must be met by all judicial evidence everywhere. In this particular case the defendants charge that the evidence used to indict Parker was hearsay and also a statement taken by duress and coercion—

BY THE COURT:

Now upon what do you predicate that last statement?

BY MR. MATTOX:

The last statement we would like to predicate on an affidavit from the defendant Parker. However, the defendant being in a federal penitentiary, the taking of an affidavit is impossible due to the fact, as we [illegible] that a state Notary Public has no jurisdiction to act out there, and also some Bureau of Prison regulation prohibits the Warden from taking the oath in regard to an affidavit. However, we have the statement of the defendant Parker—

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BY THE COURT:

[illegible]

BY MR. MATTES:

Yes sir.

BY THE COURT:

Specifically what?

BY MR. MATTES:

Specifically that the defendant Parker upon his declination to give a statement was kept in separate solitary and disciplinary confinement, commonly referred to as the "hole." He was kept there for a period of time which is impossible to determine due to the fact one of the niceties of the "hole" is lights being on twenty-four hours a day and it being impossible to distinguish between day and night. He has no idea how long he was there. Further, in respect to this confinement--

BY THE COURT:

Wait a minute! That confinement you are charging the FBI with?

BY MR. MATTES:

We are charging the powers that be. We don't know who did it.

BY THE COURT:

Then do I understand you are complaining, I assume, that the confession was taken by the FBI"

BY MR. MATTES:

We don't know.

BY THE COURT:

That was taken under custody?

BY MR. MATTES:

Yes sir.

BY THE COURT:

Obviously, the FBI would have no jurisdiction--I don't [illegible] the hole, the [illegible]

or the tower; would they?

BY MR. MATTES:

Your Honor, it makes no difference who put him in the "hole." The fact remains that he was there--

BY THE COURT:

Your charge is because they were in the "hole," the statement taken by the FBI was taken under coercion?

BY MR. MATTES:

We are not only charging that because he was in the "hole," we are charging he was led to believe he was in the "hole" because he gave no statement, and a fortiori the inducement of getting out of the "hole" would be the inducement to give the statement.

There is a further point of the legal duress of the failure to take the defendant Parker before the United States Commissioner without unreasonable delay--

BY THE COURT:

You charge that is duress?

BY MR. MATTES:

Yes sir.

This statement goes to describe the "hole" as follows: It is a small unheated room with improper sanitary arrangements, no bed or bedding and no access to other human beings. That further, while he was so confined he was provided with improper clothing, no reading or writing materials, no counsel, food prepared in a disgusting and nauseating manner, no soap, no tobacco or smoking materials despite his known habits of smoking, no exercise and that the light in said [illegible] confinement was illuminated twenty-four hours a day--

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the prison. There again, are you talking about the Bureau of Prisons? I don't see what relation that has to the statement that was taken.

BY MR. MATTES:

What relation does the committing of the abuses have to the fact there was coercion and it was used as an inducement to get this statement which was declined at first--

BY THE COURT:

Do you mean to say under no condition should there be that sort of place in an institution regardless of what condition might suddenly come up, the Warden faced with a problem, he had to take severe supervisory measures; do you say that sort of thing should not happen in any institution?

BY MR. MATTES:

We are not stating that. Our statement is that under no conditions should statements be extorted by this "hole" or in this manner.

We are further clarifying that this statement in regard to the defendant Parker was the only evidence used against him, other than statements of co-defendants which clearly are not admissible against him because they were not taken in his presence and they are not part of the crime itself.

We further would like a hearing on the question of the competency of this statement of the defendant Parker and whether or not it was used in the Grand Jury proceedings and whether any other evidence against this defendant were used in the Grand Jury proceedings.

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BY MR. RIDELSPACHER:

May it please Your Honor, I am going to endeavor not to be repetitious with what--with the remarks that have been made by counsel for the other two defendants. I might say, my

argument, the remarks that they have made and ask that they be also considered as arguments in behalf of the defendant McCoy. However, there are certain matters that I will touch upon, in addition to what they have said.

One matter that I would like to touch upon is the sufficiency of the indictment. We have been talking about some fundamental things here and this is also fundamental, although it may strike us as technical to start with. The indictment against the three defendants names the three of them and then says that these three murdered William Walter Remington by striking him with a deadly weapon, and the statement before the -- in the information before the United States Commissioner was that that deadly weapon was a part of a brick encased in a prison-issued sock.

The first thing that struck me when I got a copy of the indictment was how could three men wield one sock, and whether that informed the defendants and each of them properly as to the charge against them so that they could make a defense, and I went through the cases and there is a dearth of case law on the point. There is one case squarely on point. It is not a federal case. It is a Kentucky case. But I think it bears very close--it should get very close scrutiny. It is a case of Commonwealth vs Patrick, 80 Kentucky 605. There was an indictment against Amos Patrick and his brother averring that they did shoot at and wound with a pistol with intent to kill the victim. The defense raised the argument that it did not inform the defendants as to who did the shooting and the trial court brushed that aside and they proceeded to trial; defense counsel maintained their position that they should be informed before trial by the indictment who did the shooting; the [illegible] breaks in a voice

of guilty and they went to the Supreme Court, and the Supreme Court of Kentucky voided the indictment and threw out the conviction and used this language:

"That the court realizes it was physically impossible for two to use the same pistol...One of them, but only one of them, shot the victim..."

Now that is exactly what we have here, an exactly analogous case right on all fours--

BY THE COURT:

There might be this slight distinction. Was there one gun wound on the victim in that case? In this case might there have been a number of assaults? I don't know.

BY MR. BIDDLECOMBE:

We shouldn't have to guess. The indictment should tell us so that we know how to defend a defendant. Under the Constitution he doesn't have to guess as to the charge made against him; he doesn't have to reconstruct the matter. The indictment should inform him as to who struck the blow and if he is charged with aiding and abetting, or just being there, or what it is. But, as the Supreme Court of Kentucky pointed out, it was physically impossible for two fellows to be shooting one gun. I believe this man was shot more than once in the Kentucky case, by the way. But so far as that, there should be-- the defendant in the indictment should be informed as to who had ahold of the sock and who struck the blow or blows.

Now Your Honor has cited to me this case out in Alestrom. There was an indictment. There was no challenge to the indictment that it did not inform the defendant as to who had struck the blow. There you had a situation entirely different. You had what amounted to felony murder. You had a prison riot

at Alcatraz and a guard, I believe it was, was killed during the course of that riot, and that was all charged, and there was no attack made on that indictment like I am making here. So that case, the Alcatraz, is not in point. This Kentucky case is in point and this Kentucky case squares with good common sense.

The Constitution tells us that a defendant must be informed as to the charge against him, its exact nature, and along comes this indictment and it states that three people did murder him by wielding a sock with one-half a brick in it. It doesn't square with the ordinary physical laws of nature, and, therefore, in the words of the Kentucky Supreme Court:

> "...it was physically impossible for two to use one pistol. One of them, but only one of them, shot the victim..."

Now that goes to the latter portion of the first motion that I have filed, specifically Paragraphs 6, 7, and 8 of my motion,

> "The indictment does not state facts sufficient to constitute an offense against the United States,"

Paragraph 7,

> "The indictment does not state which one of those accused actually committed the criminal act,"

nor does this indictment say that these three fellows conspired to do this murder; there isn't a charge of that in this indictment, or Paragraph 8,

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> "The indictment does not describe the offense and particular act of the Defendant McCoy with such [illegible] that the Defendant McCoy may know the nature and cause of the accusation and prepare his defense thereto in view [illegible]

Now let's run through briefly and summarize what the defense has said here today. The defense has said this: No. 1. That McCoy and Parker here--information was lodged against them before a duly constituted United States Commissioner on November 24. That under the case law there should have been an arraignment or a hearing, a preliminary hearing. Some of the cases hold it was unreasonable after forty-eight hours. They were not so arraigned. We attach very specific and singular significance to that because the hearing--while generally we as lawyers and judges think of that hearing as giving a man a chance to bail and since this was not a bailable offense and the defendants were in custody any wise, what difference did it make? Well, the difference is that it affected the substantive rights of these defendants. They were not advised within that forty-eight hour period of the right to counsel. They were not advised not to sign statements, not to make statements, that any statement that would be made would be held against them--might well be held against them. Those are all rights guaranteed to these fellows by the Constitution and which were ignored by not having them brought before the Commissioner. They are very fundamental rights. They have very fundamental bearings on this case.

As to the statements elicited from these defendants, statements used before the subsequent Grand Jury proceedings held a week later, all of those things violated the defendants' rights, not only violated the defendants' rights but impugned the very Grand Jury proceedings that followed.

Now this motion is coupled with a request for an inspection of the minutes of the Grand Jury. I am informed that these minutes are very, very scanty, that there is practically [illegible] but that these minutes are, what

to support this matter, certainly they should be inquired into in the light of matters of record here--proceedings that were held before the United States Commissioner.

Now at this point I am mindful of this: That the United States Commissioner's office is not a court of record. I think that we would all dislike the decision coming down that there is nothing in the record here, that we have produced no proof that there was the United States Commissioner's hearing. I have subpoenaes here and I think unless it is agreed or stipulated that there was such a United States Commissioner's proceeding, that there should be testimony on that point, because it is otherwise not a matter of record here before Your Honor. There is a record of the proceedings before the United States Commissioner lodged by the United States Commissioner with the United States Attorney's office upstairs, but that is still not in the Clerk's office here, and I think that should be either by stipulation, or if there is a failure to stipulate, that we should have that testimony taken. I did not want to subpoena the United States Commissioner or the clerk in the United States Attorney's office until I had argued here. I am perfectly ready to do it and it can be done in five minutes. But I think that somehow or other it should be a matter of record rather than just talking about it that there was a United States Commissioner's proceeding, a warrant issued and not served and no preliminary hearing held. Now that is the first point here.

Now my colleagues have covered the second point that the Grand Jury for this particular section of the state was not used and they have argued that well and with force. There are statutes that require the action by a jury of the county in which the offense is alleged to have occurred. That is not

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of the defendant, and we feel that that right was violated by taking that matter before the Scranton Grand Jury not only in the particular that there was a United States Commissioner's proceeding pending, but also that the wrong Grand Jury was sought.

Now I believe that there are some cases decided by Judge Watson on this particular point that would look as though the United States Attorney had his choice as to what Grand Jury he would go before, but I call to Your Honor's attention those are not capital cases, those are not cases covered by this statute and there the Grand Jury that was impaneled for the Lewisburg-Williamsport area were the ones who would have knowledge of the facts, who could better handle it, but for any reason at all the statute says that that that is where it is to go unless the Court determines otherwise, not the United States Attorney, and there was no Court that told Mr. Levy to go to Scranton for that Grand Jury, it was his determination in derogation of that statute. So the indictment and Grand Jury proceedings must fall for that reason.

Now the other motion, which is the motion for a stay of the arraignment and inspection of these social and psychiatric records of the defendant McCoy and the other defendants, I would like to point out to Your Honor that Your Honor has mentioned Monday as the time for a possible arraignment. My understanding with Mr. Levy is these records will be made available sometime this coming week to me. I would certainly like to go over those records before that arraignment. Now I would like to meet his convenience. Whether I would be ready on Monday--but then those records are rather voluminous--I would like a day or so to go over them before that arraignment, if possible.

Now I have leads on all the other counts and that is

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that on the 24th day of November 1954 there was a complaint sworn before the United States Commissioner at Lewisburg, the said United States Commissioner being Andrew A. Leiser, Jr.; that this complaint was signed by George P. Gamblin, Special Agent, FBI; that the complaint was lodged against George Jr. McCoy and Robert Carl Parker charging them with murder, and the Commissioner docketed this case to Commissioner's Docket No. 2, case No. 269; that the complaint reads as follows: "Before Andrew A. Leiser, Jr., Lewisburg, Pennsylvania. The undersigned complainant being duly sworn states: That on or about November 22, 1954, at the United States Penitentiary, Lewisburg, Pennsylvania, Middle District of Pennsylvania, and on lands under the exclusive jurisdiction of the United States, George Jr. McCoy and Robert Carl Parker, both inmates currently confined in the said institution, did, with premeditation and by means of striking him on the head with a deadly weapon, to wit, a partial red brick encased in a white sock, murder William Walter Remington, a human being incarcerated at the said United States Penitentiary, Lewisburg, Pennsylvania. And the complainant further states that he believes that _____ are material witnesses in relation to this charge. (Signed) George P. Gamblin"; further, that pursuant to said complaint a warrant of arrest was issued by the said Commissioner under date of November 24, 1954, to Carl H. Fleckenstine, United States Marshal, and his deputies, or to any other authorized officer, commanding him in the usual language to cause the arrest of—in this language: "You are hereby commanded to arrest George Jr. McCoy and Robert Carl Parker, and bring him forthwith before the nearest available United States Commissioner to answer to a complaint charging him with on or about November 22, 1954 at the United States [illegible]

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Pennsylvania, Middle District of Pennsylvania, and on Lands... then it recites the indictment--the complaint, and then on the warrant of arrest is the return signed by Carl M. Fleckenstine by Frank P. Foley, Chief Deputy, under date of December 2, 195[illegible], stating that he returned this warrant unexecuted "inasmuch as within named were subsequently indicted by the Grand Jury at Scranton, Pa., on December 1, 1954, and Court warrants issued." Can we stipulate that those proceedings were had?

BY MR. LEVY:

If the Court please, in our suggestions--the Court will notice suggestions in opposition to the motions that were made here in this particular matter--the United States Attorney has set forth in clear English that there was an arrest made and that pending the arrest that the Grand Jury met and indicted. The Court will find that on Page 2 of the suggestions that were filed in this case and which I say:

"The plaintiff admits that on or about November 24th, 1954, a complaint was filed and warrants of arrest were issued against each of the three defendants before the United States Commissioner in Lewisburg, in the Middle District of Pennsylvania, for the same offense of murder charged in the indictment. But the plaintiff avers that when the complaint was lodged and the warrants issued each of the defendants were prisoners in the Lewisburg Penitentiary serving terms for other crimes for which they were previously convicted. The warrants were lodged with the Warden of the Penitentiary.

"Thereafter, on December 1st, 1954, the matter was presented to the Grand Jury drawn and sitting in [illegible]

challenged [illegible] the accused were [illegible] while the complaint was pending, denying to each of them his right to have a preliminary hearing before the Commissioner."

That, in my opinion, covers the entire situation. I don't know what has been made here by the United States Commissioner or others. I don't know whether it conforms to the facts or not.

BY THE COURT:

I am wondering if Mr. Bidelspacher had a copy of these suggestions.

BY MR. LEVY:

Yes, I gave him a copy this morning.

BY THE COURT:

Doesn't that substantially answer your inquiry?

BY MR. BIDELSPACHER:

The remarks that Mr. Levy just made--Mr. Levy does not answer my problem at all. I asked him if he would stipulate to matters here that occurred before the United States Commissioner, and he hasn't answered that question at all. Either he is prepared to stipulate to matters here that occurred before the United States Commissioner or I am prepared to put witnesses on the stand to prove it--

BY MR. LEVY:

I object to putting any witnesses on the stand because there isn't anything before the Court here to put witnesses on the stand for. I refuse to stipulate about papers that are present in the courtroom which I know nothing about which certainly can't affect the United States Government--

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BY MR. BIDELSPACHER:

The United States Attorney then has disclaimed any

missioner on November 24. Apparently he has taken the position now that he knew and knows nothing about those proceedings had down there. I would like the Court's indulgence. I want to prove that there was--in the face of the United States Attorney's refusal to stipulate--that there were proceedings had before the United States Commissioner. Since he has disclaimed knowledge of them, then that FBI Agent went down on his own initiative without any knowledge of the United States Attorney. We might just as well find out whether the FBI Agent proceeded on his own initiative or with knowledge of the United States Attorney--

BY MR. LEVY:

I object strenuously to this man saying things about the United States Attorney that he must know is not true--

BY THE COURT:

I don't know where it is leading, gentlemen. It seems to me it all depends--doesn't it--upon the Court's determination as to whether or not the Commissioner's hearing was necessary in the circumstances of the case. If none was necessary and the procedure that the United States Attorney followed was legal and in accordance with law, then it seems to me this is all aside from the point.

BY MR. BIDELSPACHER:

No, it is not. Right now Your Honor has nothing before it. There is nothing before this Court--

BY THE COURT:

Except an indictment.

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BY MR. BIDELSPACHER:

That is right, sir.

So far as the Court is--your record that you are pro-

to the court of review to show that there was a proceeding before the United States Commissioner other than my statement that there was with an offer to stipulate that there was and a refusal of that stipulation on the part of the United States Attorney. Therefore, I hereby request the Court so that a record is made to prove to this Court that there was a United States Commissioner's proceeding instituted and what was done with it, what happened to it and what didn't happen to it in the face of the Grand Jury proceedings, and that is a necessary thing to have on this record because otherwise Your Honor can not decide that a Commissioner's proceeding was or was not necessary unless you have something on this record to show what United States Commissioner's proceeding there was, if any, what its disposition was--

BY MR. LEVY:

I can answer his question by picking up his own papers--where are they?

BY MR. BIDELSPACHER:

You have got them there.

BY MR. LEVY:

If Your Honor please, I pick up Mr. Bidelspacher's motion here. He said there is no record before this Court. There is the indictment; there is the motion by the defendant to dismiss the indictment, and in his motion to dismiss the indictment is the following statement--there is still another paper--

BY MR. BIDELSPACHER:

You have all the papers I have been arguing for. The records are all here.

BY MR. LEVY:

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ment and for an inspection of the minutes of the Grand Jury, in which

"When the United States Attorney went before the Scranton Grand Jury on December 1, 1954, he well knew that there was a criminal action for the same offense charged in the indictment that he prepared for that Grand Jury, which criminal action had been instituted on November 24, 1951, and docketed in the United States Commissioners' Docket No. 2 as Case No. 269 and he the said United States Attorney, then and there well knew that the Defendant McCoy was being denied the right of appearing before a United States Commissioner without undue delay and that the Defendant McCoy was being denied his right to counsel, and the defendant McCoy was being denied his right to have a preliminary examination, and the Defendant McCoy was being denied the right of being informed by said Commissioner that he, McCoy, was not required to make a statement and that any statement made by the Defendant might be used against him, all of which actions on the part of the United States Government and its United States Attorney was in contravention of and a gross deprivation of the constitutional rights of the Defendant."

Now taking all his conclusions out about our violating the constitutional rights, he does say that the United States Attorney knew when he presented it to the Grand Jury that there was a criminal action before the United States Commissioner instituted on November 24 and recorded in the Commissioners' Docket No. 2 as Case No. 269, to which we filed a suggestion in opposition in which we admitted that on November 24 a complaint was filed and the warrants of arrest were issued against each of the three defendants before the United States Commis-

for the same offense of murder charged in the indictment, and that when the complaints were lodged, the warrants issued each of the defendants were prisoners in the Lewisburg Penitentiary, and that thereafter on December 1 the matter was presented by the United States Attorney before the Grand Jury and an indictment returned.

Now we contend that there is an issue before the Court, first, that there was a proceeding pending with the United States Commissioner at the time that the Grand Jury made its return and that there was no hearing ever held in the United States Commissioner's action, and I intend to argue on that point when we get to it--

BY MR. BIDDLESPACHER:

That the United States Attorney has said there is that I have allegedly said things in my motion and that in his answer and brief he has made certain answers. But that doesn't--in his brief that doesn't put it of record here, and I don't want to be proceeding on a record here that is not complete, and, therefore, I think if he won't stipulate that there were these United States Commissioner's proceedings, then I should be permitted to call and have testimony as to the existence of those United States Commissioner's proceedings and I would like to call Agnes Fernaler to the stand--she is here under subpoena--and prove these proceedings before the United States Commissioner.

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BY MR. LEVY:

I object.

BY THE COURT:

The objection is sustained. I don't think it has any bearing on it. I will overrule the motion.

BY MR. BIDELSPACHER:

Note an exception.

BY THE COURT:

Yes sir.

BY MR. BIDELSPACHER:

That is all.

BY MR. GARVEY:

In connection with the proceedings before the United States Commissioner to proceed against Lewis Cagle, Jr., docketed in the United States Commissioners' Docket No. 2, Case No. 270, I would like to state of record we would also like it noted that we concur in Mr. Bidelspacher's suggestion concerning a stipulation and we also move the testimony be taken.

BY MR. LEVY:

Since the number has been changed, Your Honor will recall there were a number of motions filed here. The United States Attorney classified the objections. We did not stipulate, however, or did not state in our motion in opposition, in our suggestion and opposition to their motion we did not state which were Cagle's or Parker's which we are now prepared to stipulate that in both cases there was warrants issued before the Commissioner, that those warrants were served on the defendants in the jail, in the Penitentiary where they were serving a sentence and that there was no hearings on that but that the matter was presented on the same day, December 1, before the Grand Jury and the true bills that are now challenged, returned.

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BY MR. MATTES:

This goes more to the matter for presenting the actual papers and matters [illegible]

of the return--there was a warrant issued against the defendant Parker--is that it was returned unexecuted.

BY MR. EIDELSPACHER:

I would like to state the something with respect to McCoy. The United States Attorney has just gotten up and told you the warrants were served. When I read the warrant Fleckenstine said right in the warrant it was not served and he gave his reason why it was not served. That is the difficulty of proceeding here with an inadequate record and not calling the witnesses and proving what did or did not occur at the United States Commissioner's proceeding. I again renew my request to take testimony and if I am overruled, I again want an exception.

BY MR. LEVY:

It wouldn't make any difference whether the warrants were served or not served. I understand the warrants were lodged at the Penitentiary and if they weren't served it wouldn't make any difference.

BY THE COURT:

I don't see it makes a bit of difference. I have already ruled.

Is there any further argument?

BY MR. MATTES:

We request a hearing on the question of duress on the statement of the defendant Parker. I suggest that we can have a hearing on that question next Monday morning & continue these proceedings.

BY MR. EIDELSPACHER:

I have a request it not be Monday. We would like to go over the documents.

BY MR. MATTES:

At the next stage of the proceeding--

BY MR. LEVY:

I would like to make a statement at this point. I am positive that when I get through with my argument in opposition to their several arguments that I can convince the Court and probably defense counsel, that they are not entitled to any hearing in these proceedings on any kind of a matter. I haven't had an opportunity to argue and I don't want to bust my argument, so to speak, by running all over the lot with the matters to six lawyers who are sitting in defense of the defendants.

BY MR. CONROY:

There was one procedure prior I would like to have cleared up. Mr. Bidelspacher made a motion, it was overruled and an exception noted on his behalf--

BY THE COURT:

I am assuming the same motion was made for all three defendants and the same ruling and exceptions noted for everybody there.

BY MR. CONROY:

Thank you.

BY THE COURT:

Any further argument by counsel for the defense? If not, we will hear the United States Attorney. 108

BY MR. LEVY:

If Your Honor please, as I just mentioned, there were motions made, probably six or eight and maybe more, for each of these defendants, but each of the motions, as I view it, were directed to the same points and I have tried to follow the form of the McCoy motions and to classify the motions of the others and to coordinate them with the motions so that I can [illegible]

matter just as they have presented it but not over the thing.

Now the very first thing in his motion was the last thing he argued, and that was the question of the complaint that was issued before the United States Commissioner upon which no hearing was granted upon which they say because there was no hearing the indictment which was found pending that hearing was bad.

Now, if Your Honor please, the Federal Reports are just simply full of similar cases and one of the best cases that I could find was the case that arose in the Circuit Court of Appeals in the District of Columbia, Jones v. Lawrence. In this case the defendants were arrested but not given the preliminary hearing provided for by Rule 5 of the Federal Rules of Criminal Procedure. Instead, in that case the preliminary hearing was continued from time to time, there was no hearing and in the meantime a bill in respect of the appellants was returned "a true bill", and the Circuit Court of Appeals decided "...the preliminary examination would be unnecessary."

And in the United States v. Gray, which is also a District Court case, the Court said:

> "...The Grand Jury is not limited to considering cases of only those persons who have been bound over to the Grand Jury by a committing magistrate. Consequently, the Grand Jury had a right to hear the evidence presented against this defendant and find the indictment against him, irrespective of whether a preliminary hearing was had or had not been held..."

And in that case there was a motion against the indictment for that grounds and they refused the motion to dismiss. Now this case as authority was followed in our own district [illegible]

the Fourth Circuit, Judge Parker writing the opinion--as Your Honor knows, Judge Parker is one of the ablest circuit court judges--held in Barber v. United States, 142 F. 2d 805, that the preliminary hearing was unnecessary.

In addition to that, we have the case of Roth v. United States, 294 F. 478, where a

> "Defendant was first arrested on warrant issued by a United States Commissioner; defendant thereupon demanding a preliminary examination and giving bond for appearance thereon. Before the date to which the commissioner's proceeding was adjourned, the indictment here was found by the grand jury, without preliminary action by or hearing before a commissioner. We think the court rightly overruled defendant's motion to quash the indictment because of the facts stated. Defendant could not be held for trial without indictment by grand jury, which had the right to consider the alleged offense and make presentment thereon, notwithstanding the pendency of proceedings before a commissioner...,"

and they cite a number of United States Supreme Court cases.

And in a recent case, Clark v. Huff, Superintendent of Penal Institutions of the District of Columbia, probably a habeas corpus--I think it was:

> "There is no constitutional right to a preliminary hearing prior to indictment or prior to trial..."

citing cases of the various federal districts,

> "...Nor is there a constitutional right to be apprised of grand jury proceedings or a warrant issued for arrest prior to such proceedings..."

And then again we have this:

> "The only purpose..."

Gregory v. United States,

"The only purpose of a preliminary hearing is to determine whether there is sufficient evidence against an accused to warrant his being held for action by grand jury, and, after a bill of indictment has been found, there is no occasion for such hearing."

And then, furthermore, the United States District Court, the Middle District of Pennsylvania, 1951, Yodock v. United States, 97 F. Supp. 307, the petitioner was not arrested prior to indictment as he was then serving a sentence in the Eastern State Penitentiary, Philadelphia, Pennsylvania, and under these circumstances no preliminary hearing is ever required; and that has been followed by the Supreme Court in a very, very recent case which I shall give to the Court on the question of the confession that they told you about.

Now, if the Court please, we believe that under all the authorities and under all of the cases, there was no necessity for the preliminary hearing and that the Grand Jury could while the preliminary hearing was pending, or while the man was under arrest before the Commissioner, that the Grand Jury could indict without giving him a hearing.

Now then, the next proposition that they had is that the Grand Jury which returned the indictment was not drawn in accordance with law, and that is the question of whether or not we could have a Grand Jury up at Scranton, Pennsylvania, indict this man and bring him to Lewisburg for trial. Now the Court has—and I have attached to the suggestions a photostatic copy of the order of Judge Johnson and Judge Watson. Now that order was made pursuant and in strict accordance with the Act of Congress, Title 28 U.S.C. 1863. The order was made in [illegible]

BY MR. LEVI:

I didn't think I would have to.

If the Court please, I want to point out there is a scroll of decisions which holds that in the United States Courts District Courts can be divided so far as the picking of jurors is concerned. And there is one other thing I want to point out to the Court. While a jury was picked and the Court ordered itfor Lewisburg, that Grand Jury was never sworn in, that Grand Jury on May 4. This Grand Jury was in Scranton in action and, therefore, when I took it into a Grand Jury that was in action in Scranton, I had a perfect right to do so and there was nothing sinister about it.

There is one other thing I want to point out, if Your Honor please. There are three cases cited by Mr. Myers. One is United States v. Standard Oil Company in 1909, which was prior to the Act and prior to the Supreme Court rule which permitted just this kind of thing. The second case that he referred to was In re Petition for Special Grand Jury, Middle District of Pennsylvania. In that case I will tell you what happened. Some citizens of Wilkes-Barre decided that the Prohibition Law was not being properly handled in the Middle District of Pennsylvania so they came in with a petition asking for a Grand Jury. May, of course, the Court said:

"While a Grand Jury may be selected from a particular section of the District such method of selection should not be empowered unless found necessary..."

That is to empower a Grand Jury and [illegible] them in just because some citizens petitioned for the Grand Jury. And the next case that he cites is the case of United States v The Insurgents of Pennsylvania, 3 Dallas 515. If Your Honor please, that case [illegible] this is what happened in that case. I don't

knew how he came to read it. But what happened in that case was this: The Insurgents were indicted down in Bucks County and an adjoining county; that was where the crimes were committed; they were taken into another jurisdiction to indict them and what they asked for--the motion that they presented--was that the case should be tried in Bucks and this other county, and the court said that while the place of indictment and the place of trial should be one, we can not permit the trial in Bucks and the adjoining county which they asked for. Why? Because of the indictment up there in the other district? Oh, no. Because Bucks and the other county was under military rule, they said it would be highly unfair under those circumstances to try these men in those counties. So I think that all of the decisions that are cited, while they are all old not one of them has anyapplication to what the Act of Congress has designated, what our Circuit Court of Appeals said shall be the action and the action that this Court had taken particularly in this thing.

There are numerous Supreme Court cases, Ruthenberg v. United States, 245 U. S. 480, Lewis v. United States, 279 U. S. 63, where the Court said:

"The Sixth Amendment does not require that the accused be tried by jurors drawn from the entire district."

If Your Honor please, there is another thing that is very important. Although 18 U.S.C.A. 3235 provides that the "trial" of the case shall be had in the county where the offense took place, it is pointed out that the notes of the advisory committee had made this point--and I think if we bear this point in mind it will cover a lot of things:

"There is a distinction between [illegible]

other sta[redacted] of the prosecution may [redacted]aken in another division of the same district. The long standing practice of impaneling a grand jury for the entire district and submitting to it for indictment offenses in the several divisions of the district is recognized and continued."

Now, if Your Honor please, we come to the next objection that they have. We deny their conclusions that this indictment was founded solely upon incompetent testimony, or that it does not state facts sufficient to constitute an offense, or that it does not state which one of those accused actually committed the criminal act, or that it does not describe the offense and the particular act of the defendant McCoy with such certainty that he may prepare his defense thereto. And when I say "McCoy," I refer to the other two. In the Parker motion is added the allegation that "Parker's statement was obtained by coercion and duress." This allegation, of course, the plaintiff denies—

BY THE COURT:

That charge is only made by Parker--

BY MR. LEVY:

--but the plaintiff avers that the evidence presented to the Grand Jury was highly competent, of course--

BY THE COURT:

Everybody includes everybody's objection. My question is does everybody--do all the defendants complain of coercion in the taking of their statements?

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BY MR. RIDELSPACHER:

Absolutely.

BY THE COURT:

All right.

BY MR. LEVY:

You may point that out when I get through with the

BY MR. BIDELSPACHER:

The Court asked a question. You answered it wrong. You said only Parker made that assertion--

BY MR. LEVY:

Will you point out where you made that assertion?

BY MR. BIDELSPACHER:

We have all made the point any statements elicited after November 24 when these fellows should have had an arraignment before the United States Commissioner was under coercion.

You can point it out to the Court immediately. You have your papers there. What is the use of delaying this?

BY MR. LEVY:

You said I made a misstatement. If I did, I will be willing to apologize.

BY MR. CONROY:

You said it just related to Parker.

BY MR. BIDELSPACHER:

That is wrong.

BY MR. LEVY:

I am just asking you to show us where in your motion you said it.

BY MR. CONROY:

We said all motions, all statements, of today was made for all.

BY MR. LEVY:

We are not talking about that.

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BY MR. BIDELSPACHER:

We are.

BY THE COURT:

I understand.

this case. Parker was the only man who made that motion--

BY MR. GARVEY:

"Motion by Defendant To Dismiss Indictment." This is the motion filed by Mr. Garvey and Mr. Conroy, attorneys for Lewis Cagle, Jr. "The indictment was not based on competent legal evidence." No. 3.

BY THE COURT:

What about the coercion? Did you charge that in your written motions?

BY MR. GARVEY:

We charge that it was not based on competent legal evidence.

BY THE COURT:

You say it was not based on competent legal evidence. I am interested in this matter of coercion. Did you charge that in your written motion?

BY MR. LEVY:

I read the motions over very carefully and the only one was the Parker--

BY MR. BIDDLE PACHLER:

In behalf of McCoy, No. 5 covers that phase. We say that the Grand Jury testimony was incompetent and by that we mean what was used there was evidence induced by coercion--

BY THE COURT:

Wait a minute! That seems to me that is covering an awful sweep. They might have thrown everything in it, it seems to me, but the kitchen sink, but that doesn't say the defendants were coerced when they took whatever statements they did. I understood counsel for Parker claims the statements were taken

He made the charge in his motion.

BY THE COURT:

That is what Mr. Levy is talking about--a formal charge of coercion, which is a very serious charge.

BY MR. LEVY:

It is only made in Parker itself--

BY MR. EIDELSPACHER:

I take it then that the defendant McCoy and the defendant Cagle are precluded from raising that when we have got right in our motion it was incompetent evidence--

BY THE COURT:

You have already made a lot of motions here orally today and I will have in my own mind just what you said.

BY MR. LEVY:

Now, if Your Honor please, the Court referred to the Alcatraz case, Shockley v. United States. The case is analogous on its facts with the case involved. The case at bar followed the United States Supreme Court form in its exact words, and the United States Supreme Court has laid down murder indictments under this very section in two forms; one for a federal officer and one for a federal reservation; and we have followed the form exactly as the Supreme Court wrote it. In that case they followed the approved form. In that case it charged two defendants, inmates of a United States Penitentiary just as they are here, with on May 2nd unlawfully killing and murdering [illegible] Miller by shooting him, "which said shooting said cause the said...Miller to die on May 3rd, 1946," and we used the very same language charging three defendants.

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Now then, the preliminary motion [illegible]

"Appellants moved to dismiss the indictment on the grounds that it was returned (only) upon illegal and incomplete evidence submitted to the Grand Jury; that no evidence was submitted to that body establishing the commission of the offense charged, or any lesser offense included therein; that the indictment is duplicitous in that it charges in one count two distinct and separate offenses, i.e., one under Title 18, Section 253, U.S.C.A. and one under Title 18, Sections 451 and 452.

"The prosecution resisted the motion and the court denied it. The record convinces us that the ruling of the court was correct. The indictment charges appellants with a single offense, the crime of murder."

That is what we charge, and in this case we charge that these three men with this weapon murdered and killed Remington.

Now there is a case, Cebos v. United States, 167 F. 2d 341, in which the court said:

"Finally, it is contended by appellant that the indictment was defective because it does not mention malice, which is contained in the statutory definition of the crime of murder in the first degree.... The indictment follows literally the language of the form for an 'Indictment for Murder in the First Degree of Federal Officer' set forth in the Appendix of forms to the Federal Rules of Criminal Procedure, form 14, 18 U.S.C.A. following section 687. It charges that appellant 'with premeditation and by means of shooting murdered' the named Federal officer, engaged in his official duties.

"The Federal Rules of Criminal Procedure have the effect of law, and Rule 57 thereof gives the Appendix of Forms official illustrative status. The precision and detail formerly held necessary to charge an offense are no longer required....," citing cases. "...It is provided that 'The indictment or the information shall be a plain, concise and definite written statement of the essential facts constitution the offense charged.' Rule 7(c).

"The precise point presented by appellant appears to be a novel one. In the absence of persuasive authority on the question, we have determined that the indictment is adequate because in our view the form employed can be considered to include all the essential facts constituting the offense; it is in harmony with the spirit and intent of the new Criminal Rules; and it was prescribed by the Supreme Court, which we must necessarily assume was cognisant of the requirements of the law...."

And the indictment was sustained.

Now the next proposition that they present--

BY THE COURT:

And certiorari was refused.

BY MR. LEVY:

That is right.

The next proposition presented was whether the indictment was founded solely upon incompetent evidence unlawfully obtained

that is to say, upon statements of defendant, Robert Parker, obtained involuntarily by coercion and duress. Now we say that it was found on wholly competent testimony and, if Your Honor please, the United States Government proved before that Grand Jury the corpus delicti, the complete unlawful homicide that occurred in that Penitentiary, and it proved before that Grand Jury the three--

BY MR. BIDDLESPACHER:

If he is going to testify what occurred in the Grand Jury, then he should testify.

BY MR. LEVY:

--the three men who committed that crime the United States Government also showed before the Grand Jury.

Now, if Your Honor please, the only case in the Federal Reports that seems to bear on the point is the United States v. Kirkpatrick, a very old decision, 1863. In that case he said that an expert witness must first show that he is an expert witness before you can take him before the Grand Jury.

"...Evidence of confessions ought never be admitted before a grand jury, except under the direction of the court, or unless the prosecuting officer of the government is present and carefully makes the preliminary inquiries necessary to render the evidence admissible."

And, if Your Honor please, it is the only case in the books where any--there is any talk about evidence of confessions.

Now Your Honor has nothing in this case that indicates that confessions were obtained from these men, so far as the record is concerned. We only have the word of counsel for the

defendant--

BY MR. MATTES:

If Your Honor please, we request a hearing.

BY MR. LEVY:

It seems to me I ought to be permitted to complete my argument.

The only evidence that there were confessions is the evidence of counsel in this case, not the evidence but the statements orally here--

BY THE COURT:

Don't the proceedings of the Grand Jury indicate upon their face regularity?

BY MR. LEVY:

There isn't the least doubt about it, if Your Honor please, and I would like to show you what Judge Learned Hand thought about that Kirkpatrick case.

"I can not satisfactorily speculate upon the evidence which must have been before the grand jury, nor will I either myself inspect, or permit another to inspect, its minutes. The grand jury is designed to protect the citizen from baseless accusation; but he has no other protection than its proper action. If it has been moved by insufficient evidence, or has failed to consider all the evidence, it is an injustice which the court cannot, and should not seek to, redress. There is no precedent, so far as I can find, for such control of the grand jury, and I am the last who would initiate it. The institution must stand, as the conscience of the citizens called to it directs

The case in 16 Federal Reporter (United States v. Kilpatrick)..., which I just referred to, "...I am not disposed to follow. Of course, a case of misconduct within the grand jury room, as the use of liquors, or the like, might raise a very different question."

Then he said following that case in United States v. Carson in 1923, reiterating what he had said in 1909:

> "Finally, the defendants, recognizing that it is difficult to make a case for quashal by the scraps of evidence accessible, move for inspection of the grand jury's minutes..."

Finding that they didn't have evidence to quash, they moved for an inspection of the grand jury's minutes.

> "...I am no more disposed to grant it than I was in 1909...," referring to the United States v. Violon. "It is said to lie in discretion, and perhaps it does, but no judge of this Court has granted it, and I hope none ever will...

That is the proposition which we submit to the Court on all of the propositions that these people set forth.

Now then, in our own Circuit we have got the very recent case, United States v. Rose, which I argued before the Circuit Court of Appeals, in which they granted a new trial in which they struck out four counts in the indictment but left the fifth count and the direction that the court below give the counsel what? Very carefully said—only the testimony of the defendant who was entitled to it because that testimony could not have been secret since he had given it—

BY THE COURT:

Was perjury involved?

BY MR. LEVY:

Perjury alone.

BY THE COURT:

Of course.

BY MR. LEVY:

Here's what our Court said:

"Grand Jury proceedings are traditionally secret...," and, of course, this is the time-honored rule. And then the Court says, referring to and reviewing the case of United States v. Remington, the gentleman who was killed in this case and who received a new trial before the Circuit Court of Appeals and got his own testimony before the Grand Jury, his testimony alone, it was a perjury case--in reversing our Court of Appeals said this:

"The court denied the defendant's motion to inspect the minutes of his own testimony before a grand jury. We think inspection before trial should have been allowed. As already stated, the essential issue in perjury is whether the accused's oath truly spoke his belief; all else is contributory to that issue...It is one thing to deny the defense access to grand jury minutes which it intends to use for the relatively negative purpose of impeaching a witness; it is quite a different thing to deny an accused access to the minutes of his own testimony which may afford him an affirmative defense. We see no good reason for suppressing the evidence

"We think that United States v. Remington enunciates a sound principle of law insofar as perjury cases are concerned, and accordingly conclude that the trial judge erred when he denied the defendant's motions to inspect his testimony before the Grand Jury....

"Since all the defendant desires is a transcript of his own testimony, the sanctity of that which transpired before the Grand Jury is hardly in question. In addition, such disclosure would not subvert any of the reasons traditionally given for the inviolability of grand jury proceedings."

And in the Rose case our Court took and followed the wording of United States v. Amazon Industrial Chemical Corp. That again was completely on perjury.

Then we have the case of United States v. Cowart, the District Court in the District of Columbia, in which the court said:

"The defendant has also filed a motion to dismiss the indictment upon the ground that there was no competent evidence produced before the grand jury upon which to base said indictment. Said motion seeks an order of the Court directing that the minutes of the grand jury be brought into court in order that the Court may inspect the same, and that, upon final hearing thereof, said indictment be dismissed. A hearing was had upon said motion and, upon consideration thereof, said motion is denied, as the Court must presume that the grand jury acted in accordance with law until some showing is made which would justify the Court in making

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the inquiry sought. If the Court did not adhere to this rule, it could, and in all probability would be called upon to look into the proceedings before the grand jury whenever a defendant, without other showing, asserts that no competent proof had been presented upon which an indictment could be based, and such course would inevitably encourage the filing of such unsupported challenge."

And I submit that under the rulings of our own Court, of our own Circuit Court and of the various courts throughout the land that only in perjury cases is the court permitted the inspection on the charge that there was incompetent evidence entered before the grand jury, and I might say to the Court that in this case, as in all other cases, very seldom, as Your Honor knows when he was United States Attorney, there is ever a stenographer taking down all their testimony so there couldn't be the minutes--

BY THE COURT:

I am very definitely of that opinion--very definitely of the opinion the law is as Mr. Levy has stated, along the line the old rule which was settled by Judge Hand--twelve years experience as United States Attorney, and I am sure Mr. Bidelspecher's experience in the District Attorney's office in Williamsport is in conformity with it.

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BY MR. LEVY:

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One of the things they [illegible] think we have disposed

of my understanding. That is the question whether I have a right to order the Warden to do anything—

BY THE COURT:

That is right.

BY MR. LEVY:

—and I think I can dispose of that by virtue of our agreement.

Now counsel for Parker and counsel for Cagle have written me letters in which they set forth a number of demands, and I think we have disposed of that because I told them when the time comes we can sit down after the arraignment to see that which they want disclosed and that which they don't.

Under the circumstances taking each of the points involved here, it is just impossible for the United States Attorney to feel that there is any error that would allow a motion to dismiss this indictment.

BY THE COURT:

The only thing you didn't cover—and I am not so sure this is even the proper time to discuss that—and this is the matter of coercion.

BY MR. LEVY:

If Your Honor please, I have that right here. I would like to point it out to Your Honor. If Your Honor please, I just want to say something and I don't think it ought to be necessary for me to say it and I regret that counsel have raised the question on the coercion. Your Honor knows the great institution that the FBI is in this country and Your Honor also knows what Disraeli said when he spoke about institutions that make nations; that the institution of the FBI is something that is going to preserve our nation; and I have never in my experience

--in my long experience in criminal matters in the United States Court, or in civil matters in the United States Court, where the FBI was involved ever heard a single slur that they obtained a confession by coercion or undue influence, and that institution ought not to be maligned in a case in which they honestly--if confessions were obtained if they honestly obtained those confessions.

Now, if Your Honor please--

BY MR. MYERS:

We ask that that be stricken from the record as purely an emotional appeal not responsive to the averments.

BY THE COURT:

We will overrule the objection. That statement--I was almost prompted to make it myself.

BY MR. LEVY:

Now, if Your Honor please, I come to the effect of what he says. I want the Government--and certainly the Government points out to Your Honor that there are five things before Your Honor can reach this confession. The stage of the proceedings. They filed a motion here to dismiss the indictment and they have argued it and they have asked this Court to take it under consideration and to dismiss at this stage of the proceedings it would be completely immaterial. Now the issue raised in the proceedings. What is their issue? Their issue is [illegible] was obtained by coercion. Now that is not a [illegible] presumption in this record that would warrant the Court in finding any such thing in existence, nor is there anything in the record that would warrant the Court to shift its inquiry on the sufficiency of the indictment to the legality of the confessions. They do

say that? The United States Supreme Court has made its pronouncements on it. We have two very well defined rules in the United States Supreme Court on matters of confession. One is the McNabb rule; one is the Carignan rule. The Carignan rule is the later rule. The McNabb rule in 317 U. S. has been chiseled, chiseled and chiseled by the designers who always felt that when in the trial of a case--not prior to the arraignment but when in the trial of a case a man says a confession was coerced and he proves it in the trial, then the question is should the court have admitted it in evidence? In the McNabb case they submitted it to the jury and the jury found it was not coerced. But says the Supreme Court, this man was confined and when he was confined a confession is inadmissible if made during an illegal detention, not a legal detention, due to failure promptly to carry a prisoner before a committing magistrate, whether or not the confession is the result of torture, physical or psychological.

I want to repeat it. The confession was inadmissible in the McNabb case because there he was illegally detained, he was arrested and taken before a magistrate sometime after his arrest and in the meantime they forced a confession. There was an illegal detention there, said the Supreme Court, and we hold that because of that illegal detention, that not that that confession can't be used.

And in the second McNabb case the Circuit Court again used the very confession -- the case did not go to the Supreme Court. But that McNabb rule, as I said before, those on the bench like Justice Jackson, who was one of the designers, Justice Reed, Chief Justice Vinson--there were four of them; they kept after the McNabb rule and we later find in other cases, such

as the Upshaw case, we find them constantly getting away from even the illegal detention. But along came the Carignan case that laid down the rule which, in my opinion, is the touchstone of all these detention cases. The McNabb case was in 318 U. S.; the Upshaw case was in 335 U. S.; and then now the Carignan case in 342 U. S. And in that case this is what happened. It is identical to our case. The defendant was in lawful custody on another charge. He was charged with assaulting a woman with intent to commit rape and while he was in custody on that charge they didn't take him out to try him on that charge because they felt the evidence was not sufficient but while he was in that custody he made another confession in which he said he murdered a woman and he was tried on that second offense, the murder of a woman, and the confession was used, and the Supreme Court said, "Oh, no. This is not the McNabb case; this is not the Upshaw case. Here is the rule that is applied:

> "So long as no coercive methods by threats or inducements to confess are employed, constitutional requirements do not forbid police examination in private of those in lawful custody or the use as evidence of information voluntarily given."

What does that mean? In this case these men were all in lawful custody; they were prisoners at the Penitentiary; they couldn't be taken out; no warrant could take them from the jail; even a murder warrant could not take them from the jail to give them a hearing. While they were in lawful custody they made these confessions.

In the Carignan case in the trial they tried to prove there was coercion. The court submitted that to the jury. As we see it, the Court--if they persist in that statement the Court will have to submit that question when the time comes before the jury. But at the present time whether the confession was good, bad or indifferent, it can not destroy the indictment because the law is that competent or incompetent evidence if presented to the Grand Jury, if there was competent evidence at all, the Grand Jury can make that return, and we hold that in this case the mere statement that this evidence was by coercion was not sufficient to destroy the indictment, which is the only issue before the Court.

BY THE COURT:

Gentlemen, I think we will set this matter down for argument. I think I am prepared to rule on all these matters right now and that isn't snap opinion. The opinion has been arrived at after a very careful, thorough and exhaustive study of all of the motions for ten days. I think I have been as fully advised as I could be. However, as we understand it, according to your pretrial conference, if you please, the United States Attorney has offered to endeavor to make available to counsel for the defendants certain papers so that you can continue your studies. So that I think I will set this matter down for Thursday of next week. I am pinpointing it to some time--Thursday of next week--because I will be [illegible] the two following weeks. Thursday of next week at what time--11:00?

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BY MR. MYERS:

11:00 would suit us.

BY THE COURT:

Thursday of next week at 11:00. And at that time I certainly would anticipate and expect that we would proceed with the arraignment.

BY MR. MYERS:

Are we to have the right of rebuttal at that time?

BY THE COURT:

On what?

BY MR. MYERS:

On the argument we have made.

BY THE COURT:

I want to give you all the chance in the world. As I say, I think you have covered them, covered them amply. Any further briefs--I would be slow to look at them.

BY MR. GARVEY:

Could I have the record show the defendants were not present today during the argument?

BY THE COURT:

Yes, certainly.

Are you objecting to it?

BY MR. GARVEY:

No, I am not objecting to it. I would just like to have the record show it.

BY THE COURT:

If there is an objection, I would like to have it on the record.

BY MR. CONROY:

We don't care to make any motion other than the fact be noted on the record itself.

BY THE COURT:

I know--I think that [illegible]

either that is reversible error, I would like to have it noted now. I would suggest, gentlemen, if you are thinking seriously of that I will continue this hearing until tomorrow morning at 10:00 o'clock. We will--

BY MR. COHEN:

It isn't that at all.

BY THE COURT:

I want to be definitely assured. I am not going to have that come up at the trial or appeal. Unless you are willing to agree it isn't necessary to have the defendants here, we will have the defendants here and we will have this whole argument all over again--

BY MR. CONNOR:

When we came here it was our understanding the defendants were to be brought into Court.

BY THE COURT:

Let me clear that. I said that the defendants--I have requested the Marshal--I think I said in collaboration with the Warden--to have the defendants available that in the event it should develop that I could rule from the bench I would then proceed with the arraignment. Obviously, I couldn't reach that until after 11:00 o'clock. I anticipated I might reach it this afternoon at 2:00 o'clock. Personally I am very glad I didn't because I am still of the opinion that nobody is being hurt by the arraignment. It is simply a matter of streamlining the case and avoiding a continuance of unnecessary and uncalled for delays which I will not permit. I had hoped I could get the arraignment out today. The matter of setting a trial date I was not concerned about; that could wait, and of course,

relation to the arraignment at all and could be disposed of at that time.

I think I should ask for a statement on the record from all counsel. Do you object to the fact that the defendants were not present today?

BY MR. CONROY:

Speaking for the defendant Cagle, I don't know enough to say yes or no in answer to that question. It was my understanding under the Federal Rules that when an arraignment has been fixed that the defendants are entitled to be in court for the arraignment; they are entitled to be in court for the trial. I don't pretend to know at this moment whether or not their rights have been prejudiced. My only thought on this is we are Court-appointed counsel, we are doing everything in our power to protect the defendants' rights. If we are remiss in making the request to have the fact they are not here merely noted on the record--if we are to be condemned for making the request, so be it. I think it is only to protect the rights of our clients. I move that particular fact be noted. I rest my motion there.

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BY MR. GARVIN:

We know there is a case that the presence of the defendants is not required on preliminary motions. That, however, is not a capital case. As Attorney Conroy said, we merely want to see the rights of our clients are fully protected. That is the only reason we want it noted on the record they are not present in court.

BY THE COURT:

Obviously, they are not present in court. I don't

mind saying for the record that that is the fact.

Do you have anything to say on that?

BY MR. LEVY:

I feel perfectly assured that at the preliminary motions that the defendants do not have to be present. Of course, on the question of arraignment they have got to be present and thereafter.

BY THE COURT:

Absolutely.

BY MR. LEVY:

If Your Honor please, here is a motion to dismiss the indictment and to release these defendants so far as this particular murder case is concerned. They don't have to be present on that kind of preliminary motion because if Your Honor finds there is no satisfactory indictment, that is the end of it.

BY THE COURT:

That is right.

BY MR. LEVY:

On a preliminary motion, as I understand the law, they do not have to be present. I think that is both in the State and Nation—

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BY MR. CONROY:

To make myself clear on the record, I have no intention of using that particular entry on the record as grounds for quashing the indictment, delaying the arraignment, in any way at all. All we want to do is have it on the record.

BY THE COURT:

As I said before, I don't know where more able, [illegible] more deserving six individuals could be

gotten together. We think that makes things easier or harder for the Court and, entirely aside from the point, it certainly makes it interesting and a very satisfying experience.

BY MR. MYERS:

In line with the complimant just extended, we would like the opportunity at that time to rebut some of the arguments advanced by the United States Attorney.

BY THE COURT:

All right. I have set it for next Thursday. If your wind holds out long enough, there is still a Friday. I will hear you on Thursday.

Let me just preface what I said. I just called Mr. Levy up here. There is one thing one of counsel said is disturbing. It didn't disturb me but it had some publicity angle, rather unfortunately. That is the reference to the Penitentiary "hole." That smacks of inquisition days, all that sort of thing--which I don't think exists today.

BY MR. LEVY:

While I haven't been a visitor at the Penitentiary at any time, I will say that my two assistants have gone over to the Penitentiary on occasion when they came to Lewisburg. They assure me that that "hole" is inside the Penitentiary, that is facing the window of the place, facing the ground floor of the Penitentiary--

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BY THE COURT:

Would it be well to have the Warden himself make a statement on that?

BY MR. LEVY:

There is no necessity for light all day or night.

Even if there was, daylight streams into that place all the time when it is daylight. Mr. Teller, my assistant, could explain the entire situation. There is not anything that is cruel or barbarous about that thing--

BY MR. MYERS:

We recommend the suggestion just promulgated by the Court. If the Warden would like, we would be willing to examine him under oath.

BY THE COURT:

Examine him on what?

BY MR. MYERS:

In respect to the "hole."

BY MR. LEVY:

Of course, they can't examine him on it.

BY THE COURT:

Of course, they can't examine him on it. We are not going to pry into this thing, but I thought it should be out--

BY MR. LEVY:

There is some responsibility, I want to say, on counsel not to trifle with this case--

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BY THE COURT:

That is the reason I didn't like that statement.

BY MR. LEVY:

Characterization of the Penitentiary, characterization of the FBI, coercion and forcing these confessions are things that responsible counsel--

BY MR. MIDDLESPACHER:

I call upon the United States Attorney to state here of record what statements he used by these defendants be-

fore the Grand Jury that were procured from these defendants subsequent to when we would have had them before the United States Commissioner, to wit, November 25, 1954. Did you use any statements like that taken from these fellows subsequent to that date"

BY MR. LEVY:

I refuse to answer a single question about the statements because I think it would jeopardise the Government and I haven't told you that there was any statements.

BY MR. BIDELSPACHER:

I think his answer speaks for itself. So far as impugning counsel for defense, we passed around bouquets, now apparently we are down to brickbats. We have argued this thing. The gentlemen here have stated what was out there to their knowledge and information. And if Mr. Levy knows about this "hole" he is talking about, let him get on and testify rather than impugn our integrity on the matter. Do you have any personal knowledge of the "hole" you are talking about"

BY MR. LEVY:

Mr. Bidelspacher, you heard me say I didn't visit the Penitentiary and knew nothing about it, but my associate did and he advises me exactly what the situation is. There is no such thing as cruelty in the confinement in the "hole."

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BY MR. BIDELSPACHER:

You talk about the "hole" and not about defense counsel.

I request Mr. Levy's remarks about the integrity of defense counsel be stricken out.

BY MR. LEVY:

I said nothing about the integrity of defense counsel.

BY MR. BIDELSPACHER:

May I have the Stenographer read Mr. Levy's remark?

BY THE COURT:

I don't think it is necessary.

BY MR. BIDELSPACHER:

I don't think it is proper. I don't want it on the record.

May I find out what is on that record?

BY THE COURT:

There was something said about characterising in these statements--

BY MR. BIDELSPACHER:

I would like to have the Stenographer find that statement because I don't want it on the record. I would like to have Mr. Levy's remarks read.

BY THE COURT:

We are spending a lot of time here on a lot of matters that have no bearing on it at all. I didn't hear Mr. Levy say anything about anybody's integrity being questioned. I don't understand him even to suggest that.

BY MR. BIDELSPACHER:

May we have the remarks read that I am objecting to?

BY THE REPORTER:

Do you know what part, Mr. Bidelspacher?

BY MR. BIDELSPACHER:

I was all through arguing; Mr. Levy got up and made a crack right at the end--

BY THE COURT:

I think we will go ahead with this--

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May we have it read? Maybe I am wrong; I hope I am; but I think it should be corrected.

BY THE COURT:

It is already corrected. Mr. Levy certainly did not say that. I didn't hear it, and I am certain it is not on the record.

BY MR. BIDDLEBACHER:

Well, it either is or isn't. May we have that remark read so that we know what it was?

BY THE COURT:

I don't know--can you find that, Mr. Butler?

(Portion referred to read by the Reporter)

BY MR. BIDDLEBACHER:

There is certainly no defense counsel trifling with this case. We are doing the very best we can. If there is any trifling in this, it is certainly in other quarters, not ours.

BY THE COURT:

I am sure, Mr. Levy, you had no thought of impugning the integrity of these gentlemen.

BY MR. LEVY:

I think a reading of what I said not only did I not charge them with anything but I laid down a principle which ought to be heard. Here are counsel. I have the greatest respect for them. I know four of them at least all my life and probably knew them when they were born, and they are all very excellent young men. Of course, there is no statement by the United States Attorney that there was anything wrong with the four of them, or the six of them, to be truthful--

BY MR. BIDDLEBACHER:

They have charged us with trifling with this case.

Now prove that statement.

BY THE COURT:

All right, we will have none of that. We will adjourn until Thursday morning of next week at 11:00 o'clock.

(Court resumes on February 3, 1955, at 11:00 A.M., with all counsel and the defendants present in court)

BY THE COURT:

All right, gentlemen. I understand at the last hearing you desired to be heard further.

BY MR. MYERS:

Yes, Your Honor.

Preliminary to that, on January 24 past, Your Honor, a petition was filed in open court requesting that transcripts of all proceedings be transcribed and presented to the defendant's counsel as soon as possible after any and all testimony in this case is taken. Affixed to that was an order requesting same. On January 25, 1955, a letter was directed to me by Your Honor in which it was suggested that the Court could see no purpose for the transcripts and sections were cited in which it was indicated that the Court was of the opinion there was no authority for such a request. And before we consider the law on the situation, Your Honor, I would like to say that counsel for all the defendants are firmly convinced in complete good faith that it is necessary for a complete and proper defense of these men that transcripts of all the proceedings be made available. In substantiation of that—

BY THE COURT:

There was very extended arguments that I certainly don't see much point of having—I see no point to have transcripts.

BY MR. MYERS:

We, of course, wish to follow whatever may be the opinion of the Court. But we believe that, as we have suggested many times, we are handicapped in so many ways. We consider absolutely

essential all proceedings. We are aware of [illegible] preparation and presentation of this defense and we just wanted to indicate that we believe that these requests are in proper order and absolutely vital—

BY THE COURT:

I will overrule that motion at this time. I may change the ruling later if it develops that that becomes necessary.

BY MR. MYERS:

May I point out to the Court the section under which—

BY THE COURT:

I have to clear that with the Administrative Office.

BY MR. MYERS:

May I indicate the section under which we are proceeding?

BY THE COURT:

Yes.

BY MR. MYERS:

It is Title 28, Section 753(f), which states that:

"...Fees for transcripts furnished in criminal or habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose..."

There is no question that all the defendants here are defendants entitled to defend in this matter in forma pauperis. Accordingly, we have an affidavit, which was sworn to today, indicating same. We believe we are within our legitimate bounds under Section 753(f), and we feel that even in the absence of any statutory authority we would be completely within our bounds in making such a request.

BY THE COURT:

That is the very question I have in mind.

Apropos to that motion, I have this day filed a formal motion and the motion reads:

"Now, February 2, 1955, comes George Jr McCoy, Defendant, through his attorneys, Charles Midelspacher, Jr., Esq., and Charles Saybist, Esq., and moves your Honorable Court that a transcript be typed up and filed of record of the proceedings had in the above entitled case before your Honorable Court on January 24, 1955 for the following reasons: (1) this is a murder charge; (2) the Court had an official stenographer present and took full notes of the proceedings; (3) such a transcription and the filing of the same is necessary to protect the rights of the accused; (4) such a record will show the remarks made in open court by the presiding Judge and the objection of defense counsel thereto as being contrary to the mandates of Federal statute cited by said counsel at said proceedings; (5) said transcription will show motions made in open court by defense counsel and the reasons therefor; (6) said record will show stipulations and agreements between defense counsel and the United States attorney."

We think that these reasons cited in the motion [illegible] and demand that there be a transcript of these proceedings filed.

Now that is an additional fact that Mr. Myers has just urged upon you. He is urging not only a transcript filed but that also defense counsel be entitled to a copy thereof. I am arguing that and I am arguing further that even if Mr. Myers' motion be denied, certainly there should be a transcript filed of the proceedings of the original hearing in the court.

BY MR. GARVEY:

[illegible]

for the defendant Cagle that we concur in the motion of Attorney Myers and Attorney Bidelspacher. We would like to at this time make an oral motion that a transcript be furnished to defense counsel, or if it is not furnished to defense counsel, that at least a transcript be made and that it be filed of record.

BY THE COURT:

I will overrule the motion at this time. I may change that ruling if I feel that that becomes necessary. At this time I overrule the motion.

BY MR. BIDELSPACHER:

At this point of the case I would like to order a copy of the transcript for my own use at my own expense. I take it Your Honor would have no objection to that.

BY THE COURT:

Certainly not.

BY MR. BIDELSPACHER:

Mr. Stenographer, will you see I get a complete copy of the transcript at my expense.

BY MR. LEVY:

I didn't understand that the Court overruled the motion absolutely, but it has—

BY THE COURT:

I didn't say I overruled the motion absolutely. I said I would overrule it for the present but that I couldn't quite see at this point—I am not saying I won't grant it—but just at this moment I don't quite just see the urgency of it because there was such a tremendous amount of talk that didn't get anywhere, I didn't think, at the time. Of course, it is difficult to pick out the matters which I think—I think I have in mind what counsel has in mind. It is rather difficult to find that. I think [illegible]

speaker.

BY MR. BIELSPACHER:

When will we know?--because we are called upon to go forward and we will go forward with an empty hand. We either have to have some thoughts as to when or we don't--

BY MR. LEVY:

The Stenographer certainly couldn't get that testimony out today, and I am quite sure the Stenographer would have to have a few days to get all that was said on the particular day that we were here before the Court.

BY MR. BIELSPACHER:

When the Stenographer can get the transcript out is a purely technical matter which I am not going to argue. There has been ample time from the 24th to have a transcript.

BY THE COURT:

Do you have any objection to the transcript being made?

BY MR. LEVY:

No, I do not have any objection to the transcript being made entirely, but I do believe that the arguments that were held by counsel is no part of that kind of a transcript. I agree with Mr. Bielspacher that that which was stipulated upon agreed between counsel certainly ought to be made part of the record and part of the transcript.

BY THE COURT:

That is right. I think counsel have objected to some remarks of the Court. I think that should be in.

BY MR. LEVY:

That is right.

BY THE COURT:

I think we will direct--can you agree to that?

BY MR. LEVY:

I don't know what to agree to.

BY THE COURT:

Are you asking that all the arguments of counsel be put in? Obviously, you made objections to my remarks. My remarks, to which you objected, should be in. I can't see any point in the arguments of the counsel in support of their position being in--do you?

BY MR. BIDDLEBACHER:

Only in this, Your Honor--in the support of the motions and the positions taken, certain matters argumentative, certain matters stating sound fundamental reasons now for those motions. Now the problem arises if we are going to have an edited transcript as to who is going to do the editing. I don't see how it can be edited until there is a transcript to edit.

BY THE COURT:

I think under the circumstances we better have the transcript.

BY MR. MYERS:

Is Your Honor ruling that transcripts be made available at the expense of the defendants themselves?

BY THE COURT:

No, no. I think--

BY MR. LEVY:

The Government will pay for the transcripts as the Act requires it.

BY THE COURT:

I have already cleared that.

All right, what is next? Mr. Myers, I think you are

the one that asks for some rebuttal at the last hearing. Do you have any?

BY MR. MYERS:

If it please the Court, the rebuttal of defense counsel representing Robert Carl Parker is at this point limited to the consideration of the impropriety of the Grand Jury for the reason that we feel the other matters have been sufficiently argued and considered by the Court.

Our position in regard to the impropriety of the Grand Jury--we would just like to urge for a moment--and it is considered substantially on two bases. The first is that drawing jurors from any section of the district is to be something to be genuinely discouraged on any occasions. Once again we call Your Honor's attention to United States v. Standard Oil Company, 170 F. 808, but more important than that, Your Honor, is that since we have the statutory limitation and prohibition which requires a capital offense to be tried in the county in which the offense was committed, we argue that it necessarily means that the Grand Jury must include jurors from that particular county because of the spirit and intention of Grand Jurors and jurors generally being recognized on the principle of trial and judgment by your peers.

In reference to suggestions filed by the United States, eight cases are cited in contradiction to this. However, Your Honor, we have urged from the beginning on this particular phase that this is a capital offense. None of the cases cited by the United States are capital offenses. As a matter of fact, one of the cases cited, the last one, by the United States Government is a civil case for damages.

We submit, Your Honor, that the Insurgents case,

we have cited before which strongly indicated that if an indictment took place in one county the trial of the case must necessarily take place there--that was a capital offense.

Finding no law to the contrary, as final rebuttal we would like, through the Court, to call on the United States Government through its representative to submit to this Court just one case of a capital nature in which a man--a defendant was indicted in one county and tried in another.

BY MR. LEVY:

I can answer that very quickly by citing the case of United States v. Frank J. McDonnell and others, where this Court had the argument where the man was indicted in Scranton, Pennsylvania, and was tried here in Lewisburg and there was objection at that time. But the Standard Oil Company case is not authority here. The Standard Oil Company case was many, many years prior to the Supreme Court rules and the Circuit Court rules which compels this Court by order to divide the district so that jurors shall not be taken from York, Pennsylvania, to Scranton, Pennsylvania, or vice-versa.

BY THE COURT:

I am completely satisfied on that.

BY MR. [illegible]:

In 1931 when there existed a statute which permitted the parceling of a district, Judges Johnson and Watson, in the case cited in the brief, indicated that was the type of conduct to be greatly discouraged. There always existed such authority. As a matter of fact, in the Insurgents [illegible] in 1799 there was [illegible] a statutory provision. This order is just a confirmation of practice. The reference to the Frank J. McDonnell case has [illegible] and I have again would like to

given by you and through the Court to the United States and its authorized representative to cite in open Court one case of a capital offense in which a defendant was indicted in one county and tried in another.

BY THE COURT:

I don't think that is necessary. I am satisfied with that.

BY MR. MATTES:

May it please the Court, at the last argument on these motions certain issues of fact came up. At that time we did not have an affidavit due, as we explained, to the administrative rules which, of course, we must abide by. We now have an affidavit we would like to file at this time.

So far as the legal matters raised--

BY THE COURT:

I assume you have given the United States Attorney a copy of that.

BY MR. MATTES:

Not yet.

BY MR. LEVY:

May I have the date of that affidavit?

BY MR. MATTES:

The date is today.

So far as the legal issues which came up at the last argument, we feel that in our brief filed we have anticipated the arguments and the suggestions which were made, so we don't want to impose on the time of the Court and feel sure, of course, the Court has read our brief, so there is no sense repeating our arguments at this time.

BY THE COURT:

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Let me ask you—is it your theory that this confession was taken by duress and coercion? Are you seriously contending that?

BY MR. MEYERS:

May I just clear up some issue here? There is no matter of confessions in discussion. There have been statements that have been taken, the character of which is not known at this time.

BY THE COURT:

You are not contending—do I understand—that confessions were taken by coercion or duress"

BY MR. MATTES:

We have no idea what the statements were.

BY THE COURT:

You are not contending that confessions were taken by coercion or duress by the FBI"

BY MR. MATTES:

We have no knowledge actually who took the statements.

BY THE COURT:

You are stating in the wording over the signature of Parker that the statements—you are talking about some statements of somebody—you say "That these statements were not taken in his...presence.". Obviously, his own statement was taken in his presence.

BY MR. MATTES:

Correct.

BY THE COURT:

You say: "That certain other statements were obtained from him, Robert Carl Parker, by duress and coercion." I am asking you now whether you are claiming that duress and coercion

BY MR. MATTES:

At this time we can make no statements who exercised or who took--

BY THE COURT:

That is a very easy question, Mr. Mattes. I have your affidavit here. I am asking you categorically--you have your client in court--I am asking you categorically--does he claim coercion on the part of the FBI.

BY MR. MATTES:

May it please the Court, we have not seen the statements--

BY THE COURT:

That is not the point. I am asking you a very simple question. Does Mr. Parker claim he was coerced to give a statement to the FBI

BY MR. MATTES:

Yes sir.

BY THE COURT:

He does--

BY MR. MATTES:

Not to the FBI. We don't blame the FBI. We don't know who took the statements.

BY THE COURT:

You are not charging the FBI with coercion--do I understand it.

BY MR. MATTES:

We are charging whoever took the statements--

BY THE COURT:

I am asking you if you are charging the FBI.

BY MR. MATTES:

No sir, not specifically.

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BY THE COURT:

Are there any other matters before the Court?

BY Mr. BATTLE:

May it please the Court, to eliminate any misunderstanding, we do not know who took the statements. Naturally counsel—

BY THE COURT:

Mr. Battle, I think my question is as clear as a crystal. All I am asking you is—are you charging the agents of the FBI with coercion and duress?

BY MR. BATTLE:

We are charging whoever took the statements—

BY THE COURT:

No; answer my question. Your client is in court. You can consult him. Was he coerced by any agent of the FBI to give a statement? If you want us to, I will give a recess until you consult your client.

BY MR. BIDELSPACHER:

I move for a recess.

BY THE COURT:

We will take a ten-minute recess.

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(Recess)

(Court resumes after the recess with all counsel and the defendants present in court)

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BY MR. BATTLE:

If it please the Court, in answer to your question we can not state with any degree of certainty who gave the orders; what we can state, and what we have stated, is that the statements were taken and that the circumstances surrounding the statements amounted to coercion, and that we can infer from the

that they contrived to varying amounts and [illegible] of them innocently, but the net result of the statements being taken under coercion remains the same.

BY THE COURT:

Do you have anything else, gentlemen?

BY MR. [illegible]:

There is only one thing I want to say on this proposition. There is a case in the books, United States v. Lydecker, in which Judge Hazel, a judge of great experience and great ability, received identically the same kind of affidavit.

"The affidavit of the petitioner tends to show that a confession...was procured by intimidation, promises of leniency, force and under duress, in violation of his constitutional rights, and that such confession and seizure of papers was and is the basis of the indictment..."

Judge Hazel wrote on that proposition:

"On the theory that the moving affidavits disclose a violation of petitioner's constitutional rights it is insisted that under the doctrine of...," the cases therein cited, including the United States Supreme Court, "...the confession must be returned to the petitioner or suppressed before trial. But the authorities cited do not so hold. Such a confession may be impeached upon the trial and, unless it is shown by the government to have been freely and voluntarily made without inducements, threats, or promises of any kind, it will not be received as evidence." The learned counsel for the defendant concedes that whether a confession was voluntarily made or not depends upon the particular facts of each case, and that the facts

are usually involved in doubt until they have been ascertained. But this may only occur at the trial."

Is there any doubt in Your Honor's mind and is there any doubt in counsel's mind when he himself says, "I don't know whether it was the FBI or who it was?"

And, furthermore, I would like to point out that Judge Frank of the Circuit Court of Appeals of the Second Circuit, says. He says:

> "there is only one effective way to move towards elimination of the third degree: We should have all our police trained, as are those in the FBI, to regard such brutality as unspeakably vile, as something to which a police officer will never stoop."

So our motion in this case is that this Court can take judicial notice of the FBI treatment, certainly may, second, that there is no matter that can be introduced but at the trial of the case.

I have read the affidavit. I say to Your Honor that that affidavit on its facts could never be proven.

Do you have anything else, gentlemen?

I am prepared to rule on the motions. Various motions have been made by each of the defendants. Taking them as their names appear on the indictment: As to the defendant Parker, his motion to dismiss the indictment is refused; Parker's motion to inspect the Grand Jury minutes is refused. As to the defendant Cagle, the motion to quash the indictment is refused; motion to inspect the Grand Jury minutes is refused. As to the defendant McCoy, his motion to dismiss the [illegible]

Various motions were made on behalf of all [illegible]

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[illegible] motions of a similar nature made by the other defendants. In those cases those motions are refused.

We will now proceed with the arraignment, gentlemen. Will the defendants present themselves to the Court?

BY MR. LEVY:

If Your Honor please, I call the case of United States of America v. George Jr. McCoy, Robert Carl Parker, and Lewis Cagle, Jr.

Will you please stand up here?

You are George Jr. McCoy?

BY THE DEFENDANT McCOY:

Yes sir.

BY MR. LEVY:

You have been served with a copy of the indictment in this case?

BY THE DEFENDANT McCOY:

Yes sir.

BY MR. LEVY:

And you consulted counsel and he talked with you?

BY MR. [illegible]:

Just a moment! I object to this interrogation of my client by the United States Attorney.

BY THE COURT:

The fact of the matter is, Mr. Bidelspacher, that is required under the federal procedure--precisely what Mr. [illegible] is doing.

BY MR. BIDELSPACHER:

I object to the interrogation. The record speaks for itself when he had counsel and when he didn't have counsel.

BY THE COURT:

The objection is overruled.

BY MR. SIDELSPACHER:

Note an exception.

BY MR. LEVY:

And now, Mr. McCoy, did you read and discuss this indictment with your counsel?

BY THE DEFENDANT McCOY:

I never--no sir; I never even had it down there when I talked with him--got a copy of it.

BY MR. LEVY:

All right. Under the circumstances I will have to read the indictment.

BY THE COURT:

All right.

BY MR. LEVY:

"United States of America v. George Jr. McCoy, Robert Carl Parker, and Lewis Cagle, Jr., Criminal No. 12563 (18 U.S.C. Sec. 1111) Indictment The Grand Jury Charges:

On or about the 22nd day of November 1954, in, at and upon the premises of the United States Northeastern Penitentiary, located in and adjacent to the Township of Kelly, in the County of Union, in the Middle District of Pennsylvania, and on lands acquired for the use of the United States and under the exclusive jurisdiction of the United States, George Jr. McCoy, Robert Carl Parker, and Lewis Cagle, did with premeditation and malice aforethought, murdered William Walter [illegible] by striking him on the head with a [illegible] crushed his skull and severely [illegible] the effects of which he suffered

into a coma for a time and died on November 24th 1954.

A TRUE BILL.

(Signed) Joseph C. Kanten
Foreman

Scranton, Pennsylvania
December 1st, 1954.

(Signed) J. Julius Levy
United States Attorney."

I ask you now, Mr. McCoy, after hearing the indictment read, how do you plead to this indictment?

BY MR. BICCLEPACHER:

Just one moment! Do I answer for him, Your Honor? I don't want to violate any of the rules around here.

BY THE COURT:

It is for the defendant to enter his plea on the advice of his counsel, Mr. Biccleracher.

BY MR. BICCLEPACHER:

May I confer with my client so that he can proceed upon the advice of counsel?

BY MR. COYLE:

A similar request is made at this time on behalf of the defendant Coyle.

BY THE COURT:

Do you want, Mr. Levy, to proceed with the other entry of the other client so that he will get that on the record?

BY MR. COYLE:

Any way that Your Honor wants.

BY MR. LEVY:

Have you consulted with your client?

How do you plead to this indictment?

BY THE DEFENDANT McCOY:

I plead not guilty [illegible]

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BY MR. BIDELSPACHER:

We are also going to enter a plea of not guilty by reason of insanity. As I read the Federal Rules, that is all comprehended in the one plea of not guilty. However, if that is not Your Honor's understanding, then I would like to please enter it. Let's have no doubt about it. I will enter two pleas--not guilty, and not guilty by reason of insanity. Then there will be no doubt about it.

BY MR. LEVY:

There is no doubt about it. Insanity is a defense under a plea of not guilty.

BY THE COURT:

That is right.

BY MR. BIDELSPACHER:

I want the two pleas entered.

BY MR. LEVY:

I shall arrange for that. I will call you in a minute.

BY MR. BIDELSPACHER:

Suppose you put it on there. The man is not going to sign until it is on there.

BY MR. LEVY:

Will you give me your phraseology, Mr. Bidelspacher?

BY MR. BIDELSPACHER:

What have you written so far?

You see, this is also based upon the fact Charley McCoy doesn't read and write. He laboriously signs his signature but—

"...and also pleads not guilty by reason of insanity."

BY MR. LEVY:

It is there.

BY MR. BIDELSPACHER:

I don't know that is there. I haven't seen your papers.

BY MR. LEVY:

You mean you haven't seen a copy of the indictment?

BY MR. BIDELSPACHER:

I haven't seen the plea until just now. You are just writing it.

BY MR. LEVY:

You said you haven't seen the papers. I asked--have you seen the indictment?

BY MR. BIDELSPACHER:

I haven't seen what you are writing, no, until right now.

BY THE COURT:

Gentlemen, I don't know--I think I should have some authority for that kind of plea. It is guilty or not guilty and insanity is purely a matter of defense.

BY MR. LEVY:

It is purely a matter of defense. I don't want you--I say this honestly--I don't want this man to enter a plea of not guilty on the grounds of insanity--

BY THE COURT:

I don't think we should take it. It is either guilty or not guilty. He can put all the insanity pleas in he wants--

BY MR. BIDELSPACHER:

I am moving for a delay in this arraignment until we can straighten this matter out. Now this points out exactly what I had in mind. I have asked the Court to delay this arraignment repeatedly so we can dispose of our motions and then in an orderly way have the arraignment, and here we come today and

we go right up the dip and we have these arguments, one thing or another, leading up to just this type of sham--

BY THE COURT:

Mr. Bidelspacher, I am prepared to rule definitely and affirmatively on that right now. We are going to proceed with the arraignments. We will accept pleas either of guilty or not guilty. Any matters of defense will receive consideration at the proper time. I think the arraignment should continue. There will be a plea either of guilty or not guilty.

BY MR. BIDELSPACHER:

Under Your Honor's ruling I enter a plea of not guilty for my client. I don't think we need anything further, signing of any papers or anything else.

BY THE COURT:

I think that is right. I want the indictment signed by the defendant. The plea is guilty or not guilty.

BY MR. BIDELSPACHER:

I would like it noted I am objecting to the refusal of the Court to also at the same time to receive a plea of not guilty by reason of insanity.

(Defendant McCoy signs the indictment)

BY MR. LEVY:

You are Robert Carl Parker?

BY THE DEFENDANT PARKER:

Yes sir.

BY MR. LEVY:

You heard the reading of the indictment.

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BY THE DEFENDANT PARKER:

Yes sir.

BY MR. LEVY:

You have received a copy of it over a month ago, is that correct?

BY THE DEFENDANT PARKER:

Yes sir.

BY MR. LEVY:

And you have been represented by counsel all that time?

BY THE DEFENDANT PARKER:

Yes sir.

BY MR. [illegible]:

After a time.

BY THE DEFENDANT PARKER:

After. It was after a period.

BY MR. [illegible]:

It was a period of several days after the receipt of the indictment.

BY MR. LEVY:

You have been represented by counsel for the past month, have you not?

BY THE DEFENDANT PARKER:

That is right.

BY MR. LEVY:

And have they read the indictment to you and have you read the indictment?

BY THE DEFENDANT PARKER:

Well, I have read it.

BY MR. LEVY:

Have they read it? And you didn't hear me read it now. Do you want it reread?

BY THE DEFENDANT PARKER:

Yes sir.

BY MR. LEVY:

"United States of America v. George Jr. McCoy, Robert Carl Parker, and Lewis Cagle, Jr.,, Criminal No. 1258) (18 U.S.C. Sec. 1111) Indictment The Grand Jury Charges:

On or about the 22nd day of November 1954, in, at, and upon the precises of the United States Northeastern Penitentiary, located in and adjacent to the Township of Kelly, in the County of Union, in the Middle District of Pennsylvania, and on lands acquired for the use of the United States and under the exclusive jurisdiction of the United States, George Jr. McCoy, Robert Carl Parker, and Lewis Cagle, Jr., with premeditation and malice aforethought, murdered William Walter Edington by striking him on the head with a deadly weapon which crushed his skull and severely injured his brain from the effects of which he suffered an aphasia, lapsed into a coma for a time and died on November 24th 1954.

A TRUE BILL.

(Signed) Joseph C. Kamsen
Foreman

Scranton, Pennsylvania
December 1st, 1954.

(Signed) J. Julius Levy
United States Attorney."

How do you plead to that indictment—guilty or not guilty?

70-2245-103

BY THE DEFENDANT PARKER:

Not guilty.

(Defendant Parker signs the indictment)

BY MR. LEVY:

[redacted]

BY THE DEFENDANT CAGLE:

Yes sir.

BY MR. LEVY:

You have received a copy of this indictment?

BY THE DEFENDANT CAGLE:

Yes sir.

BY MR. LEVY:

And you have been represented by counsel for the past month?

BY THE DEFENDANT CAGLE:

Yes sir.

BY MR. LEVY:

And whether or not you consulted them and they talked to you about this indictment?

BY THE DEFENDANT CAGLE:

I have read it and they have read it.

BY MR. LEVY:

Do you desire that I read it over again?

BY MR. CONROY:

No, we will waive that right.

BY MR. LEVY:

You will waive the reading of this indictment?

BY MR. CONROY:

Yes sir.

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BY MR. LEVY:

You know that this indictment charges you with murder

70-228 15

BY THE DEFENDANT CAGLE:

Yes sir.

BY MR. LEVY:

And you have heard me read it in the presence of

BY THE DEFENDANT CABLE:

Yes sir.

BY MR. LEVY:

How do you plead to this indictment--guilty or not guilty?

BY THE DEFENDANT CABLE:

Not guilty.

(Defendant Cable signs the indictment)

BY THE COURT:

I think that is all, gentlemen.

BY MR. LEVY:

If Your Honor please, I would like at this time to move to have a date fixed for the trial of this case convenient to the Court and counsel, of course--

BY THE COURT:

Yes.

BY MR. LEVY:

But I think in making my motion it may be that the Court desires to take the matter up with counsel individually--

BY THE COURT:

I think I will.

BY MR. LEVY:

--so that the Court will fix a date that will be convenient to everybody concerned.

BY THE COURT:

That is right. I would like to fix it as promptly as possible convenient to everybody concerned.

BY MR. CONROY:

Before the date is set, I would urge the Court in setting promptly not to use an overabiding desire--

BY THE COURT:

Absolutely not. I am not unmindful of the con-

I take it we will be heard. In other words, I won't get a letter stating the trial date is fixed.

BY THE COURT:

I won't set a date and ask you to be in two or three days after that. I want to get you here and ask you about a time that will be convenient. I have a schedule of my own I have to take into consideration. There won't be any rush about it. On the other hand, I don't think it is the type of case that should be indefinitely postponed and dragged out. I want to give you all the opportunity in the world to prepare your case so that your clients are fully and capably represented, at the same time with the interest of the Government concerned.

All right.

(Court recesses)

CERTIFICATE

This is to certify that the foregoing is a true and correct transcript of my shorthand notes taken at the time of the proceedings in the above captioned matter.

Official Court Reporter

ORDER

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Now, _____, 1955, the foregoing transcript is directed to be filed and made part of the record in the above captioned matter. 40-228 43

UNITED STATES DISTRICT JUDGE

Office Memorandum • UNITED STATES GOVERNMENT

TO : Director, FBI (70-22845) DATE: 3/31/55

FROM: SAC, Pittsburgh (70-207)

SUBJECT: GEORGE JUNIOR McCOY, was., ET AL;
WILLIAM WALTER ARRINGTON - VICTIM
CGR - MURDER; IFPI

Re Philadelphia letter to Bureau, 3/7/55.

On 3/17/55, Chief Deputy U. S. Court Clerk, EARL CAVENDER, Charleston, S. Va., advised SA [redacted] that the court records at Charleston failed to reflect a conviction of subject McCOY.

On the same day, [redacted], United States Attorney's Office, Charleston, advised this was a Bluefield, S. Va. case and the court records would be at Bluefield. b7C

On 3/25/55, [redacted] Deputy U. S. Court Clerk, Bluefield, S. Va., advised SA [redacted] that the records of the case against McCOY were in her office, and she prepared the necessary papers which she sent to U. S. Court Clerk HOMER HAMMA at Charleston, S. Va. for proper certifications. She also advised that she would be the proper person to testify as to these records.

On 3/26/55, U. S. Court Clerk HOMER HAMMA, Charleston, S. Va., advised SA [redacted] that he had received the papers in the McCOY case from [redacted] that morning, and that he was endeavoring to get the necessary certification of U. S. Judge BEN MOORE prior to his leaving town on a week's vacation.

70-22845

On 3/28/55, Mr. HAMMA furnished the necessary certified papers which are being enclosed with a copy of this letter to the Philadelphia Office.

On 3/28/55, Chief Deputy U. S. Marshal J. ROBERT MILLER, Charleston, S. Va., advised that former Deputy Marshal [redacted]

2 - Philadelphia (70-523) (Enc. 1) (Registered Mail)

JBH:pje
(5)

RECORDED - 24 70-22845-104

EX-125 30 APR [illegible] 1955

FBI

Letter to Director, FBI
PG 70-207

[redacted] Bluefield, W. Va., who is now attached to the Bluefield Office of the Alcohol and Tobacco Tax Unit, was the Deputy who received subject McCOY at Bluefield when he was the Deputy Marshal there, and he is the Deputy who transported McCOY from West Virginia to the Federal Reformatory at Chillicothe, Ohio. b7C

RUC

70-22845-104

FEDERAL BUREAU OF INVESTIGATION

Form No. 1
THIS CASE ORIGINATED AT PHILADELPHIA

REPORT MADE AT	DATE WHEN MADE	PERIOD FOR WHICH MADE	REPORT MADE BY
WASHINGTON, D. C.	4/12/55	3/24,28,29; 4/1/55	[redacted] b7C seb

TITLE	CHARACTER OF CASE
GEORGE JUNIOR McCOY, was.; et al WILLIAM WALTER REMINGTON - VICTIM	CRIME ON GOVERNMENT RESERVATION - MURDER; IRREGULARITIES IN FEDERAL PENAL INSTITUTION

SYNOPSIS OF FACTS:

Certified copies of indictment, docket entries, judgement and probation, and revocation of probation pertaining to ROBERT CARL PARKER obtained from Clerk, U. S. District Court for D. C. Subpoena to produce same should be directed to HARRY M. HULL, Clerk, U. S. District Court for D. C., or designated deputy. Cpl. [redacted] MPD, who arrested PARKER, 7/17/51, can identify him as person referred to in above papers. PARKER fingerprinted at MPD 7/17/51 by Sgt. [redacted] and photographic copy of MPD fingerprint card for PARKER enclosed. b7C

- RUC -

DETAILS: AT WASHINGTON, D. C.

A certified copy of the indictment, docket entries, judgement, and probation, and also revocation of probation for ROBERT CARL PARKER pertaining to his arrest by the Metropolitan Police Department at Washington, D. C., on July 17, 1951, on a charge of unauthorized use of automobile, was obtained from the Office of the Clerk, U. S. District Court for the District of Columbia.

lee BJ Prison 2: 4/15/55
Inc Dept 46 4/15/55

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MFO 70-980

[redacted] Deputy Clerk, U. S. District Court for the District of Columbia, advised that a subpoena should be issued in the name of HARRY M. HULL, Clerk, U. S. District Court for the District of Columbia, or his designated deputy to appear to testify about the records of the U. S. District Court for the District of Columbia pertaining to PARKER.

Corporal [redacted] of the Metropolitan Police Department, who resides at [redacted] Washington, D. C., and is presently assigned to the Number 6 Precinct, advised that he recalls having arrested PARKER in July, 1951, and charging him with unauthorized use of automobile. He stated that he would be able to identify PARKER as the person who was indicted, in 1951, entered a guilty plea, and was subsequently sentenced to imprisonment of one to three years. Corporal [redacted] advised that he has a very good recollection of the events leading up to PARKER's arrest and he readily identified a photograph of PARKER as being the individual arrested by him in July, 1951.

Sergeant [redacted] of the Identification Division of the MPD, checked his records and ascertained that he had fingerprinted ROBERT CARL PARKER on July 17, 1951, at the time he was brought to the Identification Division and charged with unauthorized use of an automobile. Sergeant [redacted] photographed the MPD fingerprint card made at the time that PARKER was fingerprinted and furnished photo to SA [redacted]

ENCLOSURES:

TO UNITED STATES ATTORNEY, MDDA:

1. Certificate from the U. S. District Court for the District of Columbia dated March 28, 1955, with attached photostatic copies of indictment of ROBERT CARL PARKER filed 10/14/51; criminal docket for USDC, District of Columbia #118751; judgement and probation filed 9/27/51; revocation of probation - commitment filed 11/24/53.

2. Negative and print of fingerprint card for ROBERT CARL PARKER obtained from MPD.

- MFO 70-22845 - 105

WFO 70-980

REFERENCE: Letter from Philadelphia dated March 9,

70-22845-A 10

ADMINISTRATIVE

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (70-22845)

DATE: 6/1/55

ATTENTION: FBI LABORATORY

FROM : SAC, PHILADELPHIA (70-523)

SUBJECT: GEORGE JUNIOR McCOY, et al
CGR - MURDER, IFPI

Rerep of SA [redacted] 1/20/55, Philadelphia. b7C

There is enclosed herewith undeveloped film of nine negatives of the known handwriting of subject LEWIS CAGLE, Jr., as obtained from his signed statements as set out on pages 18 to 22 in referenced report. Also enclosed is a photostatic copy of a letter dated 12/26/54 directed by LEWIS CAGLE, Jr., to his mother, Mrs. L. H. CAGLE, 211 East Fourth Street, Chattanooga, Tenn.

Assistant U. S. Attorney STEPHEN TELLER, Middle District of Pennsylvania, Scranton, Pa., has requested that the above items be submitted to the FBI Laboratory for a handwriting comparison to determine if the known handwriting of CAGLE is identical to the handwriting on the enclosed photostatic copy of the letter dated 12/26/54. The original of this letter is not available to this office. Mr. TELLER requested that the original signed statements of CAGLE not be submitted, as he did not want the statements lost or the chain of evidence broken, and further advised that he did not desire that additional handwriting specimens be taken from CAGLE. There are numerous handwriting specimens in CAGLE's file at U. S. Penitentiary, Lewisburg, Pa.; however, since inmates sometimes write letters for each other, there is no one that can testify that the handwriting specimens appearing in his file at the U. S. Penitentiary were written by CAGLE.

It is requested that the Laboratory make a comparison of the handwriting appearing in the photostatic copy of the enclosed letter dated 12/26/54 with the enclosed negatives of his known handwriting and the known handwriting appearing on any of CAGLE's fingerprint cards in the Identification Division under FBI Number [redacted] to determine if he wrote the questioned letter dated 12/26/54.

b7C

ENCLOSURES - 2 ENCL.

70-22845

1 JUN

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SEVEN

70-22845-106

FBI

LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON D. C.

April 12, 1955

To: SAC, Philadelphia

70-22845-106

RECORDED 80 EX-3

ELRY

J. Edgar Hoover

John Edgar Hoover, Director

Re: GEORGE JUNIOR McCOY, et al
COR - MURDER, IPPI

YOUR FILE NO. 70-523
FBI FILE NO. 70-22845
LAB. NO. D-202528 HD

Examination requested by: Philadelphia

Reference: Letter 4-1-55

Examination requested: Document

Specimens:

Q61 A Photostat of a two-page letter dated 12-26-54, beginning "Hello Mom. I received....," signed "Lewis."

K64 Nine negatives as obtained from statements bearing known handwriting of LEWIS CAGLE, JR.

Results of Examination:

It was concluded that the LEWIS CAGLE and MRS. L. M. CAGLE handwriting appearing in the upper left-hand corner of the first page of Q61, and the handwriting "Lewis" at the end of the second page of Q61, were written by LEWIS CAGLE, JR., whose known handwriting is designated as K64 and whose signatures appear on fingerprint cards in the identification records. A definite conclusion could not be reached whether LEWIS CAGLE, JR., K64, prepared the remainder of the questioned handwriting on Q61, because of an insufficient number of regular letter and word combinations for an adequate comparison. However, handwriting characteristics were noted to exist in common between the remainder of the questioned handwriting on Q61 and the known handwriting of LEWIS CAGLE, JR.

Specimens Q61 and K64 are retained.

70-22845-106

b7C

FBI
APR 15 1955

FEDERAL BUREAU OF INVESTIGATION

Letter No. 1
This Case Originated At Philadelphia

Report Made At	Date When Made	Period For Which Made	Report Made By
KNOXVILLE	4-13-55	4-11-55	[redacted] b7C idh

Title	Character of Case
GEORGE JUNIOR MC COY, was., et al	CRIME ON GOVERNMENT RESERVATION-MURDER; IRREGULARITIES IN FEDERAL PENAL INSTITUTIONS

SYNOPSIS OF FACTS: Copies of Waiver of Indictment, Criminal Information, Court Reporter's transcript, Judgment and Commitment for subject McCOY obtained from Deputy Clerk USDC, Chattanooga, Tenn. [redacted] Deputy Clerk, USDC, Chattanooga, can introduce these documents. b7C

-REC-

DETAILS: AT CHATTANOOGA, TENNESSEE:

On April 11, 1955, [redacted] Deputy Clerk, U. S. District Court, Southern Division, Eastern District of Tennessee, made available to SA [redacted] the following certified documents relating to sentence of GEORGE JUNIOR MC COY on 1/21/1949: b7C

(1) Waiver of Indictment
(2) Criminal Information
(3) Court Reporter's Transcript
(4) Judgment and Commitment

These documents contain in substance the following information: On January 21, 1949, GEORGE JUNIOR McCOY appeared in open court at Chattanooga, Tennessee, the Honorable LESLIE R. DARR presiding, who after being advised of the nature of the charge, and his rights, waived in open court his right to be proceeded against by indictment and consented that proceeding might be by information. He also waived jurisdiction in the Winchester, Tennessee, division and agreed that his case might be disposed of in the Southern Division at Chattanooga.

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(Encl.4)
1 - Knoxville (70-198)

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APR 15 1955

THIS REPORT AND ITS CONTENTS ARE TO BE DISTRIBUTED OUTSIDE THE AGE

KX 70-198

The information which was filed by OTTO T. AULT, then U. S. Attorney who is presently deceased, charged that GEORGE JUNIOR MC COY on or about December 17, 1948, forcibly broke into the Post Office at Kelso, Tennessee, with intent to commit in such Post Office larceny and other depredations.

The second count of the information charges that on or about December 17, 1948, GEORGE JUNIOR MC COY stole $1.61 which was the property of the United States in violation of Section 641, Title 18, U. S. Code.

GEORGE JUNIOR MC COY entered a plea of guilty to the charges, and on January 21, 1949, was sentenced by the Honorable LESLIE R. DARR, Judge of the U. S. District Court at Chattanooga, Tennessee, to the custody of the Attorney General for a period of one year and one day on each count in the information, the sentences to run concurrently.

[redacted] who is presently b7C
Deputy Clerk, U.S. District Court at Chattanooga, Tennessee, advised that he can introduce the above described records. He further advised that in January of 1949 he was a Deputy United States Marshal in the Eastern Division of the State of Tennessee and that he delivered GEORGE JUNIOR MC COY to the Federal Correctional Institution at Ashland, Kentucky. He stated he was of the opinion he could personally identify MC COY.

ENCLOSURES to Philadelphia (4) - the following documents pertaining to sentence of GEORGE JUNIOR MC COY at Chattanooga, Tennessee, on 1/21/49: Waiver of Indictment, Criminal Information, Court Reporter's Transcript, and Judgment and Commitment.

-RUC-

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XX 70-198

ADMINISTRATIVE PAGE:

REFERENCE: Louisville letter to Philadelphia dated 4/4/55.

70-22845-107

FEDERAL BUREAU OF INVESTIGATION

Form No. 1
THIS CASE ORIGINATED AT PHILADELPHIA

G.I.R-7

REPORT MADE AT	DATE WHEN MADE	PERIOD FOR WHICH MADE	REPORT MADE BY
PHILADELPHIA	4/13/55	1/6,7,14,31;2/16; 3/2,10,15-18,21, 25,26,28;4/1,4, 5/55	[redacted] b7C (JRP)
TITLE GEORGE JUNIOR MC COY, was. et al; WILLIAM WALTER REMINGTON - VICTIM			CHARACTER OF CASE CRIME ON GOVERNMENT RESERVATION - MURDER; IRREGULARITIES IN FEDERAL PENAL INSTITUTION

SYNOPSIS OF FACTS: Subjects CAGLE, PARKER and MC COY arraigned on 2/3/55, at Lewisburg, Pa., and all entered pleas of not guilty. On 3/16/55, Honorable FREDERICK V. FOLLMER, Judge, MDPA, Lewisburg, set date of trial for 5/16/55. Subject CAGLE released U.S. Penitentiary, Lewisburg, on 3/23/55, and removed to Dauphin County Jail, Harrisburg, Pa. [redacted] b7C former inmate, U.S. Penitentiary, Lewisburg, identified by subject CAGLE's father as individual who furnished him information regarding instant murder on 12/13/54. Contents of letter dated 12/26/54, from subject CAGLE to his mother, [redacted] set out. Additional investigation requested by AUSA, MDPA conducted and set out.

- P -

DETAILS:

ADDITIONAL PRELIMINARY PROSECUTIVE ACTION

At Lewisburg, Pa.

Records of the U.S. District Court reflect that GEORGE JUNIOR MC COY, ROBERT CARL PARKER and LEWIS CAGLE, JR. were arraigned on February 3, 1955, before Honorable FREDERICK V. FOLLMER, Judge, Middle District of Pennsylvania,

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and all entered pleas of not guilty to the charges as contained in the indictment.

These records further reflect that on March 16, 1955, Judge FOLLMER ordered that the date of the trial in instant case be set at 2:00 p.m., on May 16, 1955.

Records of the U.S. Penitentiary reflect that subject CAGLE was released at the expiration of his sentence on March 23, 1955, to the custody of Deputy Marshal [redacted] Lewisburg, Pa. b7C

[redacted] Deputy, U.S. Marshal, advised on March 24, 1955, that subject CAGLE was removed to the Lancaster County Jail, Harrisburg, Pa., where he will be incarcerated to await trial in instant case on May 16, 1955.

RESULTS OF ADDITIONAL INVESTIGATION

By airtel dated January 5, 1955, the Knoxville office advised that subject CAGLE's father, Mr. LEWIS HERSHEL CAGLE, 211 East Fourth Street, Chattanooga, Tenn., positively identified the photograph of [redacted] former inmate, U.S. Penitentiary, Lewisburg, Pa., as the person who furnished him information on December 13, 1954, to the effect that his son LEWIS CAGLE, JR., did not commit murder and that he, [redacted] knew the identity of the murderer. b7C

It is noted that [redacted] on December 21, 1954, furnished a signed statement to agents of the Knoxville office wherein he denied any knowledge of the murder of WILLIAM WALTER REMINGTON at the U.S. Penitentiary in Lewisburg, Pa., or having made any statements concerning this murder. b7C

At Lewisburg, Pa.

On January 6, 1955, Mr. FRED T. WILKINSON, Warden, U.S. Penitentiary, furnished to SA [redacted] a photostatic copy of a letter dated December 26, 1954, directed by LEWIS CAGLE, JR. to his mother, Mrs. L. H. CAGLE, 211 East Fourth Street, Chattanooga, Tenn. Warden WILKINSON advised that the original letter was mailed to CAGLE's mother after a photostatic copy of it b7C

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had been made and placed in CAGLE's institutional file.

This letter is set out as follows;

"From Lewis Cagle Dec. 26, 1954

[redacted]

"To Mrs. L. H. Cagle [redacted] Chattanooga, Tenn.

[redacted]

b7C

[redacted]

-370-22845 108

4-750 (Rev. 4-17-85)

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FBI/DOJ

[redacted]

These records contain a written statement dated January 9, 1955, made by [redacted] Correctional Officer, U.S. Penitentiary, which reflects that [redacted], while escorting CAGLE, MC COY and PARKER from Administrative Segregation to the yard so that they could exercise on January 9, 1955, noticed that CAGLE stopped at the cell door of an inmate by the name of [redacted] a holdover inmate to be transferred to Tallahassee, Fla. CAGLE pointed his finger at inmate [redacted] and shouted "Don't see me or I'll kill you." CAGLE later told [redacted] that [redacted] him up and that if it hadn't been for him I would have been home and if I get a chance I'll kill him."

According to [redacted] inmate [redacted] later explained that CAGLE and two other inmates who at the present time are incarcerated at the institution strongarmed a boy at Chillicothe. [redacted] at this time was Councilman of the dormitory where CAGLE and these two inmates were quartered and he advised them to go into segregation or leave the dormitory.

The following investigation was conducted at the request of Mr. STEPHEN A. TELLER, Assistant U.S. Attorney, Middle District of Pennsylvania, Scranton, Pa., who advised that none of the subjects should be recontacted in conducting this investigation.

[redacted] Associate Warden, U. S. Penitentiary, advised on March 15, 1955, that according to his records he transferred ROBERT CARL PARKER on March 19, 1954, from the Maintenance Detail to the Power House (day shift). On April 6, 1954, PARKER was transferred from Power House (day shift) to Power House (morning shift) where he worked until November 22, 1954.

[redacted] advised that GEORGE JUNIOR MC COY was transferred on February 4, 1954, from the Plumbing Shop to the Power House (day shift). On February 25, 1954, he was transferred from the Power House (day shift) to Power House (morning shift) where he worked until November 22, 1954.

[redacted] advised that he transferred LEWIS CAGLE, JR. on September 22, 1954, from the Culinary Department to the Power House (morning shift) where he worked until November 22, 1954.

[redacted] advised that [redacted] was assigned by him to the Power House on April 2, 1954, and has been employed on the morning shift since September 8, 1954.

Records of the U.S. Penitentiary as of January 31, 1955, reflect the following information regarding the quarters and action taken against the subjects by prison officials on or after November 22, 1954.

LEWIS CAGLE, JR.

He was placed in an Administrative Segregation Status in the Punitive Segregation Unit at 5:30 p.m., on November 22, 1954. This can be verified by [redacted] Correctional Officer, U.S. Penitentiary, Lewisburg, Pa.

At 7:00 p.m., on December 2, 1954, he was transferred to the Administrative Segregation Unit in the same status where he still remains. This can be verified by [redacted] Correctional Officer, U.S. Penitentiary, Lewisburg, Pa.

On November 22, 1954, the Disciplinary Board recommended that CAGLE be placed in a Punitive Segregation Status and that his case be referred to the Good Time Forfeiture Hearing Board. However, he was not placed in a Punitive Segregation Status in view of the pending prosecution.

On November 24, 1954, the Good Time Forfeiture Hearing Board recommended that CAGLE forfeit all of his statutory and industrial good time which amounted to a total of 60 days. This recommendation was imposed on December 8, 1954.

GEORGE JUNIOR MC COY

At 6:15 p.m., on November 22, 1954, MC COY was placed in an Administrative Segregation Status in the Administrative Segregation Unit where he still remains. This can be verified by [redacted] Correctional Officer, U.S. Penitentiary, Lewisburg, Pa.

On November 24, 1954, the Disciplinary Board recommended that MC COY be placed in a Punitive Segregation Status and that his case be referred to the Good Time Forfeiture Hearing Board. However, MC COY was not placed in a Punitive Segregation Status due to the pending prosecution.

On November 24, 1954, the Good Time Forfeiture Hearing Board recommended that MC COY forfeit all good time earned which amounted to a total of 93 days. This recommendation was imposed on December 10, 1954.

ROBERT CARL PARKER

At 6:45 p.m., on November 22, 1954, PARKER was placed in an Administrative Segregation Status in the Punitive Administrative Segregation Unit. This can be verified by [redacted] Correctional Officer, U.S. Penitentiary, Lewisburg, Pa. b7C

At 7:00 p.m., on December 2, 1954, PARKER was transferred in the same status to the Administrative Segregation Unit. This can be verified by [redacted] Correctional Officer, U.S. Penitentiary, Lewisburg, Pa. b7C

At 10:15 p.m., on December 29, 1954, PARKER was transferred to the Punitive Segregation Unit in the same status and placed in a [redacted] cell due to suicidal tendencies. This can be verified by [redacted] Correctional Officer, U.S. Penitentiary, Lewisburg, Pa. b7C

At 4:10 p.m., on December 30, 1954, PARKER was removed back to the Administrative Segregation Unit in the same status as he had existed down. PARKER still remains in this unit. This can be verified by [redacted] Correctional Officer, U.S. Penitentiary, Lewisburg, Pa.

On November 24, 1954, the Disciplinary Board recommended that PARKER be placed in a Punitive Segregation Status and that his case be referred to the Good Time Forfeiture Hearing Board. However, he was not placed in a Punitive Segregation Status due to pending prosecution.

On November 24, 1954, the Good Time Forfeiture Hearing Board recommended that PARKER forfeit all good time earned, a total of 123 days. This recommendation was imposed on December 10, 1954.

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On February 16, 1955, Dr. LEON A. WITKIN, Senior Surgeon (R), U. S. Public Health Service, U.S. Penitentiary, furnished the blood types of the following inmates which are reflected in the hospital records:

Name	Blood Type
GEORGE JUNIOR MC COY	Not known
LEWIS CAGLE, JR.	International "O"
ROBERT CARL PARKER	International "B"
WILLIAM WALTER REMINGTON	International "O"
[redacted]	Not known
[redacted]	International "O"
[redacted]	International "O"
[redacted]	International "O"
[redacted]	International "O"
[redacted]	International "O"
[redacted]	Not known

b7C

Dr. WITKIN advised that the practice of typing blood of inmates at the institution was discontinued about two years ago.

Lieutenant [redacted] Custodial Supervisor, U.S. Penitentiary, advised on February 16, 1955, that on the morning of November 22, 1954, he was notified that REMINGTON was hurt and proceeded directly to his room located in I-3 Dormitory. He recalled that when he arrived at REMINGTON's room he looked at his watch and noted that it was 10:25 a.m. He stated he examined the steps and landing where REMINGTON was found and noted about three drops of blood in an area about five inches in diameter on the first step next to the landing leading upstairs. He stated he made a cursory examination of the subjects as well as other inmates on the floor and saw no blood on any of them

b7C

[redacted] advised that on November 22, 1954, he found a loose bed rod in inmate [redacted] bed which had black tape on one end. He stated he turned this rod over to [redacted] since he was of the opinion that it could have been used in the assault on REMINGTON. He stated he did not examine the other beds too closely at this time but was of the opinion that all of them contained bed rods.

This bed rod was obtained from [redacted] Custodial Supervisor, U. S. Penitentiary, by SA [redacted] on March 2, 1955. [redacted] advised that this bed rod has been in his possession since he received it fro[redacted] on November 22, 1954.

FBI 70-5[illegible]

This bed rod is being made an exhibit [illegible] in the case carried into HEMINGTON's room by subject [illegible] on HEMINGTON by the three subjects.

[redacted] Inmate, U.S. Penitentiary, was interviewed by [redacted] and [redacted] on March 2, 1955, at which time he stated that he noticed only a few drops of blood on the floor [illegible] HEMINGTON on November 22, 1954. He said he did not notice any drops of blood or did he pay any particular attention to where they were located but would say that he saw only a few drops of blood on the floor [illegible] landing between the second and third floors of the building. He advised that he saw nothing that would indicate that HEMINGTON had fallen down the stairs and stated that when he first saw HEMINGTON he was [illegible] into the study hall near the bottom of the stairs.

b7C

[redacted] stated that while he was [illegible] a knife [illegible] and [illegible] had obtained a loose bed rod. He stated that he had placed [illegible] to remove it to the [illegible]. He stated that he had no knowledge as to whether or not this bed rod [illegible] subject HEMINGTON. [redacted] stated that he [illegible] striking subject HEMINGTON [illegible] and [illegible] stated that he had no knowledge as to whether or not this bed rod [illegible] observed by subject HEMINGTON [illegible] when HEMINGTON [illegible] COURT into [illegible] of the Penitentiary on the [illegible] summoned.

b7C

[redacted] Chief [illegible], Assistant U.S. Public Health Service, U.S. Penitentiary, [illegible] on March 2, 1955, had an inside [illegible] by this date of HEMINGTON's bed rails [illegible] his supervision on November 23, [illegible] was present during the [illegible] taking of these X-rays and [illegible] with X-ray contained the [illegible] dates and HEMINGTON's number [illegible].

b7C

[redacted] advised on March 2, 1955, that he [illegible] bed rails [illegible] which [illegible] on November 23, [illegible] on all [illegible] HEMINGTON's [illegible] 22845

b7C

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On March 2, 1955, Mr. FRED T. WILKINSON, supra, furnished a photostatic copy of a medical report submitted by Dr. JASS on November 24, 1954, showing the results of his examination of the X-rays of REMINGTON's head as follows:

"There is a linear fracture of the middle of the skull, about five (5) inches in length, extending posterially from the left mastoid region back to the temporal and parietal bone. There is no evidence of depression. There is also a comminuted fracture of the left malar bone and of the zygomatic process of the left malar bone. These fractures are in fairly good position. There is a dense uniformly cloudiness of the left maxillary sinus probably due to hemorrhages into the sinuses."

On March 18, 1955, [redacted] Clerk, U.S. Penitentiary, advised SA [redacted] that he was in charge of the Commissary from 1942 to March of 1955. b7C

[redacted] can produce records and testify as to the contents and entries made in the normal course of business as follows:

GEORGE JUNIOR MC COY, inmate, U.S. Penitentiary, obtained no commissary items from March 2d, 1954, to November 5, 1954, at which time he purchased merchandise in the amount of $1.16. On November 10, 1954, MC COY made purchases in the amount of $1.34. MC COY made no other purchases until December 17, 1954, at which time he spent $1.75 for commissary items.

ROBERT CARL PARKER, inmate, U.S. Penitentiary, made no purchases at the Commissary from 1953 until December 9, 1954, and had no funds in his account.

LEWIS CABLE, JR., inmate, U.S. Penitentiary, made the following purchases at the Commissary on the dates indicated:

September 20, 1954 - $2.00
September 24, 1954 - $2.00
September 30, 1954 - $2.00
October 8, 1954 - $6.00
October 29, 1954 - $7.50
November 5, 1954 - $2.46

[redacted] advised that [redacted] had no funds from approximately September 5, 1954, until December 31, 1954, and made no purchases at the Commissary. b7C

On March 8, 1955, [redacted] Deputy Warden of

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REMINGTON was interviewed by SA [redacted] and [redacted] and he furnished the following signed statement concerning his activities on November 22, 1954:

"Lewisburg, Pa.
March 2, 1955

"I, [redacted] make the following statement of my own free will to [redacted] who have identified themselves to me as Special Agents of the Federal Bureau of Investigation. I know I do not have to make this statement and I am willing to testify to the following facts:

"I am presently incarcerated in the United States Penitentiary, Lewisburg, Pa. On November 22, 1954, I was quartered with inmates Remington, [redacted] and [redacted] in I 3 Dormitory. I left my quarters shortly before 8:00 a.m. on November 22, 1954 and proceeded to the Tool Room in Industry where I worked the entire day under the supervision of [redacted] Assistant Foreman of the Tool Room. Remington who worked on the morning shift had not returned to his quarters when I left at about 8:00 a.m. on November 22, 1954. I want to state that I did not participate in the assault and murder of Remington and that I had no prior knowledge that the assault on Remington was to occur.

"I have read this statement consisting of this page and one other, and they are true to the best of my knowledge.

[redacted]

"Witnessed:

[redacted] Special Agent, FBI, 500 Widener Bldg., [redacted] Pa.

[redacted] Special Agent, FBI, 500 Widener Bldg., [redacted] Philadelphia, Pa."

On March 2, 1955, [redacted] a former roommate of [redacted] was interviewed by SAs [redacted] and [redacted] who furnished the following signed statement concerning [redacted]

b7C

"Lewisburg, Pa.
March 2, 1955

"I, [redacted] make the following statement of my own free will to [redacted] and [redacted] who have identified themselves to me as Special Agents of the Federal Bureau of Investigation. I know I that I do not have to make this statement and I am willing to testify to the following facts:

"I am presently incarcerated in the United States Penitentiary, Lewisburg, Pa. On November 22, 1954, I was quartered with inmates Remington [redacted] and [redacted] in I 3 Dormitory. At about 8:00 a.m. on November 22, 1954, I left my quarters and proceeded to the hospital where I worked in the E.E.N.T. clinic under the supervision of [redacted] Chief, Medical Technical Assistant, for the remainder of the day. Remington worked on the morning shift and had not returned to his quarters when I left at 8:00 a.m. I did not return to my quarters until about 6:00 p.m., November 22, 1954. At this time I was accompanied by officers to obtain my personal effects. I want to state that I did not participate in the assault and murder of Remington and that I had no prior knowledge that this assault was to occur.

"I have read this statement consisting of this page (which is initialed by me)and one other which is also initialed by me and say the contents are true.

[redacted]

"Witnesses:
[redacted] Special Agent, FBI, 500 Widener Bldg., Phila., Pa.
[redacted] Special Agent, FBI, 500 Widener Bldg., Philadelphia, Pa."

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On March 2, 1955, [redacted] a former roommate of REMINGTON, was interviewed by SAs [redacted] and [redacted] and he furnished the following signed statement concerning his activities on November 22, 1954:

22845

70-Lewisburg, Pa.
March 2, 1955

"I, [redacted] make the following statement of my own

"free will to [redacted] and [redacted] who have identified themselves to me as Special Agents of the Federal Bureau of Investigation. I know that I do not have to make this statement and I am willing to testify to the following facts:

"I am presently incarcerated in the United States Penitentiary, Lewisburg, Pa. On November 22, 1954, I was quartered with inmates Remington, [redacted] and [redacted] At about 8:00 a.m. on November 22, 1954, I left my quarters and proceeded to the Maintenance Shop of Industry where I worked the full day under the supervision of [redacted] employee of the Federal Prison Industries. I returned to my quarters at 8:00 p.m. that evening accompanied by officers to obtain my personal effects. I want to state that I did not participate in the assault and murder of Remington and that I had no prior knowledge that this assault was to occur.

"I have read this statement consisting of this page and one other and say that the contents are true.

[redacted]

"Witnesses:
[redacted] Special Agent, FBI, 500 Widener Bldg., Philadelphia, Pa.
[redacted] Special Agent, FBI, 500 Widener Bldg., Philadelphia, Pa."

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On March 15, 1955, [redacted] a former roommate of subjects MC COY, PARKER and CAGLE, was interviewed by SA [redacted] and [redacted] and he furnished the following signed statement concerning his activities on November 22, 1954:

70 - Lewisburg, Pa.
March 15, 1955 1 28

"I, [redacted] make the following statement of my own free will t[redacted] and [redacted] who have identified themselves to me as Special Agents of the Federal Bureau of Investigation. I know I do not have to make this statement and I am willing to testify to the following facts in court:

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"I am presently incarcerated in the United States Penitentiary, Lewisburg, Pa. On November 21, 1954, I was quartered in Room I 39. At about 11:30 p.m. on this date I left my quarters with inmates Mc Coy and Cagle to go to work in the Power Plant. Mc Coy and Cagle also worked in the Power Plant, and we arrived there at about 11:40 p.m. I do not recall seeing inmate Remington on this evening. Between 7:35 a.m. and 7:45 a.m. on November 22, 1954, I left the Power Plant with other inmates including Mc Coy and Cagle and proceeded to the mess hall where I ate with the other inmates assigned to the Power Plant. After eating, Mc Coy, Cagle and I proceeded to our quarters and arrived there between 8:00 a.m. and 8:30 a.m. At this time I was quartered with inmates Mc Coy, Cagle, Parker, and [redacted] Parker was in the room when we arrived. [redacted] had not returned from the mess. Shortly afterwards I got ready for bed and I believe I was in bed by 8:30 a.m. Shortly thereafter inmate [redacted] came into the room and said a few words and left. I would say I was asleep by 8:45 a.m. Prior to going to sleep that morning I heard Parker, Mc Coy and Cagle talking to each other but I did not pay any attention to what they were saying as I wanted to get to bed as soon as possible since I had to work on my day off without any sleep. Sometime later that morning I was awakened by Parker and saw officer [redacted] standing near my bed. [redacted] told me to wait out in the corridor. As I left my room I noticed a bed in the adjoining room covered with blood. I asked one of the other inmates what had happened and was advised that something had happened to inmate Remington. I wish to state that I did not participate in the assault on Remington and that I did not have any prior knowledge that it was to occur. I also want to state that the only other person that I saw when I arrived at my quarters was inmate [redacted] who was in his room, possibly lying on his bed.

"I have read this page and have signed and say that the statements are correct.

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[redacted]

[redacted] Special Agent, FBI, [redacted]

[redacted] Special Agent, FBI, Philadelphia, Pennsylvania

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At Allenwood, Pa.

On March 15, 1955, [redacted] who was sleeping in a room located next to REMINGTON's room during the assault on REMINGTON on November 22, 1954, was interviewed by SAs [redacted] and [redacted] and he furnished the following signed statement concerning his [redacted] activities on November 22, 1954:

"Allenwood, Pa.
March 15, 1955

"I, [redacted] make the following statement of my own free will to [redacted] and [redacted] who have identified themselves to me as Special Agents of the Federal Bureau of Investigation. I know I do not have to make this statement and I am willing to testify to the following facts in court.

"I am presently incarcerated in the Federal Prison Camp, Allenwood, Pa. On November 22, 1954, I was incarcerated in the United States Penitentiary, Lewisburg, Pa., and was quartered in Dormitory I, Room 31. At about 8:10 a.m. on November 22, 1954, I returned to my room from the hospital where I had worked all night. I do not recall seeing anyone in the room or corridor of the third floor of I Dormitory on November 22, 1954, when I returned to my room. Usually no one other than myself, Remington, Cagle, Mc Coy, Parker, [redacted] and [redacted] the janitor are permitted on this floor during the daytime. I do not recall anyone entering my room prior to the time I went to sleep, which was around 9:30 a.m. My room was located next to Remington's room, and my bed and Remington's bed were separated by a concrete partition. I noticed that sound would travel through this wall. I could not hear conversations through it but I could hear other noises such as objects falling. Sometime after I went to sleep I vaguely recall hearing three thumps or slaps coming from Remington's room, which aroused me slightly. I did not get up to investigate these thumps or slaps. I went back into a deep sleep. I recall hearing the 10:30 a.m. mess call but I am unable to remember whether I heard these thumps shortly before or after 10:30 a.m. Sometime after 10:30 a.m. an officer awakened me and asked my name and number. This officer then [redacted] two patients staring into my room through the glass in the door. [redacted] came in my room and told me to get dressed and come over to a

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room and look at some fellow. I went to the room next door and saw Remington lying on his bed covered with blood. Remington at this time was conscious and requested that the window be closed. He then mumbled something else, gritted his teeth, and started shaking all over. I then helped two other inmates load Remington into a hospital stretcher basket. I was acquainted with MC Coy, Cagle and Parker but I never heard them say anything derogatory concerning Remington or discuss Communism. About two weeks before this assault on Remington, the bed of [redacted] who was a room mate of Remington at the time of the assault, was set on fire by unknown parties. Remington appeared to be worried about this incident and asked me if I had heard anything that would indicate that this incident was directed toward him, or to spite him. He said nothing further concerning this after I advised him that I had heard nothing that would indicate that this burning of this mattress was done to spite him. I want to say that I did not participate in the assault on Remington and that I had no prior knowledge that this assault was to occur.

"I have read this statement consisting of this page and four others and say the statement is true and correct.

[redacted]

Witnessed:

[redacted] Special Agent, FBI, 401 Widener Bldg., Philadelphia, Pa.

[redacted] Special Agent, FBI, Philadelphia Division, 3/15/55.

At Lewisburg, Pa.

On March 15, 1955, [redacted] who was questioned in Room [redacted] of the Dormitory, on November 22, 1954, was interviewed by SA [redacted] and he furnished the following signed statement concerning his activities on November 22, 1954:

Lewisburg, Pennsylvania
March 15, 1955

I, [redacted] do hereby furnish this free and voluntary statement to [redacted] who have identified themselves to me as Special Agents of the Federal Bureau of Investigation. I am willing to testify to the following facts:

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"On the morning of November 22, 1954, I was assigned to the Bake Shop and quartered in I-34 quarters at the United States Penitentiary, Lewisburg, Pennsylvania. During breakfast I obtained a call out pass from the kitchen officer, believed to have been [redacted] in order to go to the clothing issue department. Around 8:15 a.m. I proceeded to my quarters to obtain a pair of pants to take to clothing issue for mending. I gave my pass to Officer [redacted] who was at the desk on the bottom floor near I wing and proceeded upstairs to my room. Going down the corridor I noted inmate [redacted] in bed and spoke to him in I 39 quarters. Inmates Parker and Mc Coy were in the same quarters with [redacted] but I do not specifically recall seeing any other inmates in their or on that floor. I obtained my pants from the room and proceeded back downstairs to Officer [redacted] desk, obtained my pass and proceeded to clothing issue. There I had to wait thirty to forty five minutes, while other inmates mended the pants. While downstairs in clothing issue [redacted] advised me that I had an extra shirt and requested that I return same. I then went back to I wing, gave Officer [redacted] gave him my pass and asked [redacted] for another pass to return my shirt. This was around 9:00 a.m. November 22, 1955. I then went upstairs to my quarters with the pants, picked up my shirt and returned to [redacted] desk. He then wrote out another pass for me to return to clothing issue and I went back to clothing issue. I gave my shirt to [redacted] and he signed me in and out and I then returned to the desk. I estimate my return to Officer [redacted] desk as 9:05 a.m. There I requested permission from Officer [redacted] to go into I-1 quarters to listen to the radio and talk to inmate [redacted] I stayed with [redacted] until early mass was called which was around 10:25 to 10:30 a.m. I went to the restraining door of I-1 quarters and noted that the door was locked. I saw several officers and an ambulatory cart and I waived to Officer [redacted] and he let me out of I-1 and ordered me to my quarters. I asked Officer [redacted] "what had happened" and he stated someone had been killed. I went back to the third floor and the restraining door was locked. [redacted] opened the door. I went to Remington's door and looked in. Remington was lying on his bed motionless covered with blood. The officer in Remington's room told me to go to my quarters. I proceeded to my room and [redacted] then ordered me downstairs. After I had gotten downstairs I was ordered by [redacted] upstairs by [redacted] then asked me to help carry Remington downstairs in the basket to which I complied.

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"I did not participate in the assault on Rexington and I had no knowledge that Rexington was to be assaulted. The only persons I saw upstairs prior to the assault of Rexington were [redacted] Mc Coy and Parker.

"I have read this statement consisting of this page and three others and say the contents are true.

[redacted]

"Witnessed:
[redacted] Special Agent, FBI, 500 Widener Bldg, Phila., Pa.
[redacted] Special Agent, FBI, Philadelphia Division,
3/15/55"

b7C

On March 16, 1955, [redacted] who, on November 22, 1954, was quartered in Room 16, "I" Dormitory, and was assigned as the janitor of "I" Dormitory, was interviewed by SA [redacted] and he furnished the following signed statement concerning his activities on November 22, 1954:

"Lewisburg, Pa.
3/16/55

"I, [redacted] make the following statement of my own free will to [redacted] who has identified himself to me as a Special Agent of the Federal Bureau of Investigation. I know I do not have to make this statement and I am willing to testify to the following facts in court:

"I am presently incarcerated in the United States Penitentiary, Lewisburg, Pa. I am quartered in I Dormitory, Room 16. I am assigned as Janitor in I Dormitory. On November 22, 1954, I picked up the trash on all three floors of I Dormitory between 7:45 a.m. and 8:00 a.m. I then cleaned the day room, polished the furniture therein, and mopped the first floor hall. I then mopped the hall on the second floor and after completing it, I did the same on the third floor. I then mopped the stairs from the third to the first floor. I do not recall what time I completed my work in I Dormitory on November 22, 1954, but usually I have my work done at about 9:00 a.m. While mopping the corridor on hall of the third floor of I Dormitory on November 22, 1954, I did not see any inmates in the hall or in the rooms.

"completing my janitor duties I went to the supply room in the basement for additional supplies which I took back to my quarters. I then went to the day room to clean windows and while in here, early mess was called. One of the inmates left for mess but could not get out of I Dormitory since the grille door was locked. Later I saw them bringing an inmate down the stairs in a hospital basket. I noticed that inmate Remington was in this basket with his head covered with blood. I wish to state that I did not participate in the assault on Remington and that I had no prior knowledge that it would occur.

"I have readed this statement consisting of this page and two others. And say the contents or true to the best of my knowledge.

[redacted]

"Witness - [redacted] Special Agent, FBI, 500 Widener Bldg., Philadelphia, Pa." b7C

Records of the U.S. Penitentiary reflect that the Good Time Forfeiture Hearing Board held hearings in regard to all subjects on November 29, 1954.

It was noted that subjects CAGLE and PARKER furnished substantially the same information to this board as they did to the FBI and that MC COY denied any participation in the assault on Remington.

It was noted also that subject MC COY was reinterviewed on December 10, 1954, by members of the Good Time Forfeiture Hearing Board and he furnished substantially the same information as he did to the FBI in regard to his participation in the assault on REMINGTON on November 22, 1954.

[redacted] Correctional Officer, U.S. Penitentiary, advised on March 16, 1955, that he took notes at the hearings on November 29, 1954, and subsequently typed up a transcript of the proceedings. b7C

[redacted] Secretary to [redacted] Associate Warden, U.S. Penitentiary, advised on March 16, 1955, that he took notes on the interview of MC COY on December 10, 1954, and later typed up a transcript of this interview.

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Copies of the three hearings held by the Good Time Forfeiture Hearing

Board on November 29, 1954, as well as the interview of MC COY on December 10, 1954, were obtained from Mr. FRED T. WILKINSON, supra, on March 1[illegible], 1955, and were furnished to Mr. STEPHEN A. TELLER, Assistant U.S. Attorney, Middle District of Pennsylvania, Scranton, Pa., who advised that it would not be necessary to set out this information in a report.

Mr. FRED T. WILKINSON, supra, advised on March 18, 1955, that he was unable to state definitely why MC COY was interviewed on December 10, 1954, but he was of the opinion that MC COY had sent word to [redacted] Associate Warden, U.S. Penitentiary, that he desired to change his original story which he had previously given to the prison officials. He stated that [redacted] was presently on leave and would not return to the institution until the first or second week in April of 1955.

Records of the U.S. Penitentiary reflect that on November [illegible], 1954, inmates PARKER, [redacted] MC COY, [redacted] and [redacted] worked the morning shift in the Power House.

These records further reflect that on November 22, 1954, [redacted] CAGLE, MC COY, [redacted] and [redacted] worked the morning shift in the Power House.

On March 22, 1955, [redacted] Institutional Inspector, Power House, U.S. Penitentiary, advised that [redacted] the officer in charge of the morning shift in the Power House on November 18, 22, 1954, and the shift, did state from memory and from records that inmates [redacted] and [redacted] worked on the morning shift of the Power House on November 18, 1954, and that inmates [redacted] CAGLE, MC COY, [redacted] and [redacted] worked on the morning shift in the Power House on November 22, 1954.

[redacted] advised that the morning shift usually [illegible] 11:45 p.m. in the evening and ends at about 7:45 a.m. the next morning. He advised that the inmates are taken to and from the power house by the officer who is specifically assigned to do this.

On March 16, 1955, [redacted] Supervisor of the Industrial Department, U.S. Penitentiary, was interviewed concerning [illegible] and concerning items which [redacted] shirts, [illegible] November 18, 1954, and [redacted] the inmates to his [illegible] presented the [illegible] outside [illegible] clothing marks, [illegible] and [illegible] that it all possibility [illegible]

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identifiable, were used by the inmates. He further stated that he had no knowledge as to the disposition of the false bottom cardboard box used by PARKER to hide these commissary items but stated that in all probability this box had been destroyed.

[redacted] Correctional Officer, U.S. Penitentiary, advised that he assisted in the search of subjects' room on November 22, 1954, but he does not recall having seen any bathrobes or the false bottom cardboard box. He advised that he recalls seeing an unusual amount of boxes of Hostess Chocolate but paid no particular attention to them and likewise could furnish no information as to the disposition of these boxes.

[redacted] Correctional Officer, U.S. Penitentiary, advised on March 16, 1955, that during the evening of November 22, 1954, he assisted another officer by the name of [redacted] in packing the clothes of the inmates quartered in Room 39 of "I" Dormitory and he is positive that he found ten bathrobes in this room. He states he is unable to recall what disposition was made of the extra bathrobes found in this room. He advised that none of these bathrobes contained any identifying marks and it would be a difficult matter for any inmate to identify any particular robe as the one he had been wearing.

[redacted] further advised that he does not recall having seen a false bottom cardboard box or any commissary items.

[redacted] Correctional Officer, U.S. Penitentiary, advised on March 19, 1955, that he assisted Officer [redacted] in packing the clothes of inmates quartered in Room 39, "I" Dormitory on the evening of November 22, 1954, but he does not recall having seen any extra bathrobes, commissary items or the false bottom cardboard box.

[redacted] Correctional Officer, U. S. Penitentiary, advised on March 23, 1955, that he stood guard over Room 39 of "I" Dormitory on November 22, 1954, from 10:30 a.m. to 4:30 p.m., and that he noticed a large amount of Hostess Chocolate in this room but he does not recall having seen any extra bathrobes or a false bottom cardboard box. He advised that inmates were in this room during this time and in all probability the commissary items were used by them.

On March 19, 1955, [redacted] Correctional Officer, U. S. Penitentiary, advised that he arrived at [redacted]'s room at approximately

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10:30 a.m. on March 22, 1954, and that REMINGTON was lying flat on his back covered with blood on the face and shoulders. He stated that he tried to talk to REMINGTON and REMINGTON stated "I have not spelled, I have not told." [redacted] stated he asked REMINGTON whether or not he was asleep when he was assaulted and REMINGTON answered yes. He advised that in view of REMINGTON's condition at that time he did not carry on any further conversation with him.

On March 16, 1955, [redacted] supra, advised that on December 26, 1954, and December 27, 1954, he was assigned to the mail room and he recalled specifically of receiving the letter dated December 26, 1954, directed by subject CAGLE to his mother, Mrs. L. H. CAGLE, in Chattanooga, Tenn. He advised that this letter was delivered to the mail room evidently from some officer assigned to the Administrative Segregation Unit in a box used for this purpose.

[redacted] stated in view of the contents of the letter he sent it to the attention of Mr. FRED T. WILKINSON, Warden. A photostat of this letter was exhibited to [redacted] and he stated that it is an exact copy of the original letter dated December 26, 1954, directed by CAGLE to his mother. He stated that he is not familiar enough with CAGLE's handwriting to state whether or not the original letter was written by CAGLE. b7C

[redacted] Records Clerk, U.S. Penitentiary, advised on March 16, 1955, that the letter dated December 26, 1954, directed by CAGLE to his mother, Mrs. L. H. CAGLE, Chattanooga, Tenn., was photostated by him and he can testify that the photostatic copy is an exact copy of the original letter. He stated in all probability this letter was written by CAGLE but in view of the fact that many of the inmates have other inmates write letters for them it is not possible to state definitely that this letter was written by CAGLE.

[redacted] Correctional Officer, U. S. Penitentiary, advised on March 23, 1955, that during December 1954 he was assigned as the officer in charge of the morning watch of the Administrative and Punitive Segregation Units and in all probability he delivered this letter dated December 26, 1955, directed by CAGLE to his mother, to the mail room, however, since all mail written by the inmates confined to the Administrative Segregation Unit is reviewed in the mail room he does not read any of the mail. He further advised that he delivers this mail to the mail room after he is relieved of his duties at about 8:00 a.m. in the morning.

By airtel dated March 24, 1955, the Knoxville Office advised that on March 24, 1955, SA [redacted] and [redacted] viewed a photostatic copy of a letter dated December 26, 1954, from LEWIS CAGLE, JR. to his mother Mrs. L. H. CAGLE, signed "Lewis" and this photostat was identified by both Agents [redacted] and [redacted] the having been made from the original letter which they read at the residence of Mr. and Mrs. LEWIS HERSHEL CAGLE on February 2, 1955. b7C

Mr. LEWIS HERSHEL CAGLE was reconstacted on March 22, 1955, at which time he was requested to furnish the name of the attorney who advised him not to turn the letter over to the FBI and he stated that he considered this a confidential matter and he did not wish to identify the attorney who had given him this advice.

By letter dated April 1, 1955, an undeveloped film of nine negatives of the known handwriting of subject LEWIS CAGLE, JR., as well as the photostatic copy of the letter dated December 26, 1954, directed by LEWIS CAGLE, JR. to his mother, Mrs. L. H. CAGLE, 211 East Fourth Street, Chattanooga, Tenn., were sent to the FBI Laboratory to ascertain if it could be determined whether or not CAGLE wrote the letter dated December 26, 1954.

By letter dated March 22, 1955, the Knoxville Office furnished a copy of the court proceedings against LEWIS CAGLE, JR., U. S. District Court, Chattanooga, Tenn., on April 23, 1951, which reflects that on September 21, 1951, he was sentenced to three years imprisonment at the National Training School for Boys, Washington, D. C., for an interstate transportation of a stolen motor vehicle - Juvenile Delinquency Act violation, as well as a copy of the court proceedings against LEWIS CAGLE, JR., in the U. S. District Court, Chattanooga, Tenn., on November 10, 1952, which reflects that on December 12, 1952, CAGLE was sentenced to 15 months imprisonment for an interstate transportation of a stolen motor vehicle - Juvenile Delinquency Act violation.

The following investigation was conducted by SA [redacted] at Chattanooga, Tenn., on March 16, 21, 1955. The name of the person who can testify as to the above mentioned court records is ROBERT DALE, Deputy Court Clerk, U. S. District Court, Chattanooga, Tenn. b7C

U. S. Attorney OTTO T. AULT, Eastern District of Tennessee, who handled above cases is deceased.

ROBERT DALE, Deputy Court Clerk, U. S. District Court, Chattanooga, Tenn., advised he could not identify [redacted] the person named in the Information, Plea, Judgment and Commitment of LEWIS HERSHEL CAGLE.

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[redacted] Deputy U.S. Marshal, Chattanooga, Tenn., advised he recalls handling subject CAGLE in Chattanooga, however, he was not positive he could identify CAGLE.

U. S. Probation Officer, [redacted] Chattanooga, Tenn., advised that he interviewed subject CAGLE on both occasions in Information, Plea, Judgment and Commitment of LEWIS JUNIOR CAGLE and can positively identify CAGLE.

SA [redacted] of the Knoxville Office, who handled investigation of violation dated December 2, 1952, can positively identify CAGLE as subject of this offense.

The following investigation was conducted by SA [redacted] on March 18, 1955, at Knoxville, Tenn.: b7C

[redacted] Deputy U. S. Marshal, Knoxville, Tenn., advised the records of the U. S. Marshal's Office, Knoxville, reflect that J. S. Chief Deputy Marshal [redacted] transported subject CAGLE to the National Training School, Washington, D. C., on both occasions in Information, Plea, Judgment and Commitment of LEWIS JUNIOR CAGLE.

[redacted] retired, U. S. Chief Deputy Marshal, 1717 Laurel Avenue, Knoxville, Tenn., advised on March 18, 1955, that he could not recall subject CAGLE or transporting him to the National Training School, Washington, D. C.

The above mentioned records were transmitted to the U. S. Attorney, Middle District of Pennsylvania, Scranton, Pa., by letter dated March 24, 1955.

By letter dated March 31, 1955, the Pittsburgh Office furnished a copy of court records, U. S. District Court, Southern District of West Virginia, pertaining to GEORGE MC COY, JR., who was sentenced on April 3, 1947, at Bluefield, W. Va., to a term of one year and ten months to the Federal Reformatory at Chillicothe, Ohio., for the theft and interstate transportation of a truck from Bartley, W. Va., to Grundy, Va., on or about November 14, 1946.

On March 17, 1955, Chief Deputy U.S. Court Clerk, EARL CAVENDER, Charleston, W. Va., advised SA [redacted] of the Pittsburgh Office, that the court records at Charleston failed to reflect a conviction of subject MC COY.

On the same day, [redacted] Attorney's Office, 70-22845-68

Charleston, advised this was a Bluefield, W. Va. case and the court records would be at Bluefield.

On March 25, 1955, [redacted] Deputy U. S. Court Clerk, Bluefield, W. Va., advised SA [redacted] of the Pittsburgh Office that the records of the case against MC COY were in her office, and she prepared the necessary papers which she sent to U. S. Court Clerk HOMER HANNA at Charleston, W. Va., for proper certification. She also advised that she would be the proper person to testify as to these records.

On March 26, 1955, U. S. Court Clerk HOMER HANNA, Charleston, W. Va., advised SA [redacted] of the Pittsburgh Office that he had received the papers in the Mc Coy case from [redacted] that morning, and that he was endeavoring to get the necessary certification of U. S. Judge BEN MOORE prior to his leaving town on a week's vacation.

b7C

On March 28, 1955, Mr. HANNA furnished the necessary certified papers.

On March 28, 1955, Chief Deputy U. S. Marshal J. ROBERT MILLER, Charleston, W. Va., advised that former Deputy Marshal [redacted] Bluefield, W. Va., who is now attached to the Bluefield Office of the Alcohol and Tobacco Tax Unit, was the Deputy who received subject MC COY at Bluefield when he was the Deputy Marshal there, and he is the Deputy who transported MC COY from West Virginia to the Federal Reformatory at Chillicothe, Ohio.

70-22845- 108

FBI 70-623

Informant

[redacted] b7C b7D

Leads

PHILADELPHIA DIVISION
AT LEWISBURG, PA.

1. Will interview [redacted] Associate Warden, U. S. Penitentiary, to determine the circumstances in connection with the interview of GEORGE JUNIOR MC COY on December 10, 1954, by prison officials. b7C

2. Will report the results of the FBI Laboratory examination in regard to letter dated December 26, 1954, directed by LEWIS CAGLE, JR., to his mother, Mrs. I. H. CAGLE, Chattanooga, Tenn.

3. Will follow and report prosecution in this case.

References

Report SA [redacted] dated 1/10/55, at Philadelphia.
Philadelphia letter to Bureau, dated 3/9/55.
Report SA [redacted] dated 3/22/55, at Knoxville.
Knoxville letter to Bureau, dated 3/22/55.
Philadelphia letter to Charlotte, dated 3/29/55.
Philadelphia letter to Bureau, dated 4/1/55.
Pittsburgh letter to Bureau, dated 3/31/55. b7C

70-22845- 108

ADMINISTRATIVE PAGE

FEDERAL BUREAU OF INVESTIGATION

b7C

Form No. 3
THIS CASE ORIGINATED AT PHILADELPHIA

REPORT MADE AT	DATE WHEN MADE	PERIOD FOR WHICH MADE	REPORT MADE BY
RICHMOND	4/28/55	3/22,23,25,28, 31/55	[redacted]

TITLE	CHARACTER OF CASE
GEORGE JUNIOR McCOY, was.; ROBERT CARL PARKER, was.; LEWIS CAGLE, JR., was.; WILLIAM WALTER REMINGTON - VICTIM	CRIME ON GOVERNMENT RESERVATION - MURDER; IRREGULARITIES FEDERAL PENAL INSTITUTIONS

SYNOPSIS OF FACTS:

PARKER arrested by Richmond, Va. PD 10/16/51, charged grand larceny. Sentenced Hustings Court, City of Richmond, 11/15/51. Certified copy indictment, plea, and sentence furnished USA, VDPA. Patrolman [redacted] Richmond PD can identify PARKER as person committed to Va. State Pen. to serve 3 years charged grand larceny. b7C

-RUC-

DETAILS: The files of the Virginia State Penitentiary at Richmond, Virginia, were reviewed by Agent on March 22, 1955, and reflect that ROBERT CARL PARKER, [redacted], was received at the institution November 15, 1951, from Richmond City Hustings Court to serve three years, charge grand larceny. PARKER escaped from Camp 23, Halifax County, Virginia, February 2, 1953, and was recaptured the same day. For this escape, PARKER received an additional sentence of one year. He again escaped Camp 23, Halifax County on April 28, 1953, and has not since been returned to custody of the Virginia authorities. He was indicted for this second escape on June 17, 1953, in Richmond City Circuit Court. b7C

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At the time of this second escape, PARKER

APPROVED AND FORWARDED: [signature] SPECIAL AGENT IN CHARGE

DO NOT WRITE IN THESE SPACES

70-22845-10 RECORDED - 17

COPIES OF THIS REPORT
4 - Bureau (70-22845)
3 - Philadelphia (70-523)
(1,USA, VDPA Encls.2)
1 - Richmond (70-1292)

70-22845-109

MAY 2 1955

EX-25

MAY 6 1955

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was arrested in Greensboro, North Carolina, and held on a charge of violation of the Interstate Transportation of Stolen Motor Vehicle Act. At Greensboro in United States District Court, PARKER was sentenced June 2, 1953, to serve three years. A detainer was placed August 24, 1953, by the Virginia State Penitentiary with the United States Penitentiary at Lewisburg, Pennsylvania. The file on PARKER also reflects a copy of a letter from Mr. CURTIS R. MANN, Director of the Bureau of Records and Identification of the Penitentiary, dated December 2, 1953, to the United States Penitentiary at Lewisburg, stating that the prison record and psychiatric report on PARKER was being forwarded to the Penitentiary at Lewisburg.

The file on PARKER reflects that the offence for which he was sentenced occurred at 1321 East Cary Street, Richmond, Virginia. He was not armed. He [redacted] b7C stole a 1950 Ford automobile, the property of [redacted] valued at $2000.00. In connection with this offence, PARKER stated to Penitentiary authorities "I was walking along the street and saw this car with the keys in it so I got in and took off for Washington. They caught me before I got out of the City."

The records of the Hustings Court of the City of Richmond, Virginia, were reviewed by Agent on March 23, 1955, and showed under Docket Number 12040 indictment found November 15, 1951, charging ROBERT CARL PARKER with grand larceny in connection with the theft on October 16, 1951, of Ford automobile, Motor #CNR 132985, Virginia License Number 26-330, the property of [redacted] b7C valued $2000.00. The witnesses listed as appearing before the Grand Jury are [redacted] In the file of Hustings Court was also found Warrant Number 27408 charging PARKER with grand larceny, which warrant was issued October 16, 1951, and shows it was executed by the arrest of PARKER. PARKER was taken before Police Court on October 17, 1951, and his case was referred to Hustings Court for disposition.

70-22845-109

Mr. THOMAS R. MILLER, Clerk of Hustings Court for the City of Richmond, City Hall, furnished Agent on

March 23, 1955, with certified copy of the indictment mentioned above, also certified copy of the court record showing the plea of guilty entered by PARKER on November 15, 1951, and the sentence imposed the same date of three years confinement in the Virginia State Penitentiary at Richmond, Virginia. These certifications are being forwarded as enclosures with copy of this report which is indicated for the United States Attorney, Middle District of Pennsylvania.

Mr. MILLER advised that his residence address is [redacted] Street, Richmond, Virginia. He further said that either he or his Deputy, [redacted] who resides at [redacted] Richmond, Virginia, are competent to testify as to the records of the Hustings Court of the City of Richmond. He further advised that neither he nor [redacted] could testify as to the identity of PARKER.

Sergeant [redacted] Richmond City Police Department, was contacted by Agent on March 25, 1955, and located for Agent, Police Offence Number 27116, City of Richmond, First Precinct. This report was received by Officers [redacted] and [redacted] Complaint was made by [redacted] at 5:15 PM, October 16, 1951. [redacted] business telephone was shown as [redacted] and his residence telephone as [redacted] reported that his Green 1950 Ford, two door sedan, with keys in car and not locked was stolen October 16, 1951. The report shows that ROBERT C. PARKER was arrested October 16, 1951, by Sergeant [redacted] of the Richmond Police Department.

Sergeant [redacted] furnished Agent one photograph of PARKER from the Richmond Police Department files. Mr. [redacted] was unable to identify the photograph as anyone known to him, nor could he recall anything regarding the arrest and conviction of PARKER.

70-22845-139

Sergeant [redacted] of the Richmond, Virginia Police Department, was contacted by Agent on March 25, 1955, at which time, Sergeant [redacted] was present. Sergeant PARKER was unable to recall the case against ROBERT C. PARKER, nor was he able to identify the Richmond Police Department's photograph of PARKER as anyone known to him.

b7C

RH 70-1292

Patrolman [redacted] of the First Precinct of the Richmond Police Department was contacted by Agent on March 28, 1955, and was shown the photograph of PARKER. [redacted] advised that he could not identify the photograph as anyone known to him and did not recall the circumstances of the arrest of subject PARKER.

Patrolman [redacted] First Precinct, Richmond Police Department, was contacted March 31, 1955. [redacted] advised that he recalled the case involving the theft of the automobile of [redacted] in 1951. It was his recollection that he had been in radio contact with Chief of Police, WILMER HEDRICK, Henrico County, Virginia, Police Department and that HEDRICK had informed him that he had spotted the [redacted] automobile and that he had stopped the car which was being operated by subject PARKER at the intersection of Darbytown Road and Parker Street, which was within the Richmond City limits and he, therefore, needed help. [redacted] recalled that he had proceeded with his partner, Officer [redacted] to the place where HEDRICK had stopped subject PARKER. [redacted] was shown the Richmond Police Department photograph of subject PARKER and identified it as the person being held by HEDRICK. [redacted] further stated that it is his recollection that he then called the patrol wagon and subject PARKER was turned over to the officers in charge of the patrol wagon, whose names he does not now recall. Officer [redacted] advised that his residence address is [redacted] Richmond, Virginia.

b7C

-PUC-

70-22845-109

RH 70-1292

REFERENCE

Philadelphia Letter to Bureau dated 3/9/55.

70-22845- 109

ADMINISTRATIVE PAGE

FEDERAL BUREAU OF INVESTIGATION

CHARLOTTE		4-11,12-55	

GEORGE JUNIOR McCOY, was, George McCoy, Jr., George McCoy; ROBERT CARL PARKER, was, Robert C. Parker, Robert Carol Parker; LEWIS EARLE, Jr., was, Lewis Junior Earle, Lewis E. Earle, Lewis Earle

CHARACTER OF CASE: GOVERNMENT OBSERVATION - MOTOR - IMPERSONATING AN FBI AGENT

SYNOPSIS OF FACTS: [illegible] - VICI

ROBERT Carl PARKER, [illegible] was arrested with [redacted] by the Greensboro, N. C., Police Department, on 4-2-55, after admitting they were escapees from the Halifax County, Virginia, Prison Camp. Both PARKER and [redacted] admitted stealing a 1951 Chevrolet sedan, motor no. [illegible], from Mecklenburg County, Va., on 4-2-55, following their escape, and transporting subject car to Greensboro, N. C. Parker and [redacted] were then arrested by the Greensboro, N. C., Police Department on 4-3-55 and charged, on 4-5-55, [redacted] were [illegible] on 4-4-55 by Grand Jury, Greensboro, N. C., for VIOL [illegible] Parker entered a [illegible] SDC, Greensboro, N. C., on 4-6-55, and was sentenced to serve 5 years on each of 2 counts, to run concurrently. Parker is currently confined at USP, Atlanta, Ga. Certified copies of [illegible] from USDC, M.D., Greensboro, N. C.

-VICI-

DETAILS: On 4-3-55 [redacted] advised that on the night of [illegible] of a Buick bearing [illegible] of stolen motor vehicle, which [redacted] by [redacted] ment on April 2, 1955, at [illegible] Halifax County, Virginia, from [illegible] stolen 1951 Chevrolet [illegible] April 2, 1955, following [illegible] County, Virginia, on April 2, 1955, following

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UNRECORDED

OC 70-969

transporting instant Chevrolet to Greensboro, North Carolina. PARKER and [redacted] were released by the Greensboro, North Carolina, Police Department to Federal custody on April 30, 1953. It is to be noted that PARKER and [redacted] were arrested by the Greensboro Police Department as escapees from Virginia and that there were no local charges outstanding against them.

PARKER and [redacted] were indicted on June 1, 1953, by a Federal Grand Jury at Greensboro, North Carolina, for violation of Title 18, Section 2312, United States Code, in that on or about the 20th day of April, 1953, ROBERT CARL PARKER and [redacted] transported a stolen automobile, that is a 1951 Chevrolet sedan, motor number GAK-4(935, belonging to [redacted] from Mecklenburg County, in the State of Virginia, to Greensboro, in the State of North Carolina, in the Middle District of North Carolina, and they then knew said automobile to be stolen. On June 2, 1953, ROBERT CARL PARKER entered a plea of guilty in United States District Court, Greensboro, North Carolina, before the Honorable JOHNSON J. HAYES, Middle District of North Carolina, and PARKER was sentenced to three years in the United States Penitentiary, Atlanta, Georgia.

AT GREENSBORO, NORTH CAROLINA

On April 29, 1953, certified copies of the indictment, file and sentence of [redacted] PARKER, Greensboro Criminal Docket Number 1467-G, and an identification certificate, executed by HENRY REYNOLDS, Clerk, United States District Court, and United States District Judge JOHNSON J. HAYES, Middle District of North Carolina, were obtained from HENRY REYNOLDS, Clerk, United States District Court, Middle District of North Carolina, Greensboro, North Carolina.

[redacted] Clerk, United States District Court, Middle District of North Carolina, Greensboro, North Carolina, could testify, if subpoenaed, about the records of this particular case.

REYNOLDS advised that he would not be able to identify ROBERT CARL PARKER as the individual named in the indictment, inasmuch as a great number of defendants are handled in the United States District Court, Greensboro, North Carolina, and he is not personally acquainted with ROBERT CARL PARKER.

[redacted] Charlotte Office, will be able to identify the ROBERT CARL PARKER named in the aforementioned indictment.

70-2845-110

ENCLOSURES TO UNITED STATES ATTORNEY, MIDDLE DISTRICT OF PENNSYLVANIA

1. Indictment
2. Plea and Sentence
3. Exemplification Certificate dated [illegible] signed by [illegible], USDC, and USDJ JOHNSON J. [illegible], USDC.

EJC

CE 70-969

REFERENCES

Philadelphia letter to Bureau, 3-9-55.
Philadelphia letter to Charlotte, 3-22-55.
Philadelphia letter to Charlotte, 3-29-55.
Rep of SA [redacted] Charlotte, 5-25-53, CE 20-13734.
Rep of SA [redacted] Charlotte, 6-22-53, CE 20-13734.

b7C

ADMINISTRATIVE

FEDERAL BUREAU OF INVESTIGATION

Report No. 1
THIS CASE ORIGINATED AT PHILADELPHIA

REPORT MADE AT	DATE WHEN MADE	PERIOD FOR WHICH MADE	REPORT MADE BY
CINCINNATI	5/3/55	3/23; 4/18, 22/55	[redacted] b7C

TITLE: GEORGE JUNIOR McCOY, Was.; ET AL; WILLIAM WALTER REMINGTON - VICTIM

CHARACTER OF CASE: CRIME ON GOVERNMENT RESERVATION - MURDER; IRREGULARITIES IN FEDERAL PENAL INSTITUTION

SYNOPSIS OF FACTS:

Records of the Court of Common Pleas, Knox County, Mt. Vernon, Ohio, reflect that GEORGE McCOY was arrested 11/14/50, on B & E charge. He pleaded not guilty at arraignment and was bound over to Grand Jury under $1,000.00 bond on 11/17/50. On 1/9/51, no indictment was returned by Grand Jury at Mt. Vernon, Ohio. GEORGE J. McCOY was arrested 3/2/51 on CCW charge. He pleaded not guilty and was bound over to Grand Jury at Mt. Vernon, Ohio, under $1,000.00 bond. On 5/7/51, he was indicted by Grand Jury on charge of CCW. On 5/10/51, he changed plea to guilty and was sentenced by Judge J. S. McDEVITT, CP Court, Mt. Vernon, Ohio, to the Ohio State Penitentiary for an indeterminate period. Certified copy of the indictment, plea, and sentence furnished by ELBERT C. GRUBB, Clerk of Courts, Court of CP, Mt. Vernon, Ohio, accompanied by certification of Judge McDEVITT. Mr. SALATHIEL BUMPUS, former Sheriff, Knox County, Ohio, and now Director of City Department of Public Service and Safety, Mt. Vernon, Ohio, can identify McCOY as being the same person named in the State indictment. Records of OSHP, Ohio State Penitentiary, and Bureau of Probation and Parole checked at Columbus, Ohio.

-RUC-

70-22845

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APPROVED AND FORWARDED: [redacted] SPECIAL AGENT IN CHARGE

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(1 - USA, MDPA-Encl.-1)
1 - Cincinnati (70-395)

CI. 70-395

DETAILS:

AT MT. VERNON, OHIO

On April 18, 1955, Mr. ROBERT C. GRUBB, Clerk of Courts, Court of Common Pleas, Knox County, Ohio, produced the following criminal dockets which reflected the following information regarding GEORGE J. McCOY:

Criminal Docket #7, Page 331, reflects that GEORGE McCOY was arrested by Mt. Vernon, Ohio, Police Department on November 14, 1950, for breaking and entering the Cozy Grill restaurant in Mt. Vernon, Ohio. He pleaded not guilty before Mayor WALTER W. ROHLER on November 17, 1950, and was bound over to the Grand Jury under $1,000.00 bond. On November 9, 1951, the Grand Jury, sitting at Mt. Vernon, Ohio, failed to return an indictment on McCOY.

Criminal Docket #7, Page 343, reflects that GEORGE J. McCOY was arrested March 2, 1951, by [redacted] b7C Marshal, Fredericktown, Ohio, for carrying a 32 calibre revolver, concealed on his person. McCOY pleaded not guilty before ALBERT L. SWANK, Justice of Peace, Knox County, Ohio, and was bound over to the Grand Jury under $1,000.00 bond. On May 7, 1951, an indictment was returned by the Grand Jury sitting at Mt. Vernon, Ohio, against McCOY on charge of Carrying Concealed Weapon. On May 10, 1951, McCOY was arraigned in open court and pleaded not guilty to the charge in the indictment for Carrying Concealed Weapon and requested the court to assign counsel for his defense. On the same day, McCOY reappeared in court represented by counsel and changed his plea from not guilty to guilty to the charge in the indictment, whereupon Judge JAY S. McDEVITT, Court of Common Pleas, Knox County, Ohio, sentenced him to the Ohio State Penitentiary for an indeterminate period.

On April 22, 1955, ROBERT C. GRUBB, Clerk of Courts, Court of Common Pleas, Knox County, Ohio, furnished a certified copy of the above mentioned indictment, plea, and sentence, reflected in the Criminal Docket #7, Page 343, Case Number 4585. These documents were accompanied with a certificate of Judge JAY S. McDEVITT that the said attestation is in proper form.

70-22845-111

CI. 70-395

Mr. ROBERT C. GRUBB, Clerk of Courts, Court of Common Pleas, Knox County, located in Mt. Vernon, Ohio, can appear to testify, if subpoenaed, about the records of this court.

The above certified documents are being forwarded as enclosures for the United States Attorney, Middle District Pennsylvania.

Mr. SALATHIEL BUMPUS, who was Sheriff of Knox County at the time GEORGE J. McCOY was sentenced to the Ohio State Penitentiary on May 10, 1951, who is now Director of City Department of Public Service and Safety, Mt. Vernon, Ohio, informed on April 18, 1955, that he could identify GEORGE J. McCOY as being the same person named in the State indictment mentioned above.

The following investigation was conducted by SA [redacted] b7C

AT COLUMBUS, OHIO

On March 23, 1955, Cpl. [redacted] Ohio State b7C Patrol Communications Section, advised that the only reference in their files to GEORGE JUNIOR McCOY is a reference from Warden RALPH ALVIS, Ohio State Penitentiary, to the effect that GEORGE McCOY had escaped from Roseville Branch of the Ohio State Penitentiary on September 21, 1953.

[redacted] Records Clerk, Ohio State Penitentiary, exhibited the records of the Ohio State Penitentiary on March 23, 1955, which reflected that GEORGE J. McCOY, OSP #91440, was admitted to the Ohio State Penitentiary on May 11, 1951, from Knox County on a charge of Carrying Concealed Weapon, for which he was convicted and sentenced to serve from one to three years. The records further reflected that McCOY had been arrested by the Fredericktown, Ohio, Police Department on February 28, 1951, and tried before Judge J. S. McDEVITT at Mt. Vernon, Ohio. The prosecutor was C. J. LESTER. The records reflected no disciplinary action taken against McCOY while incarcerated at the Ohio State Penitentiary. These records were reviewed on March 23, 1955.

70-22845

CI. 70-395

On March 23, 1955, [redacted] Ohio b7C
Parole Commission, 205 Wyandotte Building, exhibited the records of the Ohio Bureau of Parole and Probation, which were found to reflect no further information than was found in the records of the Ohio State Penitentiary.

ENCLOSURE: To Philadelphia:

For United States Attorney, Middle District Pennsylvania, a certified copy of indictment, plea, and sentence of GEORGE J. McCOY, Case Number 4585, Docket #7, Page 343, Court of Common Pleas, Knox County, Ohio.

-RUC-

70-22845-A

OI. 70-395

REFERENCE

Philadelphia letter to Charlotte dated March 29, 1955.
Philadelphia letter to Bureau dated March 9, 1955.

ADMINISTRATIVE PAGE

70-22845

MAY 6 1955
TELETYPE

Mr. Tolson
Mr. Boardman
Mr. Nichols
Mr. Belmont
Mr. Mohr
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. Nease
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

NR 2 FROM PX 5/6/55 3:30 PM 99233

DIRECTOR, FBI URGENT

GEORGE JUNIOR MC COY, WAS., ET AL, CGR - MURDER, IFPI. SUBJECTS MC COY, CAGLE AND PARKER BROUGHT BEFORE HONORABLE FREDERICK J. FOLLMER, JUDGE, MDPA, LEWISBURG, PA., THIS DATE AND ALL SUBJECTS PRESENTED ORAL AND WRITTEN MOTIONS TO WITHDRAW PREVIOUS PLEAS OF NOT GUILTY AND ENTER PLEAS OF GUILTY TO MURDER IN SECOND DEGREE. MOTIONS ACCEPTED BY J. JULIUS LEVY, USA, AND JUDGE FOLLMER. ALL SUBJECTS ALLOWED TO ENTER PLEA OF GUILTY TO MURDER IN SECOND DEGREE. JUDGE FOLLMER SET DATE OF SENTENCING AS TEN AM, MAY EIGHTEEN, FIFTY FIVE.

RECORDED - 64 MAY 11 1955

70-22845

MAY 16 1955

70-22845-112

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Rose

FROM : Mr. Winterrowd

DATE: May 6, 1955

TIME OF CALL: 9:52 a.m.

SUBJECT: GEORGE JUNIOR MC COY, WAS.;
LEWIS CAGLE;
ROBERT PARKER;
WILLIAM WALTER REMINGTON - VICTIM
CRIME ON GOVERNMENT RESERVATION -
MURDER

SAC McCabe at Philadelphia called to furnish information concerning the fact that subjects in this case responsible for the death of Remington at Lewisburg Penitentiary are to appear before Federal Judge Follmer at Lewisburg, Pennsylvania, this afternoon at 2:00 p.m. in order to change their pleas of not guilty to guilty. On May 13, 1955, the judge will hear arguments as to any mitigating or aggravated circumstances.

Subjects were indicted on December 1, 1954, and charged with violation of Section 1111, Title 18, United States Code (Crime on a Government Reservation - First Degree Murder).

It is to be noted that the Washington City News Service on the evening of May 5, 1955, stated that subjects will plead guilty to second degree murder and further that the Justice Department had authorized the U. S. Attorney, Levy, at Scranton, Pennsylvania, to accept such pleas. The news item stated Levy refused to comment on the report.

In this regard SAC McCabe advised that U. S. Attorney Levy expressed his concern about the premature release which has been given this matter.

McCabe will advise the Bureau of developments in this case by teletype.

EHW:fc
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RECORDED-112 2 MAY 10 1955

53 MAY 16 1955

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

MAY 16 1955

TELETYPE

Mr. Tolson	
Mr. Boardman	
Mr. Nichols	
Mr. Belmont	
Mr. Mohr	
Mr. Parsons	
Mr. Rosen	
Mr. Tamm	
Mr. Sizoo	
Mr. Winterrowd	
Tele. Room	
Mr. Holloman	
Miss Gandy	

NA 1 FROM PH 5/16/55 4:43 PM MGL

DIRECTOR, FBI DEFERRED

GEORGE JUNIOR MC COY, ET AL, CSR - MURDER, IFPI. ON THIS DATE HONORABLE FREDERICK V. FOLLMER, JUDGE, MDPA, LEWISBURG, PA., CONTINUED DATE OF SENTENCING OF SUBJECTS UNTIL TEN AM, MAY TWENTY-SIX, FIFTY-FIVE, UPON REQUEST OF SUBJECT MC COY-S ATTORNEY CHARLES BIDELSPACHER, WHO STATED HIS PHYSICIAN ADVISES HIM THAT HE, BIDELSPACHER, HAS NOT RECOVERED SUFFICIENTLY FROM RECENT OPERATION TO APPEAR IN COURT ON MAY EIGHTEEN, FIFTY-FIVE.

MC CABE

70-3694-114

EX-103

18 MAY 18 1955

67 MAY 23 1955

70-22845-114

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

MAY 26 1955

TELETYPE

Mr. Tolson
Mr. Boardman
Mr. Nichols
Mr. Belmont
Mr. Harbo
Mr. Mohr
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Sizoo
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

WA 3 FROM PH 5/26/55 1.10 PM MCL

DIRECTOR, FBI URGENT

GEORGE JUNIOR MC COY, WAS., ET AL. CGR - MURDER, IFTI. ON THIS DATE HONORABLE FREDERICK V. FOLLMER, JUDGE, MDPA, LEWISBURG, SENTENCED SUBJECTS MC COY AND CAGLE TO LIFE IMPRISONMENT EACH AND SENTENCED SUBJECT PARKER TO TWENTY YEARS.

MC CABE

CORR LINE 2 WA 3 SHD BE "FREDERICK"

END ACK

PH R 3 WA JG

RECORDED - 36

DSC

Mr. Rosen

cc Mr. Rosen

INVESTIGATIVE DIVISION

12 JUN 1 1955

70-22845

115

KS JUN 7 1955

70-22845-115

Office Memorandum • UNITED STATES GOVERNMENT

TO: Mr. Tolson

DATE: 6/1/55

FROM: L. B. Nichols

SUBJECT: GEORGE JUNIOR McCOY;
ROBERT CARL PARKER;
LEWIS CAGLE, JR.;
WILLIAM WALTER REMINGTON - VICTIM
CRIME ON GOVERNMENT RESERVATION - MURDER
BUFILE 70-22845

SYNOPSIS:

Fred Mullen, in the Department, received per his request complete summary on Remington case from James V. Bennett, Director of Bureau of Prisons, 5/31/55. Mullen previously told press when full facts relating to motivation are known he will inform press. Mullen states that Bennett's summary absolves Bureau of Prisons from any negligence, bad judgment, and no violation of prison rules and regulations took place. States motivation for killing was not robbery but obsession on part of subjects to kill Communists. This story circulated to press and printed 5/27/55, following sentencing of three subjects in Federal Court, 5/26/55. Mullen asks that he be supplied with facts obtained through FBI investigation. Facts are that Remington assaulted on Monday, 11/22/54, and United Press ticker in Washington announced the assault at 12:29 p.m., 11/23/54. At 8:55 a.m., 11/24/54, United Press stated Remington died. SAC at Philadelphia made press release afternoon of 11/24/54, which moved via United Press at 2:46 p.m., 11/24/54. That release mentioned nothing about motivation. SAC McCabe at Philadelphia authorized to make second release which moved on United Press ticker at 9:38 a.m., 11/26/54, stating that the subjects planned to ransack Remington's private cell. No other information relating to motivation released. Speculation rampant, however, as to motivation. All three subjects in signed statements given to FBI agents, as early as 11/24/55, and 11/25/55, refer to hating Communists and believing Remington to be a Communist. One subject said "I am going to get me one (a Communist)" and two subjects agreeing to hit Remington because he was a Communist. This information not released to press because of its evidentiary value at the time.

Enclosure
cc - Mr. Boardman
Mr. Belmont
Mr. Rosen

REW:fc
(6)

70-22845-116

RECORDED-15

INDEXED-35

8 JUN 8 1955

EX-112

ENCL 35

JUN 13 1955

Memorandum for Mr. Tolson from L. B. Nichols 6/1/55
RE: GEORGE JUNIOR McCOY; ROBERT CARL PARKER; LEWIS CAGLE, JR.;
WILLIAM WALTER REMINGTON - VICTIM
CRIME ON GOVERNMENT RESERVATION - MURDER, BUFILE 70-22845

RECOMMENDATION:

That I briefly inform Mullen of these facts and point out to him that robbery was believed to be the motive initially, but that subsequent to the initial statement we made to the press through our Philadelphia Office, signed statements were obtained from the subjects and one other prisoner reflecting that the motive was a dislike of Communists and not robbery although the latter motive was present. Subsequently, the subjects' dislike for Communists was developed through signed statements, but for evidentiary reasons, of course, not made available to the press.

O.K. H.

BACKGROUND:

Fred Mullen, in the Department, advised me, 5/31/55, that he received a complete summary on the Remington case from James V. Bennett, Director of the Bureau of Prisons, which was precipitated by his request to Bennett for such a summary. Mullen stated there had been much speculation since the murder of Remington as to the motivation and at the time of the murder he had told the press that whenever information became available he would make a complete report to them. Mullen said in the early stages of the case, shortly after the assault on 11/22/54 and about the time the three subjects were identified, robbery was given as the motivation. It now appears, said Mullen, that a story is receiving widespread dissemination from the Bureau of Prisons to the effect that robbery was not the motivation; that the killing was motivated by an obsession on the part of the subjects to kill Communists. No negligence on the part of the Bureau of Prisons existed and there was no evidence of bad judgment on the part of prison officials or guards and no violation of prison rules and regulations took place. Mullen said he believed the circulated story originated in the Bureau of Prisons and is pretty much of a whitewash. Mullen

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wanted to know the facts of our investigation which tend to show a motivation for the killing.

FACTS OF OUR INVESTIGATION:

McCoy, Parker, and Cagle, who on 5/26/55, were sentenced in connection with this crime, were identified almost immediately as taking part in the assault on Remington, 11/22/54. The assault was first announced on the United Press ticker in Washington at 12:29 p.m., 11/23/54. At 5:55 a.m., 11/24/54, the United Press released information Remington died. We authorized our Philadelphia Office to make two press releases, one which moved on the United Press ticker at 2:46 p.m., 11/24/54, and the other at 9:38 a.m. 11/26/54. The first announcement merely set forth the facts of the complaint stating Remington had been assaulted by two individuals, Parker and McCoy, and that Remington died.

Following speculation as to motivation, the second announcement stated that charges had been filed against Cagle, the third subject. It stated Cagle admitted he and McCoy and Parker planned to ransack Remington's cell and in doing so the assault took place.

Our investigation, launched immediately after learning of the assault, developed through signed statements from the three subjects and one other inmate that Cagle, McCoy and Parker all disliked Communists. In signed statement dated 11/25/54, Cagle stated "McCoy actually stated he hated Remington because he was a Communist... During my last conversation with McCoy, McCoy stated that he hated Remington as a Communist, and that if I would hit him, referring to Remington, one or two times, then he would hit him one or two times with the brick in the sock located in my room...." Cagle in another signed statement dated 11/24/54, said he heard McCoy state specifically "that he hated Communists and 'I am going to get me one.'"

Parker, in a signed statement dated 11/24/54, said that just prior to the assault McCoy said "...he, (Remington) is nothing but a Communist who tried to sell us all out." McCoy, in a signed statement dated 11/30/54, said he

70-22845-

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believed Remington was a Communist, he hated Communists and would like "to line up a bunch of Communists and shoot them down, with a machine gun, just like cutting wheat...." McCoy said he understood that Remington had said that in case of a riot "McCoy would be the first person that he would kill." McCoy stated this caused him to hate Remington and he and the others discussed Remington as a Communist and the men then decided to enter Remington's quarters which they did. McCoy stated "lets go and get Remington."

Inmate [redacted] by signed statement dated 11/25/54, stated that Cagle, Parker and McCoy always "used the expression these dirty Commie bastards, somebody ought to knock their heads in." [redacted] stated the three men believed Remington was a Communist and he further was of the opinion that Remington was killed by the men because he was an alleged Communist and due to the fact he was convenient.

b7C

Communism, as a motivation for the killing of Remington, was, of course, not released to the press inasmuch as other information in the signed statements taken from the three subjects and [redacted] was not released to the press. To have released such information would have been completely contrary to policy, the men were yet to be tried, and consequently, nothing was said to the press as to motivation.

During the investigation, we did not overlook the other collateral matters relating to mal-feasance, non-feasance, and mis-feasance or other situations at the penitentiary bearing upon the crime and irregularities were developed.

CONCLUSION:

There is some substance to the circulated report that the killing was motivated by a dislike for Communists although it cannot be said this was the only motivation. Investigation developed that robbery also entered the picture and that certain laxity on the part of guard personnel existed.

Attached is a copy of a clipping from the Washington Daily News issue of 5/27/55, captioned "Red Hatred Led to Killing of Remington."

70-22845-116

Punishment Behind Bars

Red Hatred Led to Killing of Remington

The fellow convicts who killed William W. Remington in Lewisburg Penitentiary last November had only one motive to punish him for being a communist.

A top Federal official gave The News that explanation of the crime today, breaking a long silence on the murder. He said the killing climaxed a long series of harassments aimed at Remington because of the communist charges against him.

Two of the killers, George Jackson, 24, of Grundy, Va., and Lewis Cash, 31, of Chattanooga, Tenn., were convicted in Federal Court at Scranton, Pa., of murder in the first degree and sentenced to die in the electric chair. Another prisoner, Raymond Allen, 30, of Detroit, was convicted of second degree murder and sentenced to life imprisonment. All three had been serving long terms for robbery when they killed Remington.

WILLIAM REMINGTON

Dir. Tolson
Mr. Boardman
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Nichols
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. Tracy
Mr. Vincent
Tele. Room
Mr. Holloman
Miss Gandy

20-29-45-116

Remington, 37 when he died last Feb. 24, was a Commerce Department economist until Elizabeth Bentley named him in 1948 as a one-time communist contact of hers. She said she got secret information from him during World War II, when she said she was a Red agent.

PERJURY

Remington was convicted of perjury in denying that he had given Miss Bentley any secret information and in denying that he knew of the Young Communist League while a student at Dartmouth College.

After Remington's death, his wife disclosed letters he had written to her from the prison that seemed to indicate he inadvertently had become involved in a war of prison cliques.

He wrote that his cell, which he shared with some other prisoners, had been raided three times by petty thieves. At first only his commissary lockers were touched, but finally some candy and cigarettes were stolen from him. Once someone set fire to a roommate's mattress.

HE WASN'T AFRAID

Remington repeatedly told his wife in the letters that the raids by other prisoners on his cell were not directed against him personally.

"The Fox alone from all the cliques, I'm apparently not in trouble with any," he said.

Just a week before the beating he wrote his wife that his roommates had applied for transfer from his cell, but again he saw no danger

[illegible]

that he had the mind of a [illegible] old.

Remington lived in a section of [illegible] for model prisoners. The officers just walked in with no [illegible] and [illegible] wrapped in a sock.

70-2345

16

FEDERAL BUREAU OF INVESTIGATION

Form No. 3
THIS CASE ORIGINATED AT PHILADELPHIA

REPORT MADE AT	DATE WHEN MADE	PERIOD FOR WHICH MADE	REPORT MADE BY
PHILADELPHIA	6/17/55	5/13; 5/16,26; 6/7,8/55	[redacted] b7C

TITLE	CHARACTER OF CASE
GEORGE JUNIOR MC COY, was, et al WILLIAM WALTER REMINGTON - VICTIM	CRIME ON GOVERNMENT RESERVATION - MURDER; IRREGULARITIES IN FEDERAL PENAL INSTITUTION

Title to Conform

SYNOPSIS OF FACTS: On 5/6/55, subjects McCOY, CAGLE and PARKER entered pleas of guilty to murder in second degree before Honorable FREDERICK V. FOLLMER, Judge, Middle District of Pennsylvania, Lewisburg, Pa., who on 5/26/55 sentenced McCOY and CAGLE each to life imprisonment and PARKER to 20 years. USA declined further prosecution against PARKER. Disposition sheets and Parole Reports submitted.

- C -

DETAILS:

By letter dated April 12, 1955, the FBI Laboratory advised that after a comparison was made of CAGLE's known handwriting specimens with the handwriting appearing on the letter dated December 26, 1954, which LEWIS CAGLE, JR., directed to his mother, Mrs. L. H. CAGLE, it was concluded that CAGLE wrote the LEWIS CAGLE and Mrs. L. H. CAGLE handwriting appearing in the upper left hand corner of the letter as well as the handwriting "Lewis" appearing at the end of the letter. A definite conclusion could not be reached as to whether or not CAGLE prepared the remaining portions of the letter; however, handwriting characteristics were noted to exist in common between CAGLE's known handwriting and the remaining portions of this letter.

DISPOSITION SHEET DESTROYED AND HANDLING SEPARATELY

ENCLOSURE

Ltr Dupl 12/8/55

Ltr Dupl Parole Reports - 12/8/55

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70-22845-147

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(Enclosures - 12)
3 - USA, MDPa.
3 - Philadelphia (70-523) 1-147

PX 70-523

At Lewisburg, Pa.

On April 13, 1955, [redacted] Associate Warden, United States Penitentiary, advised that GEORGE JUNIOR McCOY was interviewed on December 10, 1954, by prison officials in order to obtain the true facts of his participation in the murder of HEMINGTON and make it a matter of record in his institution file. He stated McCOY did not, to his knowledge, advise the prison officials that he desired to change his original story.

b7C

On May 6, 1955, subjects McCOY, PARKER, and CAGLE were brought before Honorable FREDERICK V. FOLLMER, Judge, Middle District of Pennsylvania, and all subjects presented oral and written motions to withdraw their previous pleas of not guilty and enter pleas of guilty to murder in second degree. Mr. J. JULIUS LEVY, United States Attorney, Middle District of Pennsylvania, advised the court that these motions were acceptable to him and Judge FOLLMER permitted the three subjects to enter pleas of guilty to murder in the second degree and set the date of sentencing at 10:00 a.m., May 18, 1955, which was subsequently continued by Judge FOLLMER to 10:00 a.m., May 26, 1955.

On May 26, 1955, Judge FOLLMER sentenced McCOY and CAGLE each to life imprisonment and PARKER to twenty years.

On May 26, 1955, Mr. J. JULIUS LEVY, United States Attorney, Middle District of Pennsylvania, advised that he would decline further prosecution against PARKER in regard to the contraband and larceny violations in view of the sentence he received on the murder charge.

ENCLOSURES TO BUREAU: Three Disposition Sheets
Three Parole Reports

2845-117

PX 70-523

References

Report SA [redacted] dated 6/13/55 at Philadelphia. b7C
Bureau letter to Philadelphia dated 6/12/55.
Philadelphia teletypes to Bureau dated 5/6/55 and 5/26/55.

70-24845-112

ADMINISTRATIVE PAGE

FEDERAL BUREAU OF INVESTIGATION

Form No. 1
THIS CASE ORIGINATED AT PHILADELPHIA

FILE NO.

REPORT MADE AT:	DATE WHEN MADE:	REPORT MADE BY
PHILADELPHIA	6/17/55	[redacted]

NAME OF CONVICT WITH ALIASES:

GEORGE JUNIOR McCOY, was., George McCoy, Jr., George McCoy

VIOLATION:

CRIME ON GOVERNMENT RESERVATION - MURDER

PAROLE REPORT

On November 22, 1954, GEORGE JUNIOR McCOY, inmate, United States Penitentiary, Lewisburg, Pa., along with two other inmates, ROBERT CARL PARKER and LEWIS CAGLE, JR., entered an unlocked room at the United States Penitentiary, Lewisburg, Pa., where another inmate, WILLIAM WALTER REMINGTON, was alone and asleep. PARKER admitted entering the room to search for additional commissary items, while McCOY and CAGLE admitted entering the room for the purpose of hitting REMINGTON. CAGLE admitted striking REMINGTON four blows in the left temple area and McCOY admitted striking REMINGTON one blow on the head with a segment of brick enclosed in a sock. PARKER, although present in the room at the time of the assault, denied striking REMINGTON but admitted that he heard McCOY and CAGLE say previous to the assault that REMINGTON would be hit if he awakened during the search of his room for additional commissary items; admitted disposing of the brick after the assault; admitted telling McCOY and CAGLE after the assault to go to bed and he would say they were asleep at the time of the assault. REMINGTON died on November 24, 1954, as a result of the injuries received on November 22, 1954.

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APPROVED AND FORWARDED: (illegible) SPECIAL AGENT IN CHARGE

70-22845

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CHECKED BY

ENCLOSED 117

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DEPARTMENT OF JUSTICE

ROUTED TO: FILE:

70-22845-117

PH 70-523

On December 1, 1954, McCOY was indicted by the Federal Grand Jury, Scranton, Pa., for violation of Section 1111, Title 18, USC, in that on or about November 22, 1954, in/at and on the premises of the United States Northeastern Penitentiary located in and adjacent to the township of Kelly in the County of Union in the Middle District of Pennsylvania, with premeditation and malice aforethought, murdered WILLIAM WALTER REMINGTON by striking him on the head with a deadly weapon which crushed his skull and injured his brain, from the effects of which he remained unconscious for a time and died.

On February 3, 1955, McCOY entered a plea of not guilty before Honorable FREDERICK V. FOLLMER, Judge, Middle District of Pennsylvania, Lewisburg, Pa., to the indictment as charged but on May 6, 1955, he changed his plea to guilty to murder in the second degree which was accepted.

On May 26, 1955, McCOY was sentenced to life imprisonment by Judge FOLLMER at Lewisburg, Pa.

AGGRAVATING CIRCUMSTANCES

As previously stated, WILLIAM WALTER REMINGTON was alone and asleep at the time he was assaulted on November 22, 1954. McCOY admitted that he entered REMINGTON's room armed with an iron bed rod, approximately 30 inches in length and 5/16 inches in diameter, with two other inmates who were also armed. He further admitted striking REMINGTON one blow on the head with a segment of brick encased in a sock after another inmate had hit REMINGTON in the head four times with the same weapon.

MITIGATING CIRCUMSTANCES

There are no known mitigating circumstances.

70-22845-

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FEDERAL BUREAU OF INVESTIGATION

Form No. 9
THIS CASE ORIGINATED AT PHILADELPHIA

FILE NO.

REPORT MADE AT:	DATE WHEN MADE:	REPORT MADE BY:
PHILADELPHIA	6/17/55	[redacted] b7C

NAME OF CONVICT WITH ALIASES:

LEWIS CAGLE, JR., was, Lewis Junior Cagle, Lewis J. Cagle, Lewis Cagle

VIOLATION:

CRIME ON GOVERNMENT RESERVATION - MURDER

PAROLE REPORT

On November 22, 1954, LEWIS CAGLE, JR., inmate, United States Penitentiary, Lewisburg, Pa., along with two other inmates, GEORGE JUNIOR McCOY and ROBERT CARL PARKER, entered an unlocked room at the United States Penitentiary, Lewisburg, Pa., where another inmate, WILLIAM WALTER REMINGTON, was alone and asleep. PARKER entered the room to search for additional commissary items while McCOY and CAGLE entered the room for the purpose of hitting REMINGTON. CAGLE admitted striking REMINGTON four blows in the left temple area and McCOY admitted striking REMINGTON one blow on the head with a segment of brick encased in a sock. PARKER, although present in the room at the time of the assault, denied striking REMINGTON but admitted that he heard McCOY and CAGLE say previous to the assault that REMINGTON would be hit if he awakened during the search of his room for additional commissary items; admitted disposing of the brick after the assault; admitted telling McCOY and CAGLE after the assault to go to bed and he would say they were asleep at the time of the assault. REMINGTON died on November 24, 1954, as a result of the injuries received on November 22, 1954.

70-22845-117

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APPROVED AND FORWARDED: [illegible]

70-22845-117

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FEDERAL BUREAU OF INVESTIGATION

70-22845

CHECKED UP

DEPARTMENT OF JUSTICE

ENCLOSURE

(3) - Bureau (70-22845)

1 - Philadelphia (70-523)

REMARKS:

FILE

FBI 70-22845

On December 1, 1954, CAGLE was indicted by the Federal Grand Jury, Scranton, Pa., for violation of Section 1111, Title 18, USC, in that on or about November 22, 1954, in/at and on the premises of the United States Northeastern Penitentiary located in and adjacent to the Township of Kelly in the County of Union in the Middle District of Pennsylvania, with premeditation and malice aforethought, murdered WILLIAM WALTER REMINGTON by striking him on the head with a deadly weapon which crushed his skull and injured his brain, from the effects of which he remained unconscious for a time and died.

On February 3, 1955, CAGLE entered a plea of not guilty before Honorable FREDERICK V. FOLLMER, Judge, Middle District of Pennsylvania, Lewisburg, Pa., to the indictment as charged but on May 6, 1955, he changed his plea to guilty to murder in the second degree which was accepted.

On May 26, 1955, CAGLE was sentenced to life imprisonment by Judge FOLLMER at Lewisburg, Pa.

AGGRAVATING CIRCUMSTANCES

As previously stated, REMINGTON was alone and asleep at the time he was assaulted in his room on November 22, 1954. CAGLE admitted that he entered REMINGTON's room armed with a segment of brick, weighing approximately 1½ pounds, encased in a sock, with two other inmates who were also armed. CAGLE further admitted that he raised a rolled up bathrobe from REMINGTON's head and struck him four blows with the segment of brick encased in a sock.

MITIGATING CIRCUMSTANCES

There are no known mitigating circumstances.

70-22845-

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FEDERAL BUREAU OF INVESTIGATION

Form No. 3
THIS CASE ORIGINATED AT PHILADELPHIA

FILE NO.

REPORT MADE AT	DATE WHEN MADE	REPORT MADE BY
PHILADELPHIA	6/17/55	[redacted] b7C

NAME OF CONVICT WITH ALIASES

ROBERT CARL PARKER, was Robert C. Parker, Robert Carol Parker

VIOLATION

CRIME ON GOVERNMENT RESERVATION - MURDER

PAROLE REPORT

On November 22, 1954, ROBERT CARL PARKER, inmate, United States Penitentiary, Lewisburg, Pa., along with two other inmates, LEWIS CAGLE, JR., AND GEORGE JUNIOR McCOY, entered an unlocked room at the United States Penitentiary, Lewisburg, Pa., where another inmate, WILLIAM WALTER REMINGTON, was alone and asleep. PARKER stated he entered the room to search for additional commissary items while McCOY and CAGLE stated they entered the room for the purpose of hitting REMINGTON. CAGLE admitted striking REMINGTON four blows on the left temple area and McCOY admitted striking REMINGTON one blow on the head with a segment of brick encased in a sock. PARKER, although present in the room at the time of the assault, denied striking REMINGTON but admitted that he heard McCOY and CAGLE say previous to the assault that REMINGTON would be hit if he awakened during the search of his room for additional commissary items; admitted disposing of the brick after the assault; admitted telling McCOY and CAGLE after the assault to go to bed and he would say they were asleep at the time of the assault. REMINGTON died on November 24, 1954, as a result of the injuries received on November 22, 1954.

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70-22845-117

4-750 (Rev. 4-17-85)

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FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

_____ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☐ Deleted under exemption(s) _____ with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

_____

_____

☒ For your information: There should be a second page to this document; however, appears to be missing from the microfilm.

☒ The following number is to be used for reference regarding these pages:
70-22845-117 (enclosure)

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X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

FBI/DOJ

July 6, 1955 AIRTEL

SAC, PHILADELPHIA (HAIL)

GEORGE JUNIOR MC COY, WA., ET AL; WILLIAM WALTER [illegible]
VICTIM, CCR - MURDER, IVPI.

Your file 70-523. The Bureau desires an interesting case memorandum be prepared on captioned matter.

Hoover

70-25845

95232

REC:csn:jlp
(4)

RECORDED - 76

70-22845-118

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JUL - 6 1955
COMM-FBI

8 JUL 7 1955

70-22845-118

70-22845-118

Exh (Rev. 8-10-57)

Office Memorandum • UNITED STATES GOVERNMENT

TO : L. B. NICHOLS

DATE: May 9, 1957

FROM : D. J. PARSONS

SUBJECT: GEORGE JUNIOR McCOY
CGR - MURDER

70-22845

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

There is enclosed the file which has been maintained in the Laboratory in connection with the above-captioned matter. It is desired that this file be maintained as an enclosure behind the main file in the Records Branch.

70-22845-117

Enclosure

62-[illegible]-13[illegible]57

70-22845-119

1/12/55

DIRECTOR, FBI (70-22845)

ATTENTION: FBI LABORATORY

SAC, PHILADELPHIA (70-523)

GEORGE JUNIOR McCOY, et al
CR - GEORGE, ETC

Rerep of SA [redacted] 1/10/55, Philadelphia. b7C

There is enclosed herewith undeveloped film of nine negatives of the known handwriting of subject LEWIS CAGLE, Jr., as obtained from his signed statements as set out on pages 15 to 22 in referenced report. Also enclosed is a photostatic copy of a letter dated 12/26/54 directed by LEWIS CAGLE, Jr., to his mother, Mrs. L. M. CAGLE, [redacted] Chattanooga, Tenn. b7C

Assistant U. S. Attorney STEPHEN TELLER, Middle District of Pennsylvania, Scranton, Pa., has requested that the above items be submitted to the FBI Laboratory for a handwriting comparison to determine if the known handwriting of CAGLE is identical to the handwriting on the enclosed photostatic copy of the letter dated 12/26/54. The original of this letter is not available to this office. Mr. TELLER requested that the original signed statements of CAGLE not be submitted, as he did not want the statements lost or the chain of evidence broken, and further advised that he did not desire that additional handwriting specimens be taken from CAGLE. There are numerous handwriting specimens in CAGLE's file at U. S. Penitentiary, Lewisburg, Pa.; however, since inmates sometimes write letters for each other, there is no one that can testify that the handwriting specimens appearing in his file at the U. S. Penitentiary were written by CAGLE.

It is requested that the Laboratory make a comparison of the handwriting appearing in the photostatic copy of the enclosed letter dated 12/26/54 with the enclosed negatives of his known handwriting and the known handwriting appearing on any of CAGLE's fingerprint cards in the Identification Division under FBI Number [redacted] to determine if he wrote the questioned letter dated 12/26/54. b7C

ENCLOSURES - 2

70-22845 119

WOH:kmc
(2BU, 1PH)

REGISTERED MAIL

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Laboratory Work Sheet

Recorded
4-7-55
VMB

LAB FILE

Re: GEORGE JUNIOR McCOY, et al
CGR - MURDER, IPPI

File # 70-22845
Lab. # D-202528 MD

Examination requested by: SAC, Phila (70-523)

Date of reference communication: 4-1-55 Date received: 4-4-55

Examination requested: Document

Result of Examination: Examination by: [redacted]
b7C

Specimens submitted for examination

Q61 A Photostat of a two-page letter dated 12-26-54, beg "Hello Mom. I received...," signed "Lewis."

K64 Nine negatives as obtained from statements bearing ink ms of LEWIS CAGLE, JR.

70-22845-11

REPORT of the FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON D. C.

April 12, 1955

To: SAC, Philadelphia

Re: GEORGE JUNIOR McCOY, et al
CGR - MURDER, ITSP

J. Edgar Hoover
John Edgar Hoover, Director

YOUR FILE NO. 70-523
FBI FILE NO. 70-22345
LAB. NO. D-202525 FD

Examination requested by: Philadelphia

Reference: Letter 4-1-55

Examination requested: Document

Specimens: Qe61 Photostat of a two-page letter dated 12-26-54, beginning "Hello Mom, I received....," signed "Lewis."

Kek Nine negatives as obtained from statements bearing known handwriting of LEWIS CAGLE, JR.

b7C

Results of Examination:

It was concluded that the LEWIS CAGLE and MRS. L. E. CAGLE handwriting appearing in the upper left-hand corner of the first page of Qe61, and the handwriting "Lewis" at the end of the second page of Qe61, were written by LEWIS CAGLE, JR., whose known handwriting is designated as Kek and whose signatures appear on fingerprint cards in the identification record [redacted]. A definite conclusion could not be reached whether LEWIS CAGLE, JR., Kek, prepared the remainder of the questioned handwriting on Qe61, because of an insufficient number of similar letter and word combinations for an adequate comparison. However, handwriting characteristics were noted to exist in common between the remainder of the questioned handwriting on Qe61 and the known handwriting of LEWIS CAGLE, JR.

Specimens Qe61 and [illegible] 70-22345 119

FEDERAL BUREAU OF INVESTIGA[redacted]
UNITED STATES DEPARTMENT OF JUSTICE

Laboratory Work Sheet

Recorded
4-7-55
vwa

[redacted] LAB FILE

Re: GEORGE JUNIOR McCOY, et al
CGR - MURDER, IFPI

File # 70-22845
Lab. # D-202523 ED

Examination requested by: SAC, Mills (70-523)

Date of reference communication: 4-1-55 Date received: 4-4-55

Examination requested: Document

Result of Examination: Examination by: [redacted] 4/11/55

Lewis Cagle' Identi space "From", Mrs L.H. Cagle' space to Lewis Cagle' Identi space "To" and "Lewis" at end of ltr. identified Lewis Cagle, jr, Kc4 and FBI # [redacted] No conc. remarks Identified Qc 61. b7C
Similarities noted.
Qc 61 and Kc4 returned.

Specimens submitted for examination

Qc 61 A Photostat of a two-page letter dated 12-26-5-, beg "Hello Mom. I received...," signed "Lewis."

Kc4 Nine negatives as obtained from statements bearing hw of LEWIS CAGLE, JR.

70-22845 - 110

4-750 (Rev. 4-17-85)

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XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

2 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

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☐ Information pertained only to a third party with no reference to you or the subject of your request.

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☐ For your information: _____

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70-22845-119(enclosure)

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X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
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XXXXXX
XXXXXX
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FBI/DOJ

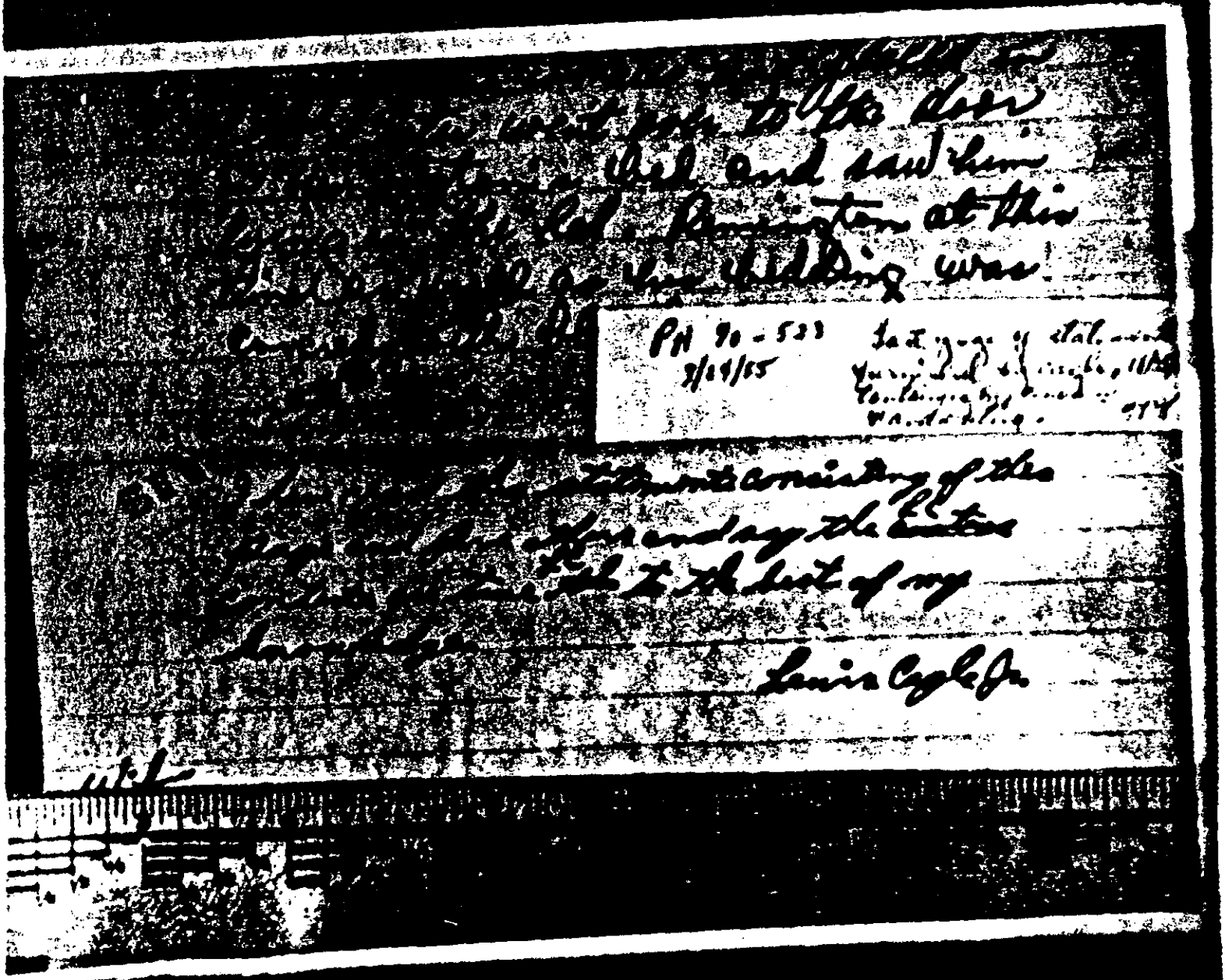
[illegible] inmates and placed in
bed I later went over to the door
in Remington's bed and saw him
lying in the bed. Remington at this
time was well as his bedding was
covered with [illegible]

611

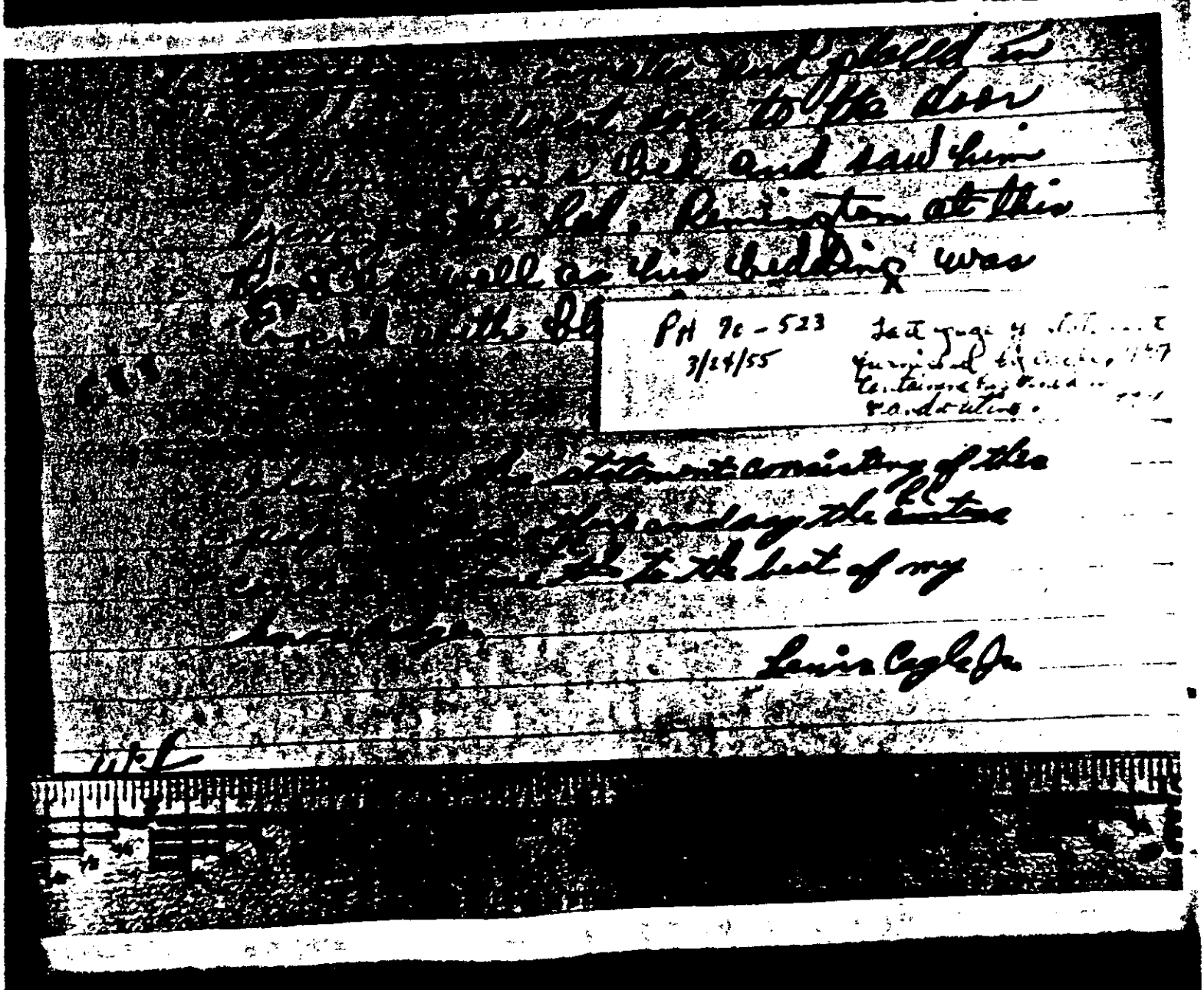
I have read the statement consisting of this
page and [illegible] and say the same
contains the truth to the best of my
knowledge.

Lewis Cagle Jr.

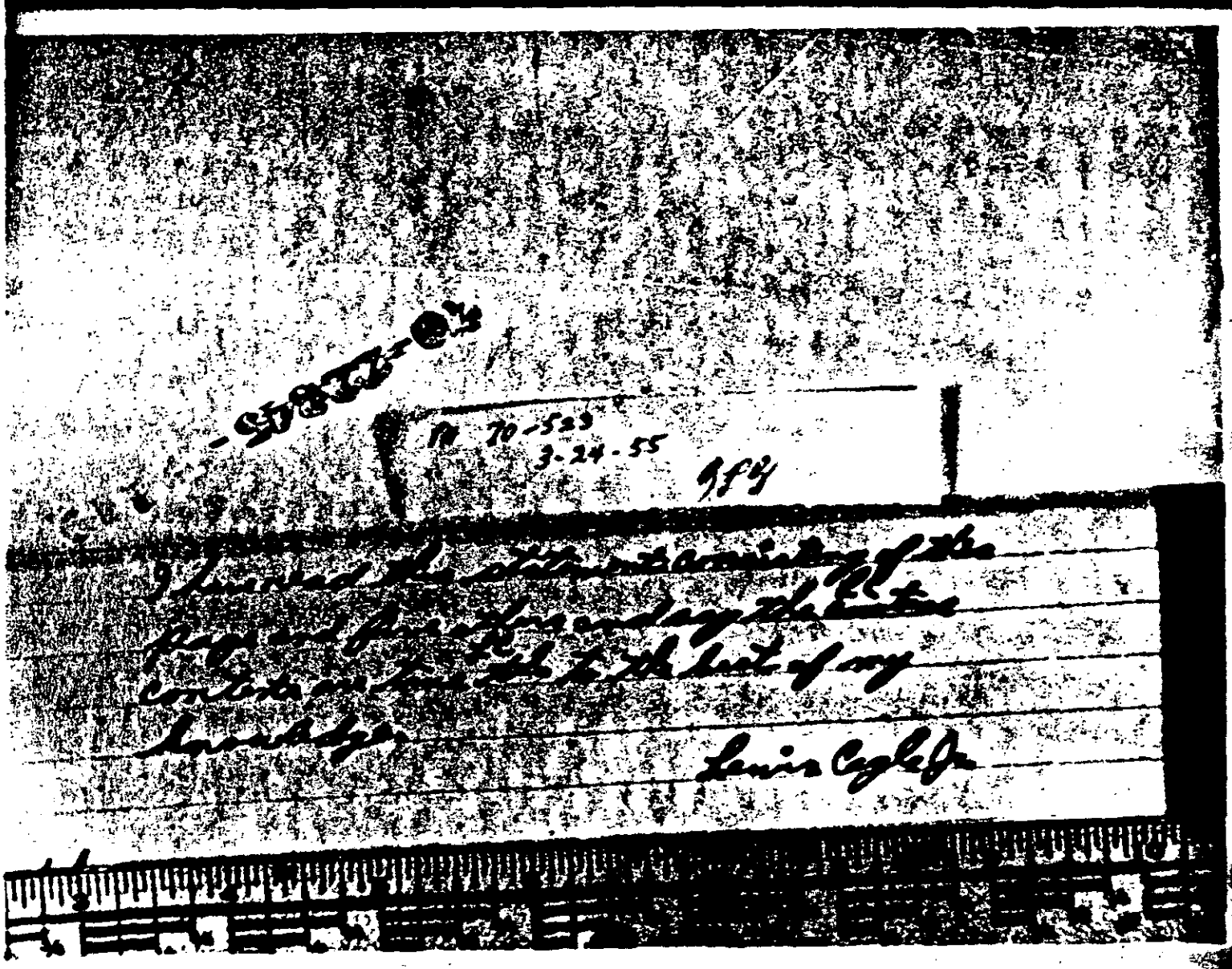
wit

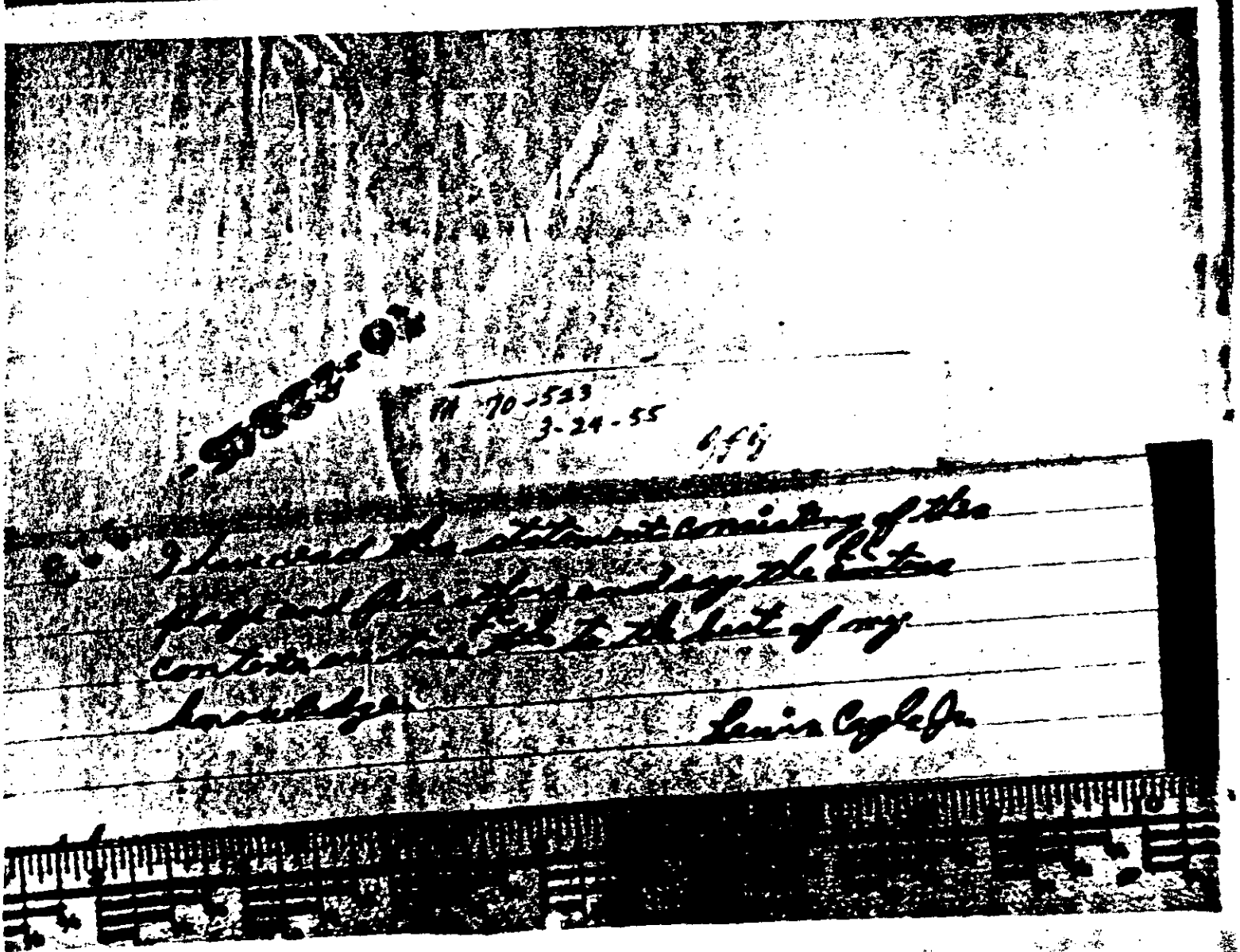


PH 90-523
2/19/65

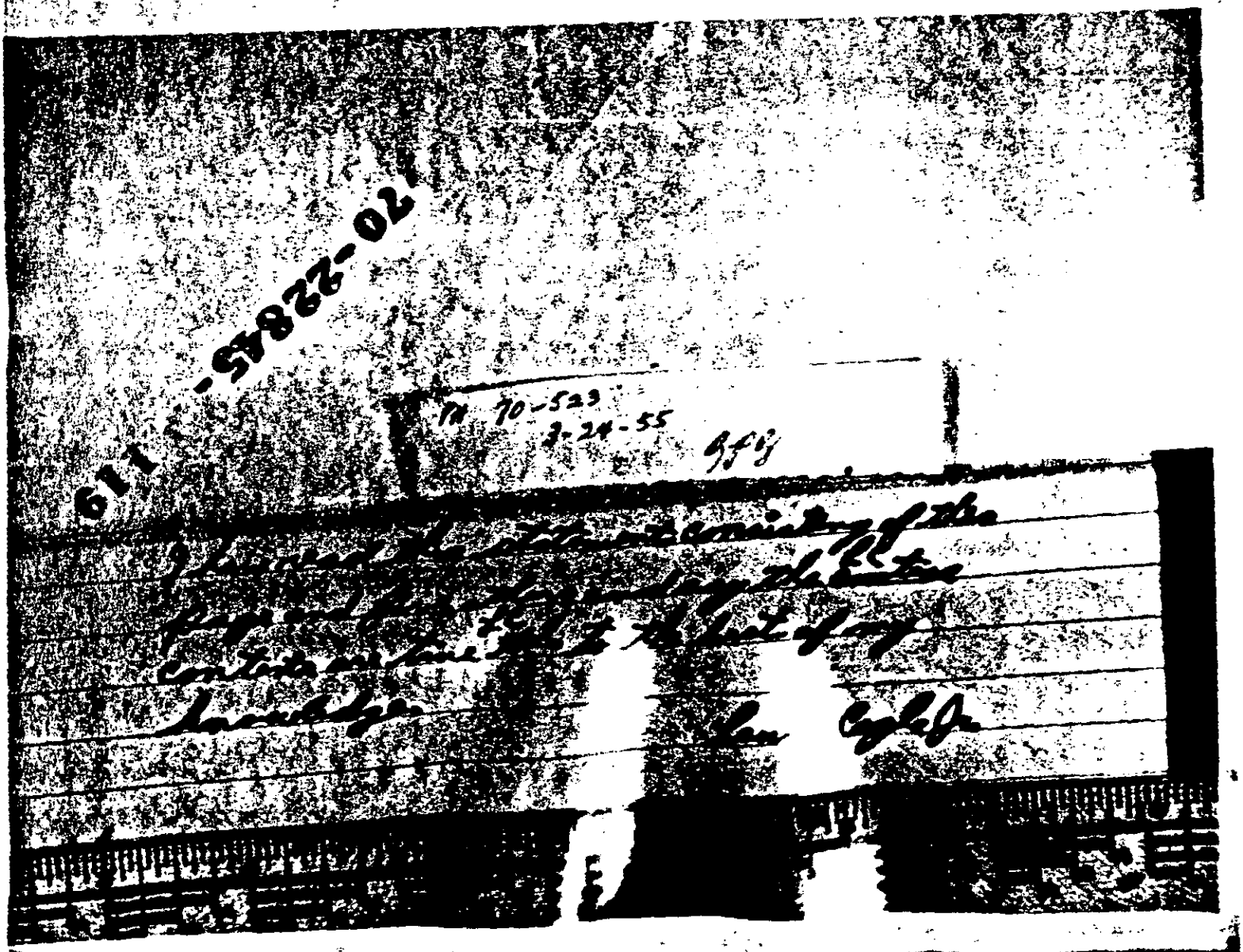


Pitt [illegible] from [illegible]
[illegible] o'clock P.M. the Sheriff and
[illegible] Deputed at the Barber. McCoy Hushed
the cock down the Cannon. Barber
took the half brick out of the sleeve
[illegible] Barber [illegible]
[illegible] Massie
[illegible]
[illegible] this statement consisting
of this page and two others and signed
contents are true to the best of my knowledge
Louis Cook Jr.





FM 70-543
3-24-55

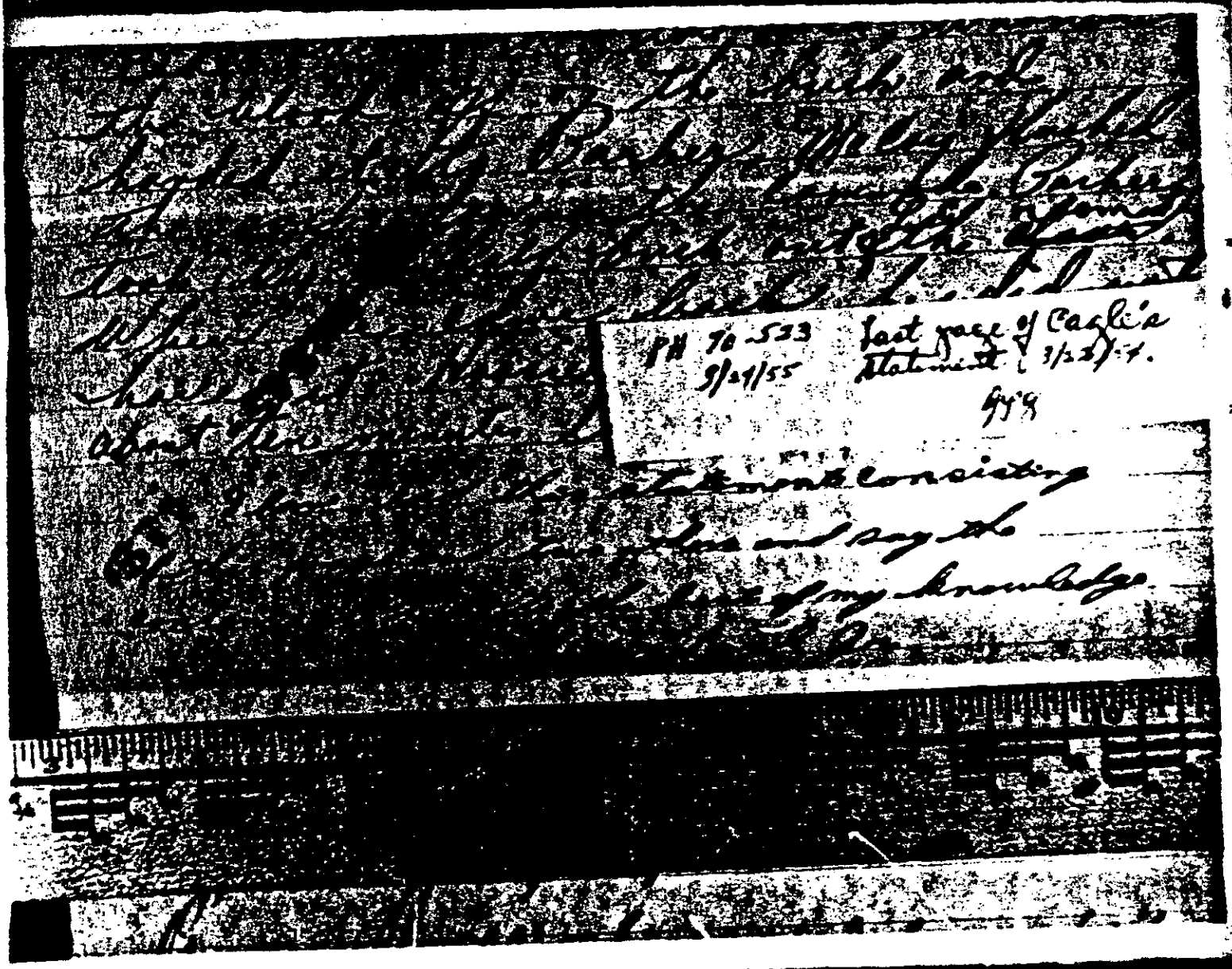

611-22825-02
TR 70-523
3-24-55

LC ~~the officers~~ inmates and placed in bed. I later went over to the door in Remington's bed and saw him lying on the bed. Remington at this time [illegible] as well as his bedding was covered with bl[illegible]

I have read the statement consisting of this page and five others and say the contents are true LC to the best of my knowledge.

Lewis Cagle Jr.

wit



red brick from the [illegible]

the block off the brick and

landed at Ag Barker. McCoy flushed

the rock [illegible] the [illegible] Barker

took the half brick out & the [illegible]

Officer [illegible] Leach [illegible]

[illegible] Rossier

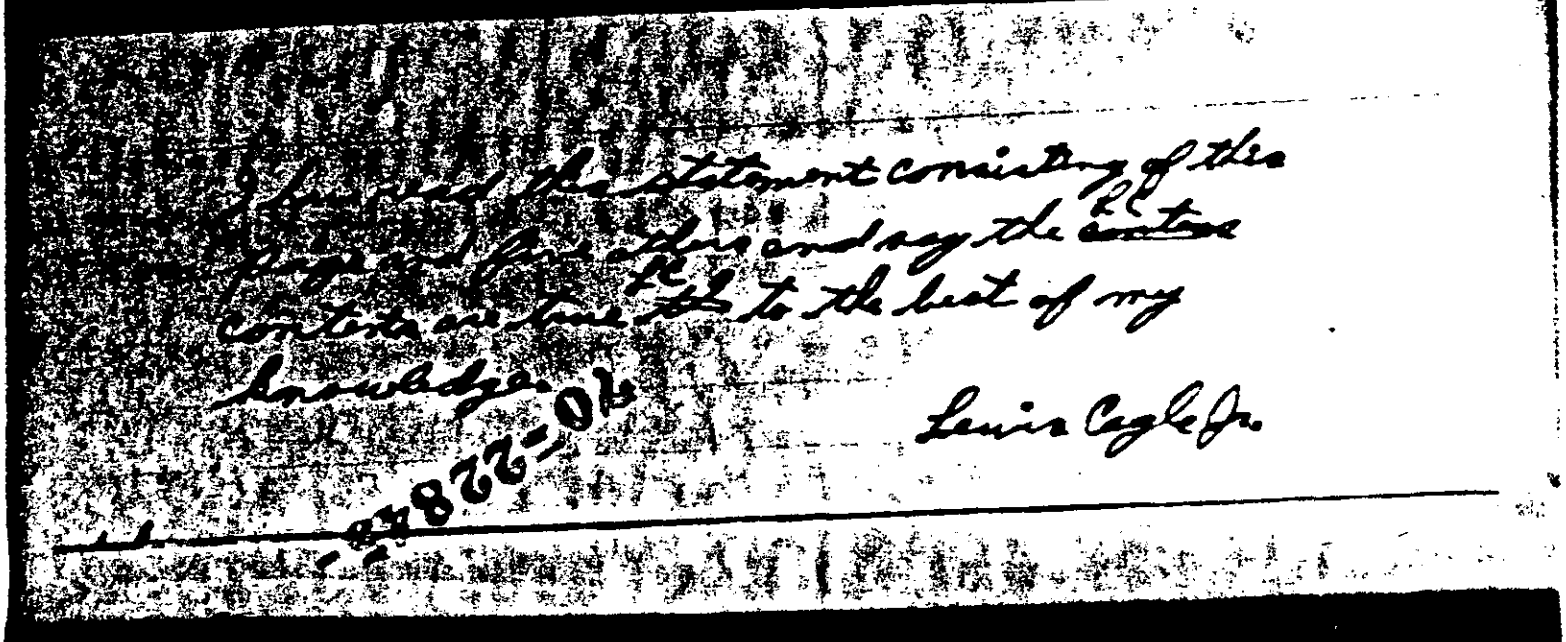
[illegible]

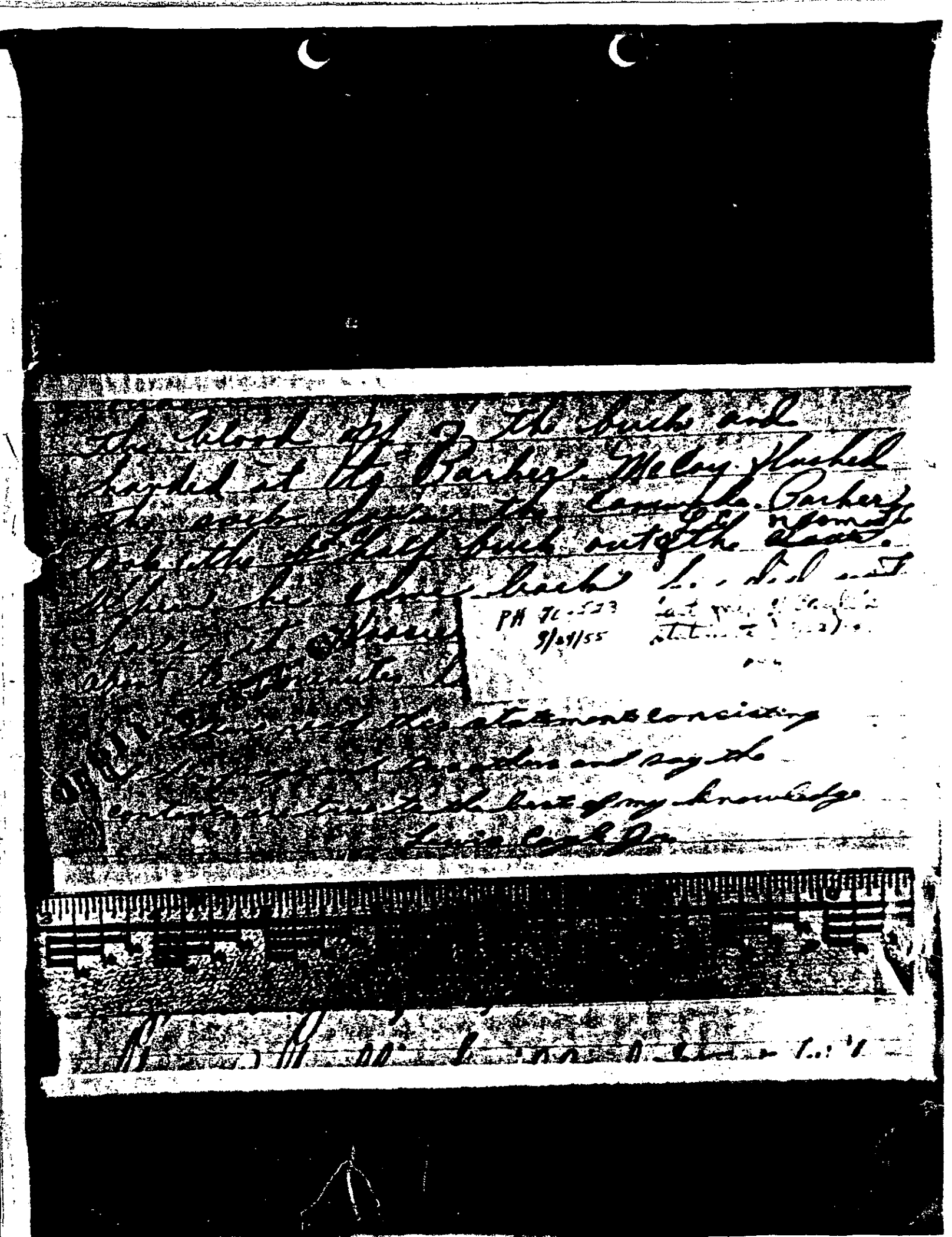
[illegible] this statement [illegible]

[illegible] others and [illegible]

contained are true to the best of my knowledge

Lewis Coyle Jr.





Routing Slip
FD-4 (8-10-54)

Date 8/2/55

To

- [X] Director
- Att.
- [ ] SAC
- [ ] ASAC
- [ ] Supv.
- [ ] Agent
- [ ] SE
- [ ] CC
- [ ] Steno
- [ ] Clerk

Re: FILE # 70-22845

Title [redacted] JUDGE [redacted]
was, et al
JUDGE [redacted] A DEFENDANT
RESERVATION - MURDER;
IRREGULARITIES IN
FEDERAL PENAL INSTITUTION

FILE: 70-523

ACTION DESIRED

- [ ] Reassign to
- [ ] Send Serials
- [ ] Submit report by
- [ ] Submit new charge-out
- [ ] Leads need attention
- [ ] Return with explanation or notation as to action taken.

- [ ] Initial & return
- [ ] Search & return
- [ ] Recharge serials
- [ ] Prepare tickler
- [ ] Return serials
- [ ] Acknowledge
- [ ] Bring file
- [ ] Call request

- [ ] Open Case
- [ ] Expedite
- [ ] Correct
- [ ] Call me
- [ ] See me
- [ ] Type
- [ ] File

NOT RECORDED
AUG 25

Routed to [redacted] Date [redacted]
Initiated by [redacted] 8/2/55

SAC [redacted]

Other [redacted]

70-22845-NR

BU FILE: 70-22845

PHILADELPHIA DIVISION
August 1, 1955

INTERESTING CASE WRITE-UP

Re: GEORGE JUNIOR MC COY, was.,
George Mc Coy, Jr., George Mc Coy;
ROBERT CARL PARKER, was., Robert C.
Parker, Robert Carol Parker;
LEWIS CAGLE, JR., was., Lewis Junior
Cagle, Lewis J. Cagle, Lewis Cagle;
WILLIAM WALTER REMINGTON - VICTIM
CRIME ON A GOVERNMENT RESERVATION - MURDER;
IRREGULARITIES IN FEDERAL PENAL INSTITUTION

At approximately 10:00 A.M., on November 22, 1954, WILLIAM WALTER REMINGTON, who was serving a three year sentence for perjury at the U.S. Penitentiary, Lewisburg, Pa., was found with his head, face and shoulders covered with blood, hanging onto a stairway railing near his quarters. REMINGTON, when found, appeared to be in a dazed condition and was heard to say, "I can't figure it out." He was immediately hospitalized and five scalp lacerations were found in the vicinity of his left temple and parietals regions which appeared to have been caused from blows with a blunt or heavy instrument. During the first day REMINGTON was quite restless and was only able to reply yes and no to questions. On the second day his condition became critical and an operation was performed to relieve the pressure within his head with negative results due to the severity of the injuries received. REMINGTON died at 7:38 A.M. on November 24, 1954.

WCH:JRP
70-523
cc: 80-382

70-22845-

ENCLOSURE 70-22845-

PH 70-523

An immediate investigation was instituted on November 22, 1954, by FBI Agents to determine the identity of PENNINGTON's assailant or assailants who had brutally assaulted him. Interviews with several inmates revealed that inmates GEORGE JUNIOR MC COY, ROBERT CARL PARKER, and LEWIS CAGLE, JR., who were quartered together in a room directly across from where PENNINGTON was quartered, had made remarks which indicated that they disliked PENNINGTON as well as his three roommates.

Further investigation reflected that MC COY, PARKER and CAGLE were in the same dormitory as PENNINGTON on the morning of the assault and would have had an opportunity to commit the assault, however, all of them denied participating in it during initial interviews. During CAGLE's second interview, he furnished information which indicated that MC COY and PARKER had committed the assault on PENNINGTON with a segment of brick weighing approximately 12 pounds encased in a white sock but they denied participating in the assault. This brick was subsequently found and submitted to the FBI Laboratory for examination which reflected that the pores of this brick contained blood but in insufficient quantity to type it.

Later during subsequent interviews, MC COY, PARKER and CAGLE furnished detailed signed statements which reflected that MC COY, PARKER and CAGLE entered PENNINGTON's room on the morning of November 22, 1954, where PENNINGTON was alone

70-22845-

and asleep with a rolled up bathrobe over his head. MC COY and CAGLE, who entered the room for the purpose of hitting REMINGTON, were carrying an iron bed rod, approximately thirty inches in length and 5/16 inches in diameter, and a segment of brick encased in a sock, respectively. PARKER, who entered the room to search for additional commissary items, was carrying a sharpened dining room knife with tape on the handle. PARKER had previously been in REMINGTON's room prior to the assault and had stolen several commissary items. After the three entered REMINGTON's room, CAGLE lifted the bathrobe from REMINGTON's head and struck him four blows in the left temple area with the brick encased in the sock. CAGLE then handed the brick to MC COY who struck REMINGTON at least one hard blow on the head with it. PARKER did not hit REMINGTON but disposed of the segment of brick by throwing it out of the dormitory window after MC COY had removed it from the sock and washed the blood off of it. Later MC COY and CAGLE went to bed and slept until after the assault on REMINGTON was discovered.

MC COY, PARKER and CAGLE were indicted for first degree murder on a government reservation on December 1, 1954. They were all arraigned at Lewisburg, Pa., on February 3, 1955, and all entered pleas of not guilty as charged in the indictment; however, on May 6, 1955, they entered pleas of guilty to second degree murder; on May 26, 1955, MC COY and CAGLE were sentenced to life imprisonment each and PARKER was sentenced to a term of twenty years.

70-22845

7

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FEDERAL BUREAU OF INVESTIGATION
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70-2284 S-NR 12/3/69; NR 10/28/70

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X NO DUPLICATION FEE X
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Frank Remington was found unconscious Monday afternoon at the stairway leading from his third-floor quarters to the second-floor hospital, prison officials believed he must have staggered from his bunk for help.

Both the FBI and those in charge at Lewisburg were close-lipped on how, after an exhaustive two-day hunt, they singled out Parker and McCoy.

One informed source discounted reports there might have been a connection between Remington's death and the forthcoming release from Lewisburg Saturday of Alger Hiss. Both men were sentenced on perjury charges connected with Communist affiliations. The informant stated:

"It is true that rank and file prisoners have no use for any fellow inmate accused of Communist leanings. But the two accused prisoners are anything but stable. It is a tremendous flash of speculation to say that this was their motive in the Remington case."

J. Parnell Thomas, former New Jersey Congressman recently released from Danbury Federal prison, declared in a Life magazine article communism was such a controversial issue in prison that violence was often threatened and the bed of one leftwinger was accused set afire.

Remington's second wife, a former Washington research specialist now living in the Levittown subdivision on Long Island, N. Y., agreed.

Asked her comments on a phone call from the Lewisburg warden's office when Remington was found Monday, she said that was the victim of "a couple of hoodlums who got all worked up by all the publicity about Communists."

Mr. Remington, living under her maiden name, married Remington [illegible]

Remington Dies; 2 Held

ington between his first and second trials. They have an 11-month-old son.

She said her husband never was a Communist, and told her during a prison visit two weeks ago "he was going to show he was a good American when he got out." Mrs. Remington termed her husband "a victim of his time."

Remington's attorney, Richard C. Green of New York City, thought his client the butt of prison feuding.

Green said Remington's letters indicated there had been four raids in the squad room he shared with three forgers. Lockers were broken into and emptied of cigarettes and candy. Two fountain pens were stolen from Remington's own locker, left open. On one occasion a mattress was found afire.

Bill's letters said cliques dominated the prison life, and though the administration was a good one it couldn't control them. Then he tuned in on the prison grapevine, as he termed it. And found one or two of his colleagues were in trouble with these cliques. Knowing him as I do, I can just picture Bill trying to make peace for them and being considered a big, soft, easy guy," Green suggested.

Remington was convicted on January 22, 1953, and entered Lewisburg three months later, all appeals failing.

The son of the Frederick C. Remingtons of Ridgewood, N. J., the tall and handsome blond graduated Dartmouth College at the age of 22.

He left Dartmouth [illegible] years and began his Government career as a [illegible]. He successively worked for the National Resources Planning Board, the Office of Price Administration and the War Production Board. He was granted a Navy officer's commission during the war and was detached to the economic staff of the American Embassy in London.

Following the war, Remington returned to Washington to work for the Council of Economic Advisers. He became a $10,800-a-year Commerce Department economist in 1946, specializing in export controls to Communist countries.

That was the year Elizabeth Bentley, self-styled former Communist courier, told a Senate Internal Security subcommittee she gained information from Remington while he worked for the War Production Board.

Remington was suspended and a Commerce loyalty board recommended his dismissal. The Loyalty Review Board reversed this in 1948 and Remington was reinstated in a nonsensitive job. When Miss Bentley repeated her charges on a radio program, Remington sued the network and collected $10,000 in an out-of-court settlement.

Remington, however, was then summoned before a New York grand jury. It indicted him for perjury in denying he was ever a Communist. The first of his New York trials followed.

He repeatedly denied being a Communist, although he admitted knowing Miss Bentley under the name of Helen Sprague, when she came to [illegible] seeking information in [illegible]. Remington was [illegible]

[illegible]

largely on corroborative evidence given by his first wife, Ann Moos Remington. She was divorced the year before.

Mrs. Remington, now living with the couple's 12-year-old son and 10-year-old daughter in Fairfax County's Tuxemont section, declined comment yesterday except to say she was sorry to hear of her former husband's death.

The United States Court of Appeals in New York threw out the conviction on grounds that the court had not sufficiently defined Communist Party membership for the jury.

Remington then was re-indicted on charges of lying during testimony he gave at his first trial.

Judge Vincent Leibell sentenced Remington to three years in prison, instead of the possible five-year maximum given Hiss, and declared he considered the ruin of Remington's career "as part of the punishment."

Remington's appeal to the United States Court of Appeals was turned down in a 2-to-1 decision in July, 1953.

The Supreme Court subsequently declined to hear the appeal. Last March, after Remington was already in prison, his second wife went before Judge Leibell in a personal plea to have his sentence reduced. It was not granted.

Lewisburg Federal Prison occupies a 900-acre reservation adjoining the Susquehanna River and Lewisburg, Pa., the campus town of Bucknell University.

Remington's was the prison's third [illegible], the first occurring in [illegible] and the second in [illegible]. Remington died in the prison hospital during the breakfast hour yesterday.

Funeral services will be held at 10 a.m. [illegible] at St. Elizabeth's Episcopal Church in Ridgewood, N. J. Cremation will follow.

When he entered Lewisburg in April, [illegible], the International News Service reports, Remington declared:

"It is my hope that only [illegible] innocence [illegible]

[illegible]

70-72845A

Mr. Tolson
Mr. Boardman
Mr. Nichols
Mr. Belmont
Mr. Harbo
Mr. Mohr
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Sizoo
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

U.S.A.

A FEDERAL grand jury will begin investigation tomorrow of the fatal beating of William W. Remington, 37-year-old former Commerce Department employe jailed for perjury. The government will seek indictments in Scranton against three inmates of the Lewisburg, Pa., penitentiary where Remington died.

70-22845-A

DEC 6 1954

Wash. Post and Times Herald
Wash. News
Wash. Star
N. Y. Herald Tribune
N. Y. Mirror

DEC 7 1954

Mr. Tolson
Mr. Boardman
Mr. Nichols
Mr. Belmont
Mr. Harbo
Mr. Mohr
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70-22845-A

1 11
100 DEC 8 1954

Wash. Post and Times Herald
Wash. News 44
Wash. Star
N. Y. Herald Tribune
N. Y. Mirror

6-19

Tolson
Boardman
Nichols
Belmont
Harbo
Mohr
Parsons
Rosen
Tamm
Sizoo
Winterrowd
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62-22845-A

RECORDED
DEC 9

Wash. Post and Times Herald
Wash. News
Wash. Star
N. Y. Herald Tribune
N. Y. Mirror

53 DEC 13 1954