

July 16, 1942

State Board of Prison Directors  
Folsom, California

In re: Brunson, Verlie  
Folsom No. 21863

Gentlemen:

The above case was referred to me for investigation by your board at its October, 1941 meeting. Personally visited scene of crime and have traced the course of the alibi and my opinion and conclusion is that the above inmate is not guilty of the more serious crimes of robbery and kidnapping of which he is charged - but guilty of auto crime, of which he was not charged.

#### THE CRIMES INVOLVED

A man by name of Joe Pearson was asleep in a drunken stupor in an auto outside the Biltmore Hotel on New Year's Eve., 1938. Three persons drove the car away and, when a few miles away from the hotel, robbed Pearson of some money (less than \$5.00) and put him out of the car and drove away.

For these offenses Brunson was convicted - of both - consecutive sentences without possibility of parole.

#### LACK OF COUNSEL

None given at preliminary exam although requested.

At arraignment - Court appointed Bolton (John S.) - From manner in which case was handled it appears that Bolton was handicapped by lack of funds and Brunson did not get legal defense commensurate with crime carrying death penalty.

#### THE EVIDENCE TO CONVICT BRUNSON

The crime was supposed to have occurred between 1:00 A. M. and 4:00 A. M. of Jan. 1, 1938, immediately following New Year's Eve. The complaining witness testified he borrowed his cousin's Ford car and with \$5 on him

started out to celebrate New Year's Eve with a lady friend. He purchased a quart bottle of Muscatel wine and he and friend drank about half of bottle while driving to Biltmore Hotel, where they bought several drinks at bar; and about midnight he began to get sick and nauseated, so he left his lady friend and went outside and got in back of his auto where he went to sleep.

He testified that he remembered nothing until he felt the car moving and someone going through his pockets. He did not know who was in the car until the car pulled into a gas station, which was the first time that he opened his eyes. He admitted he was in a daze. He started to raise up and as he did so Neal struck him down. He raised himself again and as he did so the two persons in the front seat (supposedly Brunson and woman, Kelly) turned around. It was dark and the only lights were indirectly from the service station and street lights. They were at the gas station only a few minutes while Kelly got out for a few minutes. They then left and drove to Westwood and back to Hollywood and then to Vermont over Hollywood Blvd., where they put him out of the car.

During the time he was in the car Neal robbed him of his remaining cash at the point of a knife.

As to the identification of Brunson, Pearson testified that he had on a light tan hat turned up at the brim and a tan overcoat. The arresting officer contradicted this, stating that Brunson had a dark gray hat and gray overcoat on. Pearson admitted further that at the police showup some four or five days later he did not recognize Brunson, but that at a second showup with Neal he did recognize Brunson.

The only corroborative evidence to connect Brunson with the offense was a purported confession by the codefendant, Kelly, who placed Brunson in the car with her at the time Pearson was taken for a ride. However, she did not testify at the trial and so could not be cross-examined. The codefendant Neal did testify and he denied any connection with the offense. Brunson did not testify but he did produce several witnesses to establish his alibi.

#### BRUNSON'S ALIBI

The inmate, Brunson, claimed that he was not in L. A. at the time the offense was committed but instead was on his way to Los Angeles from Arizona, and that he was driving an old broken-down Nash car, and with him were two persons, Mr. and Mrs. Hoppie.

The inmate's story is that he arrived at Rialto, Calif., some 60 miles away from the scene of the crime, at about 4:00 P.M. on Dec. 31st, which would be then about 10 hours prior to the time of the crime. He stopped at a garage where he tried to sell a radio and apparently the proprietor became suspicious, for the police were called and he was held by the police until about 6:00 P.M. This portion of the alibi is corroborated by the affidavit of Glen Coburn, the partner at the garage, who admits that Mr. Brunson was there at that time. This portion of the alibi is also corroborated by the affidavit of the Chief of Police of Rialto, who held the defendant for suspicion from 4:30 P.M. to 6:00 P.M. on Dec. 31, 1937. Assuming that the crime occurred about 2:00 A.M. the following morning, this corroborative testimony places Brunson definitely at Rialto, some 60 miles away from the scene of the crime, within eight hours of commission.

Brunson states that he left Rialto and started to L.A. but was put off the highway about 8:00 P.M. near Cucamonga by highway patrol, for defective lights; that he went into Cucamonga to a garage to sell a radio. This statement of Brunson's is corroborated by testimony given by George Cline and Clifton Chappel, who identified Brunson as being the person from whom they had purchased a radio at the time in question at Cucamonga.

Then Brunson stated that, after he had sold the radio, he went to the Cucamonga Cafe where he stayed from approx. 9:00 to a few minutes after midnight; that he remembered the time he left the Cafe distinctly because at midnight there was a noisy celebration of the coming of New Year. These statements by Brunson are corroborated by George Cline, the garage owner at Cucamonga, who testified that he saw Brunson in the Cafe about 10:15 P.M., as he walked by. Charles E. Jones, a waiter of the Cafe, stated that he likewise had seen Brunson and another couple in the Cafe up to 11:30 P.M. A Mrs. Eddie Highes, a waitress at the Cafe, likewise stated that she had seen Brunson at the Cafe during the evening of December 31, 1937. Walter Hirst, a patron in the Cafe, states that he saw Brunson with another couple coming into the Cafe about 11:00 P.M. on the evening in question, and that he was with them there until about 11:20 P.M. This evidence definitely places Brunson at the Cucamonga Cafe at least as late as 11:30 P.M., within 2-1/2 hours of the time the crime was supposed to have been committed, and Cucamonga is approximately 55 miles from the scene of crime.

Brunson states that after he left the Cucamonga Cafe he drove away from the main highway and parked his car near a ranch house, where he slept in the car all night. He states that he and the Hoppies stayed there until daybreak, when they left for L.A., and that a rancher, an old man, and a very young

girl, saw them leave. This is the time period which covers the time of the commission of the offense and is the only uncorroborated portion of Brunson's alibi. I personally checked the directions given to me by Brunson and found and located without difficulty the place he claims he stayed all night. Inquiries in the neighborhood revealed that about Dec. 19, 1937 there was an old man living in the adjacent house and that with him was living his granddaughter. Neighbors stated that the old man had passed away and that his daughter had taken the grand child and left. The only other persons who could corroborate this period of time would be the Hoppies, and in this connection I personally interviewed Roy Hoppie at his gasoline station at 5602 Vineland Avenue, North Hollywood. Apparently the investigator for the Bureau of Criminal Identification and Investigation had this man confused with the parties in the car with Brunson. Brunson claims that this man was not in the car and that it was a relative. In my talk with Roy Hoppie he stated to me that he did have a nephew by the same name and that he was a sort of drifter who had no permanent address and would wander around with his wife wherever work was available, and that the nephew and his wife did drop in to see him around New Years of 1938. He did not know where they had gone. He stated that perhaps in a couple of years they would drop in on him again as they had in the past.

I have held up this report trying to locate the Hoppies, as I believe that their testimony would supply the corroborative evidence to close the gap between midnight, December 31, and daybreak, January 1, and thus placing Brunson at Cucamonga at the very time he was supposed to have committed the crime in Los Angeles some 55 miles away.

Brunson states that after leaving Cucamonga he proceeded with the Hoppies to Etiwanda, where he arrived between 5:00 and 6:00 A. M. and went to a gas station to wait for it to open so that he could buy gas, and that he left Etiwanda after obtaining gas some time between 6:00 and 7:00 o'clock. Etiwanda is 45 miles from Los Angeles. Corroborating this testimony is the statement of Rusty Brownless, who stated that he likewise was at the gas station at Etiwanda from 6:00 to 8:00 A. M. waiting for the station to open to buy gas and that he did remember the old Nash car, although he did not specifically remember Brunson. Francis L. Stevens, service station operator, remembered the old Nash car that morning, although he could not positively identify the defendant as one of the occupants.

Brunson states that he left Etiwanda and started towards Los Angeles. About 14 or 20 miles from the service station he stopped and sold a tarpaulin for \$5.00 and a duck. These statements of Brunson are corroborated by the statements of Glen Coburn, the garageman at Rialto, who stated that he was

driving to Los Angeles that morning and, between 9:00 and 10:00 A. M. , saw Brunson driving in the old Nash car towards Pasadena. These statements are further corroborated by Clyde Goldsmith of Pomona, who stated he bought the tarpaulin for \$5.00 and the duck that morning.

Brunson states that he arrived in Los Angeles for the first time about 11:30 A. M. when he went to the St. George Hotel. He did not meet with the codefendant, Neal, until 7:00 or 7:30 P. M. that night. He admitted to me personally that he was in the car with codefendants Neal and Kelly when they left for Santa Barbara. I personally interviewed the codefendant, Neal, at San Quentin and he told me that he had never met Brunson prior to the evening of January 1, 1938, which could put the time approximately 12 hours after the commission of the crime.

#### CONCLUSIONS

Having checked with the clerk's transcript and particularly the testimony of the prosecuting witness, I find that the prosecution had a particularly weak case against Brunson. It can be gathered from his testimony that the reason he had to leave the Biltmore Hotel and get into the back of his car to go to sleep is that he was about to pass out due to intoxication. He would have us believe that being in this condition he was able to identify positively a man sitting in the front seat when all he could see was the shoulders and head under the dubious light of passing street lights and the service station. It is apparent from the record that the prosecuting witness was definitely wrong in the hat and overcoat that Brunson was wearing and this tends further to discredit his testimony. Likewise his inability to recognize Brunson at the first police showup casts doubt on his ability to identify Brunson.

Against this testimony we have the statements of persons under oath, to the investigators of this case, that Brunson was nowhere near the scene of the crime at the time of its' commission. It is unfortunate that the Hoppies have not been located because their testimony would supply the missing link. But I believe that the evidence prior to midnight of December 31st and after daybreak of January 1st is sufficiently strong to show that Brunson would have had a speedier car, driven to Los Angeles, committed the crime and been back out to Etiwanda by daybreak. Even the police officers who took Brunson around to check his alibi were impressed with the strength of the alibi, as indicated by the report of the investigator of the Bureau of Criminal Identification and Investigation.

July 16, 1942

Brunson has a bad criminal record and he had a cocky attitude at the time of his apprehension in Santa Barbara. His repeated offenses against the law show that the man is of doubtful rehabilitative material. On the other hand, the man is wanted in several other states for breaking parole and other charges, and it is my understanding that he has to serve between 22 and 26 years in various prisons before he is finally released as a free man. This would make him somewhere between 55 and 60 years old and at that age he might be able to go straight.

However, my investigation in the facts satisfies me that Brunson was guilty of assisting in the stealing of the automobile but the punishment for this is only 1 to 10 years and Brunson has already served four years in the State Prison.

#### RECOMMENDATION

From the foregoing it is my recommendation that the State Board of Prison Directors recommend to the Governor that Brunson's conviction be commuted to time served.

Very truly yours,

(Signed) Seibert L. Sefton  
Administrative Advisor

ERLE STANLEY GARDNER  
Temecula, California

March 22nd, 1950

Mr. Z. D. Allen  
Allen, Locke & Kouri  
Attorneys at Law  
Suite 500-04 Staley Building  
Wichita Falls, Texas

Re: Marion I. Bowling.

Dear Mr. Allen:

Thanks very much for your letter of February 27th re  
Marion I. Bowling.

I would like very much to find out more about the facts  
in the Bowling case, particularly with reference to the two  
officers who are supposed to have checked Bowling's license at  
the state line (I believe it was Vernon, Texas. I don't find  
this place on the maps which I have immediately available).

I understand these officers were not called as witnesses  
at the time of trial because you felt their evidence was not  
as strong as you would like to have it.

I dislike to bother you in this matter, but I would like  
to find out more about the facts in the case.

Was a transcript of the evidence written up and if so, do  
you have that transcript?

I understand the waitress, who was the victim of the  
kidnaping, first stated that the man who was guilty of the crime  
had two front teeth missing, but later changed this statement.  
Do you know anything about this, or is the first statement  
available?

Can you tell me whether the FBI worked up the case or  
whether it was left to the local police?

Mr. Z. D. Allen

-2-

March 22nd, 1950

We are at the moment simply deluged with cases and I am afraid there is not much chance of doing much with this case in ARGOSY magazine, but nevertheless the fact of this license checking seems to me to be a very significant affair.

It is unlikely that these two officers would have checked another license from Klamath Falls, Oregon, and it is almost impossible that the defendant would have known such a check was made unless he had been the individual whose license was checked. Therefore it would seem that a positive identification by the officers would not really be necessary.

I'll appreciate any information that you can give me.

Very truly yours,

ESG:lm



ERLE STANLEY GARDNER  
RANCHO DEL PAISANO  
*Temecula, California*

March 22nd, 1950

Mrs. M. I. Bowling  
1305 - 35th Street  
Wichita Falls, Texas

Dear Mrs. Bowling:

I have been hoping that we could arrange to have someone interview you and perhaps your husband before this time, but so far it hasn't been possible.

We are simply swamped with cases for consideration.

Tom Smith, our single field representative, is completely tied up with the investigation of cases we are handling here at the moment and then, of course, there is the further fact that the magazine can only find room to publish facts in a very limited number of cases.

However, there is a possibility this situation may change in the near future.

I keep thinking about your case and feeling that the checking of your husband's driving license is something which should be carefully investigated. It would certainly seem on its face to give him a perfect alibi and I think there should be some further investigation in the case.

I have had a letter from Mr. Z. D. Allen concerning the other charge which had been made against your husband, and I am writing Mr. Allen asking for more information about the case.

Do you know if the investigation was handled by the FBI or by the State Authorities?

Mrs. M. I. Bowling

-2-

March 22nd, 1950

In short, I would appreciate any information you can give me.

I'm a little afraid that we can't offer you very much encouragement, but the fact remains that I want to find out more about the facts and particularly about the officers who checked your husband's driving license.

Very truly yours,

ESG:lm

C  
O  
P  
Y

ALLEN, LOCKE & CRAMPTON  
Attorneys at Law  
Suite 500-04 Staley Building  
Wichita Falls, Texas

Z. D. Allen  
W. Taz Locke  
Roger W. Crampton

February 8, 1952

Mr. Erle Stanley Gardner  
Rancho del Paisano  
Temecula, California

Re: Marion I. Bowling

Dear Mr. Gardner:

Yesterday I interviewed Mr. Thomas F. James, who is one of the police officers in Vernon, Texas, who checked the driving license of this subject on the night of April 27, 1946. I am enclosing his written statement which speaks for itself. It certainly seems strange that if Marion Bowling was not the man whose driving license was checked on that occasion, how in the world would Bowling know that that happened.

I might go back a ways and give you some additional facts. The prosecutrix, Ruth McCawley, testified that she and her escort were first stopped at about 1:15 A.M. just east of Duncan, Oklahoma. It is approximately 110 miles from Vernon, Texas, to Duncan, Oklahoma, which would have made it in my opinion practically impossible for Bowling to have gone from Vernon, leaving there between 10:00 and 11:00 P.M., and been at the scene of the first attack over 110 miles away at 1:15 A.M., especially in view of the fact that his automobile was an old model. As a matter of fact, I don't believe at that time it was still being manufactured. Further, to make it more ridiculous, one Edna Walker testified that she saw Bowling at a dance hall, a place known as the County Line, which is east of Duncan, Oklahoma, at about 10:00 P.M. on the 27th, and according to the map the County Line is approximately 138 miles from Vernon, Texas, and naturally she could not have seen Bowling at that place at 10:00 P.M., and his driving license been checked between 10:00 and 11:00 P.M. 138 miles away. Oma Pruitt testified that she was at the County Line dance hall and that Bowling asked Bowen, who was his co-defendant in the trial, if they should get the hot car out. There was other testimony with reference to a hot car being discussed by the prosecutrix, Ruth McCawley, who testified in part that she heard Bowling and Bowen talk about getting the hot car back before it was missed. All this would indicate that it was the co-defendant, Bowen, and some other person who might have been in what is known as a hot car. Certainly, if Marion Bowling was with Bowen during this time, there would have

Mr. Erle Stanley Gardner

-2-

February 8, 1952

been no occasion to discuss a hot car, as title to the car was good in Bowling, and naturally a hot car is referred to one that is stolen.

The first hearing had on this matter was in Wichita Falls on May 7, 1946, when a habeas corpus hearing was had for Bowling. That is when the Vernon officers testified. That testimony was transcribed, and I am informed that Mrs. Bowling has already sent you a copy of the officers' testimony.

Marion Bowling says that if there is anyway that he could be returned to Vernon, Texas, that he can take the officers who checked his driving license on the 27th of April, 1946, and show them exactly where the incident happened. Also, I am informed that he has been insisting that he be given a lie detector test on any of his connection with the affair for which he was tried.

Trusting this additional information and facts will be of assistance to you in aiding this man, and with best personal regards, we are

Yours very truly,

ALLEN, LOCKE & CRAMPTON

By Z. D. Allen  
Z. D. Allen

ZDA/jd

C  
O  
P  
Y

**To Whom It May Concern:**

This is to state that I, Thomas F. James, am a police officer in the city of Vernon, Texas, and have been for many years. I now reside at 2126 Gordon Street in Vernon, Texas. On the 27th day of April, A. D. 1946, I was serving in the capacity of a police officer in Vernon, Texas, working from six o'clock in the evening until six o'clock in the morning.

On the night of April 27, 1946, some time between ten and eleven o'clock, I investigated an automobile which was parked on the street in Vernon, Texas. It was an old model automobile, but I do not remember the make. There was one man sitting in the automobile who was wearing glasses. I asked this man for his identification and driving license and he showed me a driving license which he took from a billfold. The driving license was for the State of Oregon and had an address on it in Klamath Falls, Oregon. This man was not intoxicated, and, finding nothing unusual, naturally he was not apprehended or questioned further. The man who was in the automobile and presented me with the above described license did not get out of the car and there was as far as I know, no occasion for him to do so.

On the 7th day of May, 1946, I was called to Wichita Falls, Texas, to testify at a Habeas Corpus hearing where Marion I. Bowling was the subject of the hearing. I understood that he had been charged in the State of Oklahoma with some offense at that time. At the time of the Habeas Corpus hearing I had occasion to see Marion I. Bowling, who was in need of a shave and was being carried into the court room. It was my understanding that he had been injured or was claiming to have been injured between the date of April 27, 1946 and May 7, 1946. I was unable to identify at that time Marion I. Bowling as being the same person as the man for whom I checked the Klamath Falls, Oregon, driving license on the night of April 27, 1946.

The above detailed circumstances, time, and occasion is the only time that I have ever checked a mans driving license that was issued by the State of Oregon for an address at Klamath Falls, Oregon.

I have given some thought to the above since the occurence hereinbefore related and have since that time had an opportunity to see a picture of a man I am told is Marion I. Bowling. One picture having been made prior to April 27, 1946, and have also seen a picture of a man I am told is Marion I. Bowling that was made recently. In both of these pictures the subject has a smooth face, not being in need of a shave. The man whose driving license from Oregon I checked on the night of April 27, 1946,

not being in need of a shave, I am not in the position to say beyond a doubt that the above referred to pictures of Marion I. Bowling are pictures of the same man whose license I checked, but I do state that they certainly resemble that man.

I know definitely the spot in Vernon, Texas, where I checked the man's driving license from Oregon on the night of April 27, 1946, and make this statement, that if Marion I. Bowling were returned to Vernon, Texas, and would show me where I talked to the man whose Klamath Falls, Oregon, driving license I checked on the night of April 27, 1946, and if the place he shows me is correct, I would then say beyond any doubt that he is the same man I talked to and whose Oregon driving license I checked on the streets of Vernon, Texas, on the night of April 27, 1946, between ten and eleven o'clock.

Respectfully,

Thomas F. James  
Thomas F. James

C  
O  
P  
Y

From Marion I. Bowling  
Leavenworth Kansas  
To Erle Stanley Gardner

February 12 - 1952  
Temecula, California

Dear Mr. Gardner,

I have received your letter last night and I will give you what information I can about the subject you mentioned. As you know there were two people who claimed they were kidnaped, one Ralph Bloodworth and Ruth McCawley. I understand that this Ralph Bloodworth told a news paper reporter in Duncan Oklahoma (Duncan Banner) that one of the men meaning me, had protruding lips and two or more front teeth missing, and the Duncan Banner ran an article in its news paper about it, stating that I had protruding lips and two or more front teeth missing, this article became quit a joke between the Duncan County Jailer, Mrs. Joe Montgomery and I each day at meal time, she would often tease me about it and ask me if I would like her to go buy me some store teeth so I could eat my meals. the joke is that I have a perfect set of teeth and I don't believe anyone could truthfully say that my lips were protruding. My wife could probably give you more information about this than I as I understand some friends once did some investigating on this subject. One thing about this missing teeth angle is that, about a month or more after I was taken to the Duncan County jail, there was a fellow came to the jail to see Bowen my alleged co defendant, who did perfectly fit the news paper article on the missing teeth and protruding lip angle, even about the correct weight. Ralph Bloodworth first told the officers when he was brought up to look at me that I did not look like one of the men, later however he identified me in court, but even in court he seemed to be a reluctant witness, while on the other hand Ruth McCawley would readily identify any thing and every thing that she thought could be connected up with me in any way, and she certainly had the officers help on this part. Im sure that if you could talk with the Montague County Texas officers who were the first officers to interview her after her alleged abduction, they would tell you that she told a completely different story in court that the one she previously had told to them, one of these officers made that remark in court at the time of my trial. I hope this is the information you wanted, Mr. Gardner. I wish to add that I stand willing to point out the exact spot where my driving licenses were checked on the nite of the alleged crime. I believe I can show you within 10 or 15 ft. of the spot.

Respectfully yours

/s/ Marion I. Bowling.

*File*  
*Bowling Case*

May 28, 1957

Hon. James V. Bennett, Director  
Bureau of Prisons  
Department of Justice  
Washington 25, D. C.

Dear Jim:

Thanks a lot for your letter about Marion Bowling.

I don't think there's any question but what there was ample evidence to prove Bowling's guilt and I think there is still ample evidence to prove it.

The trouble is that evidence also exists (unless I am greatly mistaken) which pretty conclusively proves his innocence. And this evidence has never been appraised.

There was a positive identification made by the complaining witness. She also identified the man because of a certain arrangement of the pubic hairs. Bowling was thereafter ordered to strip in a room which had one of these trick mirrors in it and the complaining witness, looking through the mirror at Bowling's abdomen, clinched the identification.

Prior to the time she saw Bowling after his arrest, however, she had described her assailant as having protruding front teeth. Bowling's teeth are normal. Prior to his arrest she had said she had only a fleeting glimpse of her assailant because of a blindfold. (See copies of papers attached.)

The car was identified and found to conform to the description of the car used in the rape. It was claimed that Bowling admitted the crime after his arrest.

Opposed to this we have the usual things which come in these cases. The wife's statement that he had injured his back and couldn't have possibly been guilty of the crime, etc., all of which may or may not be important or may not even be true.

May 28, 1957

Then we come to the one bit of irrefutable evidence that makes me feel the whole thing is cockeyed.

The crime took place near Duncan, Oklahoma. There had been a dance at County Line, Texas, and persons who attended the dance had a number stamped on their hands so that they could come back and forth. As I remember it the victim who was assaulted had been at this dance. The evidence certainly indicates that two men followed her and her escort from the dance, took her away from her escort and raped her.

As I remember it, it was part of her identification that both of these men had been at the dance and had identifying insignia so they could re-enter the dance hall stamped on their hands. That, however, is a minor point.

About an hour and a half before the crime was committed the police in Vernon, Texas, approached a motorist for a driving check-up. The motorist produced his license. It was a license from Klamath Falls. The officers commented on it and stated they had never checked a driving license from Klamath Falls before.

This man was Bowling. He relates the incident, his driving license was from Klamath Falls. He claims to be able to take the officers to the exact place where the check-up was made. There is no way on earth he could have known about the incident unless he had been the one who was checked.

The time element with the roads in the condition that they were at that time is, in my opinion, completely inconsistent with Bowling being the guilty party. If he had driven at breakneck speed he might have reached Duncan in time to participate in the crime, but people who know the roads as of that date say it was impossible. But he couldn't have been at the dance, couldn't have followed the couple, etc. In short, it is just about impossible for him to have been at Vernon, Texas, around ten-thirty to eleven o'clock (one officer says ten to eleven, the other officer fixes the time of the license check between ten-thirty and eleven) and have been one of the persons who perpetrated the crime.

Now we come to the thing which annoys me, which is the attitude and actions of the officers.

Bowling told his attorney about this incident, if my memory is correct. The attorney subpoenaed the officers. The officers, if one can read between the lines correctly, simply decided they weren't going to help any defendant in any criminal case. They told the attorney that it wouldn't do him a bit of good to put them on the stand, that they couldn't identify Bowling, that they had checked somebody's driving license, but it might have been any one

May 28, 1957

of a million people and if the lawyer put them on the stand their testimony wouldn't do Bowling any good.

The attorney let them talk him out of it.

Of course it wouldn't have made any great difference whether the officers could have identified Bowling or not. All they had to do was to state that they had checked this man at this time for his driving license; that they did remember the driver's license was from Klamath Falls; that they remembered stating that it was the first time they had ever checked a Klamath Falls license.

Later on the officers said that perhaps they could identify Bowling after all if they saw him seated behind the wheel of an automobile. That when they talked with him he was sitting in the car, that they hadn't seen him standing that night, and that if they could see him behind the wheel they might recognize him.

Of course by that time Bowling was in the penitentiary at Leavenworth and there was but little chance such a test could be made. However, the officers did make definite statements as to the time element and I am enclosing a copy of such statement which I have in my files. (I believe it was signed by Thomas F. James.) You will notice that there is no question about the date.

Now, then, we come to the part which I just don't think is right.

We approached Hon. Frank D. McSherry, United States Attorney for the Eastern District of Oklahoma. He is, of course, one of the highest type of prosecutors and he listened to our story, became interested, and asked for a new investigation. We also approached the F.B.I. and J. Edgar Hoover, as soon as he learned that there was any question about the case, ordered another investigation.

At the time of this new investigation it is my understanding that the officers said they could remember checking a license at Klamath Falls at that place and at about that hour, but that they couldn't be certain as to the exact date and that it might have been the day before the crime was committed.

I haven't been able to see the file but that is my general understanding of what they said. Of course the minute they said that Bowling's chances went out the window.

However, contrast this statement of the officers with the definite statement (copy of which is enclosed) that it was very definitely on the night of the crime.

May 28, 1957

You know how completely unreliable personal identification sometimes is. I think the prosecuting witness had one of her assailants correctly identified. As the evidence now stands, and in view of the driving license business, I think she made a mistake on Bowling.

Bowling's wife has been exceedingly patient and loyal and has been standing by her husband.

Bowling read my article in Argosy about the work Chick Hanscom is doing up in Minnesota with deep narcosis and wants to take such a test, a lie detector test, or any other kind of a test which will clear him.

When I talked with Bowling I told him he had to come clean. Bowling admitted to me that he had been engaged in highjacking. He claimed to have reformed prior to this trouble. I wouldn't doubt in the least but that he ran around with some pretty tough people. Very frankly, I can't guarantee the guy wouldn't get into trouble if he got out. I don't think he would but I just don't know him well enough to say one way or another. You have a lot more information on that phase of his character than I do.

If you could find time to talk with Bowling when you're in Leavenworth I'd certainly appreciate it and even if nothing else can be done, it would seem to me that under the circumstances the doubt which exists should be a factor to be taken into consideration in connection with a parole -- provided, of course, his institutional reports indicate that he is entitled to parole.

I am doing a lot of work trying to get people to understand the problems of law enforcement, to have more respect for police officers, and to understand the necessity of better and impartial investigation. It bothers me to encounter police officers who feel that it is their duty to remember only the things which are favorable to the prosecution and to forget anything which is favorable to the defendant.

I don't know if that was the attitude of the officers in this case, but it would seem to be a definite possibility.

At the time when the matter was fresh in their minds there was no question but what they made the license check on the night of the crime and at a time when, in my opinion, it would have been impossible for Bowling to have arrived at the scene of the crime in time to have participated in it.

I know that you don't want to have men who have been convicted take lie detector tests whenever they feel like it and at the hands of any examiner they may care to bring in, but if you have a polygraph which you use in connection with psychological

Hon. James V. Bennett

- 5 -

May 28, 1957

and classification problems, it would really be interesting to give Bowling a test -- I also have an idea that with your experience and background if you talked with the guy you could probably size up the situation very accurately.

The case has bothered me for years and I sure wish you'd take a look at it.

Thanks a million, and with kindest personal regards,

Sincerely yours,

ESC:hs

C O P Y

To Whom It May Concern:

This is to state that I, Thomas F. James, am a police officer in the city of Vernon, Texas, and have been for many years. I now reside at 2126 Gordon Street in Vernon, Texas. On the 27th day of April, A. D. 1946, I was serving in the capacity of a police officer in Vernon, Texas, working from six o'clock in the evening until six o'clock in the morning.

On the night of April 27, 1946, some time between ten and eleven o'clock, I investigated an automobile which was parked on the street in Vernon, Texas. It was an old model automobile, but I do not remember the make. There was one man sitting in the automobile who was wearing glasses. I asked this man for his identification and driving license and he showed me a driving license which he took from a billfold. The driving license was for the State of Oregon and had an address on it in Klamath Falls, Oregon. This man was not intoxicated, and, finding nothing unusual, naturally he was not apprehended or questioned further. The man who was in the automobile and presented me with the above described license did not get out of the car and there was as far as I know, no occasion for him to do so.

On the 7th day of May, 1946, I was called to Wichita Falls, Texas, to testify at a Habeas Corpus hearing where Marion I. Bowling was the subject of the hearing. I understood that he had been charged in the State of Oklahoma with some offense at that time. At the time of the Habeas Corpus hearing I had occasion to see Marion I. Bowling, who was in need of a shave and was being carried into the court room. It was my understanding that he had been injured or was claiming to have been injured between the date of April 27, 1946 and May 7, 1946. I was unable to identify at that time Marion I. Bowling as being the same person as the man for whom I checked the Klamath Falls, Oregon, driving license on the night of April 27, 1946.

The above detailed circumstances, time, and occasion is the only time that I have ever checked a mans driving license that was issued by the State of Oregon for an address at Klamath Falls, Oregon.

I have given some thought to the above since the occurence hereinbefore related and have since that time had an opportunity to see a picture of a man I am told is Marion I. Bowling. One picture having been made prior to April 27, 1946, and have also seen a picture of a man I am told is Marion I. Bowling that was made recently. In both of these pictures the subject has a smooth face, not being in need of a shave. The man whose driving license from Oregon I checked on the night of April 27, 1946, not being in need of a shave, I am not in the position to say beyond a doubt that the above referred to pictures of Marion I. Bowling are pictures of the same man whose license I checked, but I do state that they certainly resemble that man.

(Statement of Thomas F. James continued)

I know definitely the spot in Vernon, Texas, where I checked the man's driving license from Oregon on the night of April 27, 1946, and make this statement, that if Marion I. Bowling were returned to Vernon, Texas, and would show me where I talked to the man whose Klamath Falls, Oregon, driving license I checked on the night of April 27, 1946, and if the place he shows me is correct, I would then say beyond any doubt that he is the same man I talked to and whose Oregon driving license I checked on the streets of Vernon, Texas, on the night of April 27, 1946, between ten and eleven o'clock.

Respectfully,

(signed)

Thomas F. James

C O P Y

(Statement of Jerome Sullivan continued)

March 27, 1952

**TO WHOM IT MAY CONCERN:**

My name is Jerome Sullivan. I live in Duncan, Oklahoma, and have been practicing law at Duncan, in Stephens County, Oklahoma for more than twenty-seven years. On the 27th day of May, 1946, I represented one Marion I. Bowling at a preliminary hearing before the Honorable C. C. Wilkinson, County Judge, sitting as an examining magistrate in Case No. 8228 of the County Court of Stephens County, Oklahoma, wherein Marion I. Bowling was charged with the crime of rape in the first degree. J. W. Marshall was County Attorney of Stephens County, Oklahoma at the time. Bowling was a resident of near Wichita Falls, Texas at the time. He was charged with having raped, by force, one Ruth McCawley, who resided in Duncan, Oklahoma at the time. She was with a man by the name of Ralph Bloodsworth, parked in a car on the road about a mile southeast of the business district of Duncan, Oklahoma. At the time, two parties accosted them and treated she and her companion in a very brutal manner. A man by the name of Bowen and Marion I. Bowling were charged jointly in this offense. There is no question in my mind about Bowen being one of the parties that participated in this crime. There is a very serious doubt in my mind as to the guilt or participation in the crime by Marion I. Bowling. Bowling was arrested soon after the commission of the crime at or near Wichita Falls, Texas. He informed the arresting officers, at the time of his arrest, that he was in or near Vernon, Texas at the time of the commission of the crime. He told them that he was stopped by an officer of the law near Vernon, Texas, for a minor traffic offense that later proved to be about the time of the crime. He had an Oregon drivers license. Upon investigation by the proper authorities, it was discovered that an officer of the law, in Vernon, Texas, had stopped a man with an Oregon Drivers License at about the time of night and place that Bowling said he was stopped. There is nothing particular about the instance of stopping Bowling that the officers paid much attention to his description, and was unable later to definitely identify Bowling as the man he stopped.

At the time of the preliminary hearing, as above stated, the prosecuting witness, Ruth McCawley, testified that the man with Bowen had some protruding front teeth. I had Bowling to open his mouth in her presence and display his teeth. He displayed a very pretty and normal set of teeth in her presence, and did not at all conform to a description of one of the assaulting parties upon her. Bowling at all times proclaimed vigorously his innocence. The prosecuting witness admitted on the preliminary hearing that she had only one slight opportunity to see the other man with Bowen due to the fact that she was blindfolded at all times while she was a captive of the ones who assaulted her.

(Statement of Jerome Sullivan continued)

Marion I. Bowling and his co-defendant, Bowen, were placed in the same large cell together in the county jail of Stephens County, Oklahoma. Bowling attempted at various times during his confinement in the jail with Bowen to talk with him about what occurred, but Bowen refused to discuss with him anything about the crime. When Bowen refused to discuss the circumstances of the crime with Bowling, I, at one time, as Bowling's attorney, attempted to talk to Bowen about it, and he refused to discuss the circumstances of the crime with me. For these reasons and many other little incidents at the time, I was completely persuaded and of the opinion that Marion I. Bowling was a victim of mistaken identification and knew nothing about the commission of the crime or any of the circumstances thereof.

Bowling was bound over by the examining magistrate for trial in the district court of Stephens County, Oklahoma, by the examining magistrate. He was charged in the United States District Court for the Eastern District of Oklahoma with the crime of kidnapping under the Lindberg Act and is now serving a life sentence in the Federal Penitentiary at Fort Leavenworth, Kansas, so I am informed. I did not represent him in the trial of that case in the Federal Court.

I have no motive whatsoever in making this statement except for the reason that I am firmly convinced that there has been a miscarriage of justice in Bowling's case due solely to the mistaken identity of the prosecuting witnesses as to Bowling being the man who was with the man Bowen.

(signed) Jerome Sullivan

Subscribed and executed before me, a notary public, this the 27th day of March, 1952.

(signed) Ann L. Fitzhugh  
Notary Public

My Commission Expires:

September 6, 1953.

January 2, 1958

Chal Wheeler, Esq.  
Norman & Wheeler  
Attorneys at Law  
Fourth & Boston  
Muskogee, Oklahoma

Re: Marion I. Bowling  
No. 63951-L  
U. S. Penitentiary  
Leavenworth, Kansas

Dear Mr. Wheeler:

I have some data in my files which may be of interest to you and be of some help to you in connection with your presentation of the case.

I am enclosing my personal check for \$200 which is in the nature of a contribution to the cause.

At one time the Attorney General's office indicated to Bowling that they would let me see the FBI files if I made a demand. However, when I asked to see the files they advised me that they could not show them to me and I did not persist because I was not in the position of representing Bowling, and, as previously indicated, did not want to be placed in a position where it seemed that I was representing Bowling.

However under the rule in the case of Clinton E. Jencks which was, I believe, decided by the Supreme Court of the United States in June of 1957, as an attorney representing Bowling I believe you are certainly entitled to see these files.

I think I know what is in the files and I think they set forth a situation which is completely and absolutely contradictory if one makes a fair appraisal of the entire situation.

We have been concerned about this case for some seven or eight years and I am becoming more and more firmly convinced that Bowling is innocent and was wrongfully convicted.

C  
O  
P  
Y

Chal Wheeler, Esq.

2.

January 3, 1956

Here is a brief summary of the facts in the case:

About one o'clock a.m. on April 28, 1946, a man named Bowen, accompanied by a companion whom the authorities claim was Bowling, accosted a man named Ralph Bloodworth and Retha McCauley who were parked on a County road near Duncan, Oklahoma, and apparently were engaged in necking.

Claiming to be FBI agents making an arrest, they forced the couple to get in their car then drove to a point south of Addington, Oklahoma, where Bowen beat Bloodworth over the head. Bloodworth escaped and Bowen and his companion drove Retha McCauley to the vicinity of Ringgold, Texas, where she was raped several times. At that place Bowen's companion left the party, Bowen took the girl to a wooded area where he kept her until ten-thirty a.m. at which time she escaped from him and reported the matter to the nearest sheriff.

Bowling claims an alibi which has been partially substantiated by various people but is probably not strong enough to make any difference at this time except on one particular point. That is that at about eleven o'clock on the night of April 27, 1946, Bowling was in Vernon, Texas, a place which is approximately one hundred and ten miles from the scene of the crime. He claims he was stopped by two police officers at that point, who checked his driving license. His driving license was from Klamath Falls, Oregon, and the officers remarked in his presence that it was the first time they had ever had occasion to check a driving license from Klamath Falls.

The officers who checked this driving license were located and were subpoenaed as witnesses at the trial. They were not called as witnesses and I think this was a major mistake of judgment on the part of a very estimable attorney who was representing Bowling at the time. The attorney felt that the officers would not make good witnesses in that they would not identify either Bowling or his car, claiming that they couldn't be sufficiently certain of their identification.

It is my opinion that the officers simply talked the attorney out of being put on the witness stand. I think that they were reluctant to appear as witnesses testifying against the prosecution. I don't know whether they could have made an identification or not if they had been put on the stand, but I feel from examining statements made at the time that they were purposely vague and that it was quite apparent they were reluctant to appear as witnesses.

In my opinion it wouldn't have made a particle of difference whether they could have identified the defendant or not. If they had testified that at Vernon, Texas, between ten and eleven o'clock on the evening of that night they had checked a driving license, that the driving license was from Klamath Falls, Oregon, that they had stated in the presence of the driver that it was the first time they had checked a driving license from Klamath Falls, Oregon; and then Marion Bowling had gone on the stand and testified that he had been in Vernon, Texas, between ten and eleven p.m., that these two officers had checked his driving license and

C  
O  
P  
Y

Chal Wheeler, Esq.

3.

January 3, 1958

had made the statement in his presence that it was the first time they had checked a driving license from Klamath Falls, Oregon, an alibi would have been established sufficient in nature to have prevented the jury from bringing in a verdict of guilty. I just don't think the jury would ever have convicted Bowling under those circumstances, and I don't think Bowling should be kept in prison. I think he is a victim of false identification.

This part of his alibi has been checked from time to time. There was a habeas corpus hearing and at our request the FBI made another check.

The point is that the authorities claim he could have left Vernon as late as eleven o'clock and arrived at the scene of the crime one hundred and twenty-five miles away by one-fifteen a.m., which was the time the prosecuting witness claimed she was kidnaped.

To my mind this is absurd.

It is quite apparent that Bowen and his companion had been together for some time during the evening. Apparently they had been attracted to Retha McCauley and had followed her and Bloodworth to the place where the car was parked, or else Bowen and his companion were simply prospecting along the road looking for a couple that were doing some necking.

Considering the fact that Bowling's car was an old model car, considering the condition of the roads at that time, it is inconceivable that Bowling could have made the trip, could have contacted Bowen, could have hatched plans for kidnaping and rape and then gone out in search of a victim.

However the case of the prosecution at this point involves a completely contradictory premise, which is that Bowling was in company with Bowen at a dance hall at a place known as "County Line" which is east of Duncan, Oklahoma; that they were there at about ten p.m. on the date of the crime; that they were seen by witnesses; that there was some conversation about a "hot car" which was being driven by Bowen.

At the request of Marshall Houts, one of my associates who is interested in investigative work on the Court of Last Resort, J. Edgar Hoover ordered a reinvestigation of the case. Houts also got in touch with Col. Frank McSherry, U. S. Attorney for the Eastern District of Oklahoma. Col. McSherry became interested in the case and I subsequently had some conversations with Col. McSherry. At his request a subsequent and complete reinvestigation of the case was made.

C  
O  
P  
Y

Chal Wheeler, Esq.

4.

January 3, 1958

It is at this point that something happened which concerns me very much.

The two officers had previously been absolutely positive as to the date and approximate time at which they had checked the automobile with the driver who had the Klamath Falls driving license. They had given sworn testimony in a habeas corpus hearing, they had signed written statements. While I have no definite information it is nevertheless apparently true that at the time of the subsequent examinations, when they were approached by investigators, the officers changed their statements and said that not only could they not identify the defendant or his automobile, but that actually in their own minds they couldn't be certain whether they had made this check of the car and driver at Vernon, Texas on the 27th of April, 1946, or on the 26th day of April, 1946.

This, in addition to the other facts in the case indicating the attitude of the officers, is exceedingly significant to me and I frankly think it is indicative of an attitude which I definitely don't like. It is a serious thing to have a man imprisoned for life for a crime he didn't commit. I personally have put in a great deal of my time trying to impress upon citizens the necessity of giving the police better co-operation and having a better understanding of police problems. Sometimes it is a difficult matter to arouse the interest of the citizens because of a feeling that the police are in many instances brutal, biased and not worthy of public confidence.

Throughout the entire record there seems to be an attitude on the part of these two officers that it would be something in the nature of unprofessional conduct for them to assist a defendant who is accused of crime.

If these officers made the statement that they couldn't be certain as to the date it is to my mind very indicative of this attitude and a very significant statement. They have from time to time over the years been asked enough about this case and have made enough definite statements in writing and under oath as to the date and time so that the matter should have been indelibly impressed upon their memories or they should have had sufficient means to have refreshed their memories.

As I understand it generally the prosecuting witness described the automobile, and her description fitted the automobile driven by Bowling. This automobile was, as I remember it, a 1937 model car. It was hardly one which was capable of sustained road speed and if, as I further understand the evidence, Bowen's companion got out and left Bowen in the car it would certainly indicate that if the co-defendant had been Bowling, and the car had been Bowling's, there was no reason why Bowling would have got out and left Bowen with the car.

C  
O  
P  
Y

Chal Wheeler, Esq.

5.

January 3, 1958

The description of the car given by the complaining witness was, I understand, quite accurate. On the other hand the description of the person who had assaulted her did not coincide at all with Bowling's description. For one thing she described the man as having "buck teeth" and that was the prominent feature by which she remembered him.

Later on I understand that she told the officers that the man who had assaulted her had a peculiar hairline along his abdomen, apparently with reference to the pubic hairs; although it may have been a hairline up and down the abdomen. In any event she was given an opportunity to inspect Bowling's abdomen without his knowledge and clinched her identification from that inspection.

Now then the point is that this witness had been blindfolded during much of the time. She had never had a good view of Bowen's co-defendant, but according to the view she did have she was impressed with his buck teeth. If, after seeing Bowling, she wanted to "make sure" by seeing the hairline on his abdomen it is indicative of the fact that her identification was unworthy of credence.

Furthermore if we are going to identify Bowling as a criminal because of a hairline on his abdomen we had better have some medical testimony as to the prevalence of such hairlines on abdomens.

Now then we come to a part which indicates to my mind a contradictory reasoning on the part of the authorities. After claiming that it wouldn't make any difference if Bowling had been in Vernon at eleven o'clock because he still could have committed the crime, the authorities then go on to clinch the identification by making it appear that Bowling was with Bowen at the County Line dance hall. One Oma Pruitt stated that she was at the dance hall, that Bowling asked her to go out with him. Another witness stated she had two dances with Bowling and that he asked her to get a girl friend. Another witness, Edna Walker, stated that she saw Bowling at the dance hall that night.

As I gather from the testimony of the witnesses, Ralph Bloodworth and Retha McCawley were at the dance hall. Apparently Bowen and his accomplice must have followed Bloodworth and Retha McCawley from the dance hall with the deliberate intention of taking the girl away from her escort and subjecting her to kidnap and rape.

I don't think there is any question but what a sufficient case was made out by the prosecution as the evidence came in to support a conviction.

On the other hand it is my firm conviction that if the attorney representing Bowling had gone ahead and put the two officers on the stand Bowling would never have been convicted.

C  
O  
P  
Y

Chal Wheeler, Esq.

6.

January 3, 1958

We have some letters in our file from Z. D. Allen which are somewhat indicative of his changing attitude. I think the first time he wrote us he probably felt that Bowling was guilty. He had gone into the case for a somewhat nominal fee without realizing that it would eventually be tried in a Federal court. He ran into a great deal more work than he had anticipated and I think he was pretty well convinced by the identification evidence.

I think later on after we became interested in the case and pointed out to him the significance of the testimony of the two police officers he began to change his attitude.

Apparently Mr. Allen is a very high-class attorney. I think he fixed a fee predicated on the idea that he would have to try the case in a local court. I think by the time he wound up he probably didn't get any more than expenses out of it, and I think that he made a mistake in judgment in not putting the two officers on the stand.

I have seen enough of evidence of mistaken identification to feel that in this case Bowen was guilty and that a mistake in the identification of Bowen's accomplice was made by the complaining witnesses, as well as by the other persons at the dance hall.

I personally investigated a case a couple of years ago where there had been a mistaken identification made by two very conscientious, reputable witnesses (a husband and wife). On the very evening the crime was committed the husband and wife were taken to police headquarters, were placed in separate divisions and given a series of "mug shots" to look at. One of them was looking through a modus operandi file and the other was looking through a narcotics file in that there was evidence indicating the guilty person had been a user of narcotics.

Both the husband and the wife, acting independently and without any communication, picked the same photograph, one from the modus operandi book, the other from the narcotics book. Both of them swore that beyond question this was the man who had perpetrated the crime. That was on the very evening the crime was committed. A few days later the man they had identified was picked up and both witnesses unhesitatingly identified him. The man was tried and convicted, sentenced to prison on a long term and began serving his term. Sometime later the district attorney began to receive information which indicated another person had perpetrated the crime. He finally located this person, who confessed. The husband and wife were confronted with this new person and made a positive identification.

I have a tape-recorded interview with the wife in the case who explained to me how it had happened. When they saw the man who was convicted they were positive he was the one, but when they saw the real culprit they were even more positive. This woman went on to state that she has read in the paper about

C  
O  
P  
Y

Chal Wheeler, Esq.

7.

January 3, 1958

persons who have made identification after a lapse of time and that she doesn't see how they can do it. She said that both her husband and herself had made an identification on the very night of the crime and both of them had been mistaken.

Now I want to do everything I can in this case to help. As I have mentioned, I don't think it would be advisable for me to appear as an attorney of record because this is a case in which the Court of Last Resort is interested and we will probably give it some considerable publicity after the defendant has exhausted all legal remedies. We don't publicize a case prior to that time because we feel this would be considered an unethical attempt to influence the courts.

On the other hand if either Judge Rice or Judge Wallace feel that my presence as amicus curiae would be helpful I will endeavor to be present, although right at the moment because of television commitments and ill health I am forced to curtail my outside activities and it may be it would be impossible for me to be present. I can't tell until after a hearing date has been set and after I know how I feel at that time and the nature of the urgent commitments which are taking so much of my time.

I am also frank to state that after you get access to the FBI reports it may well be that I will change my mind as to Bowling's guilt. However, from the study I have made of the case which has been somewhat extensive and over a long period of time, I am pretty firmly convinced that Bowling is innocent and should never have been convicted in the first place.

I feel that Bowling was a character who had been living on the borderline and he had evidently been engaged in rumrunning and probably in highjacking, but at the present time I simply don't think he is guilty of this crime and I think his conviction represents a miscarriage of justice.

My files are rather voluminous and I am afraid contain but little that would be of real assistance to you. I have corresponded with J. Edgar Hoover, with Hon. James V. Bennett, Director Department of Justice, Bureau of Prisons, Col. McSherry and various other individuals concerning the matter.

I trust you will keep me posted and let me know in what way I can be of assistance.

Sincerely yours,

ESG:hs

C  
O  
P  
Y

Chal Wheeler, Esq.

8.

January 3, 1958

P.S. Your letter has just been received and apparently you have the situation well in hand.

At the moment the Court of Last Resort does not have any fund available. There have been so many demands on ARGOSY Magazine of late in connection with cases investigated that I don't like to ask them for any contributions but, as mentioned in the letter, my personal check for \$200 will doubtless be of some help.

I am exceedingly annoyed with the official attitude that Bowling could have been at Vernon, Texas and then got to the scene of the crime in time to have perpetrated it.

If the Government won't concede that Bowling was at Vernon, how can they possibly account for the fact Bowling knew two officers had checked a motorist's registration, had found a driving license issued from Klamath Falls, and had commented it was the first time they had checked such a license? The mathematical chances of any other person being at that place at that time with a driving license issued from Klamath Falls would be about one in a million.

If the Government concedes that Bowling was at that place at that time, and then tries to go on to prove that Bowling could have driven to the scene of the crime in time to have committed it, the Government must of necessity admit that the positive identification of all of the witnesses who claimed they saw Bowling in the County Line dance hall is the result of mistaken identification.

If all those witnesses could have confused the appearance of Bowling with that of some other individual, it is certainly probable that the prosecuting witness could have made a similar mistake.

At some point, when this case is finished, I intend to give it very considerable publicity because I think it is typical of the type of blind prejudice which one encounters on the part of some officials when trying to rectify an injustice.

If those two officers had been put on the stand at the time of the trial and the defendant's attorney had simply gone to the jury with the argument that Bowling had a driving license issued from Klamath Falls, that the possibility of any other person having such a license being at Vernon, Texas on the date in question was more than one in a million, that even if such person had been there the possibility that he would in turn have been acquainted with Bowling and that Bowling could have learned from him what the officers had said was another one in a million chance, I don't think there's any possibility any fair-minded jury would have brought in a verdict of guilty.

C  
O  
P  
Y

Chal Wheeler, Esq.

9.

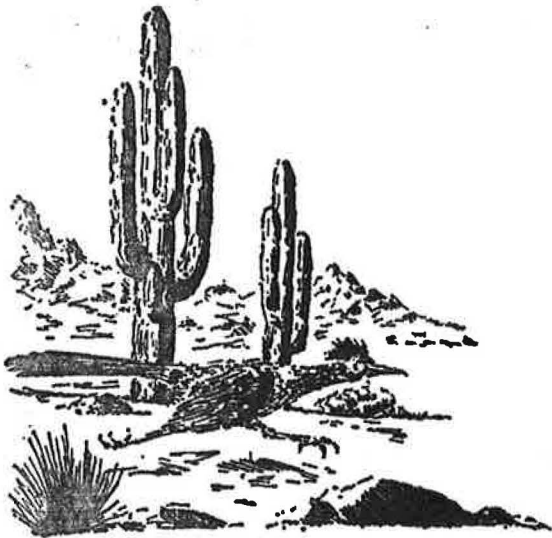
January 3, 1958

I think the attorney became confused because he felt that he had to establish Bowling's alibi by positive proof and because he couldn't get the identification he felt the two officers, who were manifestly unwilling witnesses, would do him no good. As I have stated, I think it was a major mistake in judgment.

E. S. G.

ESG:hr

C  
O  
P  
Y



ERLE STANLEY GARDNER  
RANCHO DEL PAISANO  
*Temecula, California*

October 2, 1959

Mr. Alex Lee Gregory  
14418 Penrod Road  
Detroit 23, Michigan

Dear Alex:

This is a rather comprehensive letter. I am putting it on the duplicating machine and sending copies to J. Edgar Hoover, Reed Cozart, Colonel McSherry, Jim Bennett, Chal Wheeler, Ed Silver, J. St. Clair Favrot, Andy Wilcoxon, Granville Scanland, and to all of our associates, because I want everyone to be advised of what we are trying to do and how we propose to go about it.

I am enclosing copy of letter from Jim Bennett giving permission for you to examine Marion Bowling and suggesting that you have Dr. James Baker present; a request which I feel sure will be in line with your own suggestion that it might be a good plan to have some other polygraph expert with you.

I think you understand the facts in the Bowling case well enough to formulate your questions, but there are certain ideas I would like to check with you.

In my opinion Bowling should never have been convicted.

There are inherent contradictions in the evidence of the prosecuting witness which, if they had been called to the attention of the jury by proper cross-examination, would have caused her either to change her story or would have trapped her in hopeless contradictions.

If the blindfold had been put on when she said and kept on during the time she said, she could never have seen the pubic hairline of the man she

identified as Bowling. Her testimony after thirty-odd pages of cross-examination about a gag having been put in her mouth and then her explanation that it was removed from time to time only to be replaced, together with her explanation as to why she hadn't mentioned the gag when she testified about what had happened, the contradictions about the blind-fold, etc., all indicate not only inherent improbabilities in her story, but the fact that she had been told by someone that she was not to mention the gag unless defense counsel specifically asked her about it.

Her testimony about the guns, the fact that her companion saw no guns, the fact that Bowen had no gun with him when he was arrested, are all factors which would, in my opinion, have influenced a jury if they had been emphasized.

If the claim was made that Bowen would have thrown this gun away because it would have been incriminating evidence, then why did he keep the girl's ring in his pocket, which was the most incriminating evidence of all?

It is now apparent that if Bowling's attorney had given Officer James a chance to talk with Bowling, James would have testified that beyond any shadow of doubt Bowling was the man he had stopped in Vernon, Texas and therefore Bowling couldn't possibly have been at the dance hall at the times mentioned, and probably couldn't even have reached the scene of the crime in time to have participated in it, bearing in mind the condition of his car and of the roads at that time.

In short, I feel Bowling should never have been convicted, and despite Judge Wallace's ruling, I feel his motion should have been granted.

However, we are now faced with another and entirely different question.

The Government has given permission for you to examine Bowling on the polygraph.

Just to keep the record straight, it is my understanding that the so-called lie detector does not detect lies, that no machine is capable of doing this, that the polygraph does, however, detect emotional disturbances and in doing that is infallible. It is impossible for the person to have an emotional disturbance without affecting in some way his respiration, skin conductivity, pulse and blood pressure, or at least some of them.

The big question about lie detectors is whether it is possible for some

persons to lie without having any emotional disturbances. That, in turn, goes back to the question of whether the subject feels his lies are apt to be undetected.

Therefore the effectiveness of a polygraph examination depends in large part on the manner in which the examiner is able to understand the temperament of the subject and impress upon the subject the infallibility of the test. There are also, of course, numerous other factors.

Some persons register guilt complexes so obviously a mere novice could interpret the graphs. Some of them are so difficult that an expert has to run repeated tests and in a certain percentage of cases (the exact percentage is, I understand, a matter of dispute) even the best experts are unable to be positive of their findings.

The fact that the subject may react to a test question while not reacting to so-called significant questions is the trap into which the novice falls, and is the reason one polygraph expert doesn't want to reach an opinion on the graph of another examiner and accounts for the fact that inexperienced examiners have sometimes certified a person to be innocent when he is in fact guilty.

This, I think, accounts for the reason that so many law enforcement agencies discount polygraph examinations. I know enough about the polygraph to know there is nothing that can take the place of long experience and an accurate understanding of the subject psychology.

I have had enough experience with you over the years so that I have just about unlimited confidence in your opinions if the circumstances are such you are willing to give an opinion; and if they aren't and you say that you can't reach a definite conclusion, my confidence in you and your methods is such that I would distrust a definite opinion reached by anyone else.

Therefore, as I see this Bowling case, we have a man convicted under such circumstances that his conviction comes as a shock to the average intelligent citizen (and I have tested this by having some rather influential businessmen study the transcript and the briefs). On the other hand, we have had one case where the right man was convicted on the wrong evidence, as you so convincingly established. (The ironical part of this is that while you established the man's guilt and got a confession, many people think it represents a "failure" of the Court of

Last Resort simply because we had asked to be allowed to conduct the examination. )

This Bowling case may be another case where the right man was convicted on the wrong evidence.

Despite the comments of our detractors, the success of our group over a period of years has been due primarily to the fact that we have been able to keep open minds. Prosecutors tend to discount any evidence indicating innocence. The defense attorney tends to dismiss all evidence indicating guilt, and therefore it sometimes happens neither attorney is in a position to interpret correctly some of the significant evidence in the transcript, which, when properly understood, turns out to be determinative of the question of guilt or innocence.

I think this was demonstrated in the Lindley case where the State Supreme Court took immediate action when we called attention to the real significance of certain evidence in the transcript which had gone theretofore unnoticed. I think it was true of the Brite Brothers case and probably of several others.

Now when we approach this Bowling case with an open mind there are certain things which become apparent.

Bowen, accompanied by a companion whom I will call Mr. X, approached a parked car some time after one o'clock in the morning, the 27th day of April, 1946. A couple, Ruth and Ralph, were in the back seat of the car. Another couple who had been in the car had left about fifteen minutes earlier to "take a walk" down the road.

Ruth and Ralph contend they were sitting in the back seat just talking and were fully dressed at the time.

Bowen and Mr. X approached the car, apparently stated they were FBI agents, that the girl was going to have to go through a clinic and that Ralph was going to be detained in connection with some bootlegging activities.

Ruth swears the men had guns. Ralph, obviously not wishing to contradict her, simply says he did not see any guns. It is obvious that if the men had had guns he would have seen them.

Ralph was assaulted apparently with a claw hammer and probably per-

mitted to escape in accordance with the over-all plan. It seems somewhat improbable that if murder had been planned, he would not have been killed.

There follows a story of gags and blindfolds and natural and unnatural intercourse, which to my mind is contradictory and implausible.

Now we come to the part of the case which I simply can't understand.

According to Ruth's testimony, the statement was made that the car they were riding in had been stolen and must be returned before the owners missed it; that Mr. X therefore drove off in the car and Bowen forced her to crawl through a barbed wire fence while she had nothing on except a pair of shoes.

The physical facts indicate there is an element of truth in parts of this story, and yet it is almost impossible to credit facts of this sort under the circumstances.

One needs only to put himself in Bowen's position to realize how utterly incredible such a situation would be. Bowen had apparently kidnaped and raped a young woman. He had most certainly assaulted her escort with a deadly weapon. The keen edge of his sexual desires had been removed by repeated acts of intercourse. With the approach of daylight he must have realized that Ralph had by that time given the alarm and that officers would be searching the roads. Yet in place of throwing Ruth out of the car, or leaving her bound and gagged where she wouldn't be discovered for a while, or killing her, he permitted Mr. X to drive off with the car and leave Bowen and Ruth in an open field within a hundred yards of the road.

Why?

To my mind there are only two reasons which could have accounted for his conduct. One is that he intended to kill Ruth and leave her body where it would not be discovered until he had made his escape. The other reason is that Ruth had convinced him she was not at all angry at what had happened and that after commercial transportation became available she would accompany him voluntarily.

If Bowen had intended to kill Ruth, why didn't he do so while he had a getaway car available?

Would any man have added to the terrific risk Bowen was facing simply for the purpose of giving his satiated sex appetite one more fling? Nevertheless, Bowen must have planned to murder Ruth, yet must have intended to let the getaway car go, leaving Bowen with his telltale bloody shirt to wait for a bus.

However, for the purposes of this test, we are concerned with this only insofar as it affects Mr. X.

There must have been some compelling reason why Mr. X started off with the car at daylight, just as there must have been some compelling reason, which we don't understand from the evidence at present, why Bowen elected to remain with Ruth and with no means of transportation for his escape.

My best guess is that Mr. X was married. I don't think the story of the stolen car is nearly as plausible as a reason for his departure at daylight.

We must bear in mind, therefore, that if Mr. X was married, was driving his own car and had to be back by daylight, we have established a pattern which would in general be consistent with the guilt of Marion Bowling.

However, it is to be noted that the evidence indicates Mr. X did not take off until either broad daylight, or until such an hour that he could not possibly have reached Wichita Falls until well after broad daylight. Ruth's testimony is that the blindfold was on so tight she couldn't tell whether it was day or night. (Something which I consider absurd and which is contradicted by her other testimony that she could see through the bottom of the blindfold.) She was forced to climb through a barbed wire fence wearing nothing except shoes, with the blindfold still on. She was escorted into a field, the blindfold was removed shortly thereafter and it was broad daylight at that time.

Mr. Malone of the FBI has suggested that Mrs. Bowling might have been convinced her husband was home and in bed with her when he actually was elsewhere; that this could have been accomplished by having Bowling get into bed and tell her it was one o'clock when actually it was much later.

I am willing to stick my neck out that it would have been impossible for Bowling to have done this. If Bowling was Mr. X, he couldn't possibly

have reached his home, as I understand the topography, before broad daylight. He might have been there in time to deceive the children at breakfast, but I don't think it possible that he could have been Mr. X without Mrs. Bowling at least stretching the truth when she states she knows he was in bed with her some time after one o'clock that night.

We come now to the next factor in the case which we must consider carefully and that is the alibi at Vernon, Texas.

The officers stated that they could not possibly identify the man they had stopped. At a later date Officer James made a statement that if he could see Bowling seated behind the steering wheel of an automobile he might be able to make such identification.

Later on he stated that if Bowling could point to the exact place where he had been stopped he would say, without doubt, that Bowling was the man.

Apparently Bowling, therefore, had a general resemblance to the man he stopped, but James could not make a positive identification from personal inspection.

Subsequently, after James had interrogated Bowling in detail, he became completely convinced Bowling was the man he had stopped. But bear in mind that this so-called identification was predicated almost entirely on Bowling's knowledge of what had happened at the place, where the officers had stood, what they had said, the mode of procedure, etc.

While it is highly improbable it is, nevertheless, possible that Bowling, who came from Klamath Falls, could have been associated in rum running with some friend, who under the circumstances would quite probably have come from Klamath Falls; that Bowling's friend could have been stopped by the officers and because of the business association could have communicated and would have communicated the facts to Bowling in the greatest detail, and that, therefore, Bowling would have had this knowledge and, if he had been Mr. X, might well have used this knowledge to substantiate an alibi after he had been "identified" in connection with the rape.

Therefore, Alex, if we approach this case at this stage with a wide-open mind, certain things become important. We want to find out whether Mrs. Bowling is telling the truth, we want to find out whether Marion Bowling has any guilty knowledge of the abduction, just how well he knew

Bowen prior to the crime, whether he made an attempt to deceive his wife as to the time of his return, or whether he and his wife both united in an effort to deceive the other members of the household.

And if your examination should convince you Bowling is guilty, simply in the interests of law enforcement and the scientific appraisal of alibi evidence, it would be of the greatest value to learn just how Bowling knew of the activity of the officers in stopping a man with a Klamath Falls driving license at Vernon, Texas.

You will probably have a pretty good idea whether Bowling is guilty or innocent somewhat early in the game. If you feel he is guilty, stay with the guy until you get a confession if it is humanly possible, and in connection with that confession let's find out exactly what did happen in connection with the rape and in connection with the alibi, whether it was intended for Bowen to kill the girl, or whether Ruth led him to believe that she wouldn't make any complaint and he wanted to stay with her.

There is one other point I want to bring up, although I know you are always on the alert for it, and that is the question of medication.

I mention this because Bowling told me that another convict had given him a hypodermic a short time before Marsh Houts and I interviewed him at Leavenworth. He was receiving hypodermics as part of treatment for a physical condition (arthritis of the spine, I think) but he professed not to know whether this hypodermic was a part of that treatment or not. Where we have convict nurses there is always the possibility that some medication might be administered surreptitiously.

I am setting forth my ideas in great detail here because I am sending copies of the letter to various parties who are interested, and it may well be some of those parties will wish to consider these factors and then add suggestions as to points on which they would like to have Bowling interrogated.

It is very possible that Dr. LeMoyne Snyder will have some suggestions, or might even care to arrange to be present at the time of the examination.

I don't know enough about the actual mechanics to know how much of this you can incorporate in your examination, but they are factors which you should keep in mind. And if you come to the conclusion Bowling is guilty, they are very, very important factors to be cleared up simply in the interests of good law enforcement.

Alex Lee Gregory

9.

October 2, 1959

I take it that you are willing to donate your time on this, and I will reimburse you for your expenses. Or, if you don't care to donate your time, I will handle it on a regular assignment basis at your regular rates.

I would suggest that you make a report to the FBI, to Reed Cozart, to Marion Bowling's attorney, to Colonel Frank McSherry, and to me.

If Bowling is innocent, a great wrong has been done him. If he is guilty, I still think he is the victim of a legal wrong, but we are not interested in that. As far as we are concerned, our only interest in the matter is predicated on the assumption an innocent man has been wrongfully convicted of a crime of which he knew nothing.

As mentioned in Jim Bennett's letter, you will of course get in touch with Warden Taylor; and I presume Dr. Baker, to fix a date, and I feel that you should have Mrs. Bowling come to Leavenworth so you can run her at the same time, or should run her in Wichita Falls, as a part of the same trip.

All the best in the world,

Yours,

ESG/mc  
Encl.

UNITED STATES DEPARTMENT OF JUSTICE  
BUREAU OF PRISONS  
WASHINGTON 25

September 25, 1959

Mr. Eric Stanley Gardner  
Rancho Del Paisano  
Temecula, California

My dear Eric:

You have certainly gone exhaustively into the case of Marion I. Bowling and your misgivings about his guilt are so convincing that I think we ought to do all we can to give him every opportunity to prove his innocence.

We haven't heard anything further from the FBI about their findings and I take it that the Pardon Attorney hasn't yet been given any further information about the case other than what's in our files and comes mostly from you. I'll see, incidentally, that the Pardon Attorney gets your latest letter to me.

I have told Warden Taylor at Leavenworth that we would make an exception in this case to our usual rule about declining to permit prisoners to take a lie detector test. So whenever Mr. Gregory can go to Leavenworth I suggest he call the warden and make the necessary arrangements. I hope it will be possible for our Chief Medical Officer, Dr. James Baker, to listen in on the proceeding so that he can inform himself as to the techniques Mr. Gregory uses. Dr. Baker is himself a Board Psychiatrist and has some knowledge of the polygraph. I am sure he understands the importance of the proper atmosphere for the conduct of the examination and will be most happy to cooperate.

I've been enjoying your latest case in the Saturday Evening Post. It always stops at the darndest places, as you would say. It's a swell story and I'll let you know later my reactions when I've completed reading it.

Take good care of yourself, and with every good wish,

Sincerely yours,



ERLE STANLEY GARDNER  
RANCHO DEL PAISANO  
*Temecula, California*

October 2, 1959

Hon. James V. Bennett, Director  
Bureau of Prisons  
Department of Justice  
Washington 25, D. C.

Marion I. Bowling, #63951-L  
Leavenworth, Kansas

Dear Jim:

This is just a brief acknowledgment of your letter of September 25th and also to say thanks for your consideration.

I am enclosing a copy of my rather extensive letter to Alex Gregory setting forth my ideas in regard to the case. Copies of this letter will also be sent to J. Edgar Hoover, Reed Cozart, Colonel McSherry and Chal Wheeler as well as to my associates.

This case is a puzzling one. The guy should never have been convicted in the first place; first, because sufficient alibi evidence should have been produced by the officers to result in an acquittal and, secondly, because the inherent contradictions and improbabilities in the story of the prosecuting witness should have been called to the attention of the jury,

However, that is not the question which confronts us at this time. What we want to know right now is whether this fellow is guilty or innocent. If he is guilty he should have a kick in the rump for the merry chase he has led us, although you can't blame a guy for trying. If he is innocent the Government should be the one to see that he is liberated, and despite the fact we have done a little prodding from time to time, for the sake of the record, the Government should do this on its own motion.

The trouble with the case is that when the average citizen realizes the type

Hon. James V. Bennett

2.

October 2, 1959

of evidence on which Bowling was convicted and the subsequent developments in the case it comes to him with something of a shock.

However, as you will note from the copy of my letter to Gregory, there is a darn good possibility that this fellow may be guilty despite the fact the strong probabilities are that he is innocent and from a legal standpoint should never have been convicted in the first place.

I'm quite sure Alex Gregory will be only too glad to have Dr. James Baker sit in with him on all proceedings. In fact, Gregory suggested that it might be a good plan to have someone along with him at the time.

You keep reading the Gardner stories and I'll keep writing them and in that way we'll divide the labor.

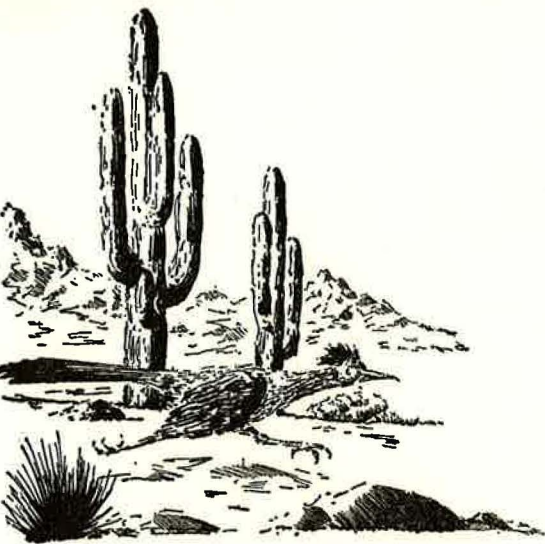
Thanks a lot, Jim. I think we can get this one straightened out. I know one thing: If Bowling is guilty Alex Gregory will call the turn and will probably get a confession. I have a lot of confidence in Alex's judgment.

All my best,

Yours,

A handwritten signature in cursive script, appearing to read "J. Edgar Hoover", written in dark ink.

ESG/mc  
Encl.



ERLE STANLEY GARDNER  
RANCHO DEL PAISANO  
*Temecula, California*

October 26th, 1959

M E M O R A N D U M

TO: LEMOYNE SNYDER  
ALEX LEE GREGORY

You should bear in mind certain essential features in connection with the Bowling case.

On the night of April 27th, 1946, Retha McCauley was working at the Faith Cafe on North Ninth Street in Duncan, Oklahoma. She was twenty-three years of age at the time. She got off work at 10:00 o'clock and met Ralph Bloodworth. She was not engaged to be married to him at the time but at the time of the trial, she was engaged and I understand they are now married and living together as husband and wife.

After Retha, who is also known as Ruth, got off work, they picked up another couple, Frank Gossnell and Mae Baker. They drove out east of Duncan and sometime after 1:00 o'clock in the morning, turned off on a dirt road and parked.

The other couple got out without any explanation as to where they were going and started off in the darkness. Ruth and Ralph were on the back seat of the car. There is, of course, a question which was raised at the time of trial, or sought to be raised, as to what they were doing and whether Ruth had her clothes on or off. She swore that she had them on (she was wearing slacks).

After they had been there some fifteen minutes, a car drove up alongside. Apparently there is no question but one of the persons in that car was Foster Bowen. The other one is claimed by the government to have been Marion Bowling. We will refer to Bowen's companion as Mr. X.

According to Ruth's story, Bowen and Mr. X forced them at gunpoint to leave Ralph's car and go with the two men. The two men drove down to

October 26th, 1959

a point south of Addington, then turned off on a dirt road and Ruth was blindfolded at that time. Ralph was advised that the officers (the two men claimed to be FBI officers) wanted him to go with them to help in getting a suspect out of the house.

They walked down the road. Ralph was clubbed with a claw hammer and escaped.

Ruth's story becomes hopelessly contradictory at this point. At one time she said she was blindfolded before Ralph was assaulted. In fact, she insists that she was blindfolded just as soon as they turned off the road south of Addington.

By inference it would appear that Mr. X was with her part of the time while Bowen was assaulting Ralph and at other times she stated that Mr. X would start to help Bowen whenever it seemed Ralph was getting the best of the struggle. At one time, she admitted she was left alone in the car while Mr. X went to help Bowen.

Mr. X returned while she was still blindfolded, and undressed and helped her to undress then, according to her testimony, put a gun in her side and raped her.

Ralph's testimony is no particular value because he admitted that he never got a good look at Bowen's companion and didn't think he could identify him, although after Bowling had been arrested, he did identify Bowling as Mr. X.

Ralph stated that he saw no guns at any time and Ruth was positive that the men had guns that were just alike and that they held these guns on them.

The story of the blindfold becomes hopelessly confused. At one time, Ruth intimated they had removed the blindfold for a brief interval. At other times, she swore positively the blindfold was never taken off until broad daylight. At times she stated positively the blindfold was on so tight she couldn't look down her nose and see whether it was daylight or dark. At other times, she testified that she was able to look down along her nose through the bottom of the blindfold and see the bottom of the car.

Mr. X put his clothes on. Ruth was driven south of Addington along the highway and from time to time along the road and in the car, the men took turns coming to the back seat and having intercourse with her. This intercourse was described as both natural and "unnatural", particularly on the part of Bowen.

After they arrived at a point south of Addington and across the river and into the state of Texas at a time which is indefinite, because Ruth said she couldn't tell whether it was daylight or dark on account

October 26th, 1959

of the blindfold. Mr. X had both natural and unnatural intercourse with her and left her with Bowen. She was naked at the time except for her shoes. She was blindfolded.

According to her story, Bowen forced her to crawl through a barbed wire fence while she was in the nude, took her a hundred yards or so up into a field and then told her she could take the blindfold off. At that time, it was broad daylight.

Bowen had intercourse with her there apparently several times and finally she made up her mind that if she was going to be killed, she would rather die before submitting to further indignities and made a dash for the road.

By that time, Bowen had permitted her to put her clothes on.

She stopped people driving along the highway who testified that she was in an exceedingly nervous condition. They took her home and gave her a bath and called the officers.

The officers went to the bus station at the nearest town which was a place called Ringgold and apparently was some seven or eight miles south of the Texas-Oklahoma line. There they found Bowen waiting for a bus. In his pocket he had the class ring of Ruth McCauley and his shirt was bloodstained.

Marion Bowling was about thirty at the time. When he was nineteen, he had been arrested and charged with rape. Accounts vary as to what happened in connection with that charge. Apparently the Grand Jury refused to indict. Frank McSherry, the prosecutor, stated in his brief that it was because the girl's parents didn't want to expose her to the notoriety of pressing the charge. Bowling and the attorney who represented Bowling state that the charge was a complete frame-up and was an attempt on the part of certain persons engaged in bootlegging to get Marion Bowling put away.

Apparently, Marion Bowling was doing some rumrunning at one stage of his career and may probably have been engaged in that practice while he was working as a carpenter and immediately prior to the date of the crime.

Shortly after the date of the crime, Bowling wrenched his back and was taken to a hospital.

Apparently the officers, knowing that Bowen resided in Wichita Falls, started looking through the files of every person who had had a record in connection with a sex case and showed these pictures to Ruth McCauley

October 26th, 1959

There can be no question but what Ruth saw Bowling's picture and passed it up without making an identification.

It is not known what caused her to return to the picture but after she had apparently made a tentative identification of one other suspect and it turned out he was not the man, she returned to Bowling's picture as the second choice and the officers went to the hospital, accompanied by Ruth and Ralph, and there while Bowling was lying on the bed, he was identified by Ruth and Ralph.

Subsequently, Bowling's car was identified.

It is difficult to tell how this identification took place. The car was parked in front of the hospital when it was identified. Mrs. Bowling had driven it to the hospital. She states that the party of officers, accompanied by Ruth and Ralph, were just leaving the hospital when she drove up; that they stopped her and asked her if she was Mrs. Bowling and then started checking her car.

Sheriff Cates is presently of the opinion that this did not happen at all. That Mrs. Bowling arrived at the hospital while they were still in Marion's room; that they then went down to look over the cars parked in the yard and Ruth picked out the car. Cates also believes that Ruth told him, "When you look in that car, you will find a carpenter's square in the back on the floor."

They went to the car and found the carpenter's square.

Cates' sworn testimony at the time of the trial, however, was that he was looking for a claw hammer and a blanket when he went to the car and that he found a square.

The case is filled with hopeless contradictions and inconsistencies.

The big factor in the case, of course, is that Bowling's statement that between ten and eleven on the Saturday night in question, he was in Vernon, Texas and was there stopped by officers who checked his driving license, remarking that it was the only driving license from Klamath Falls they had ever checked.

Bowling had a driving license from Klamath Falls. He has described what happened at Vernon, Texas with such minute detail that he has convinced the officer who made the check that Bowling must have been the man he stopped. Bowling's testimony as to how he was dressed, the type of car he was driving, where the officers stood, what they said, etc., etc. all check with such minute detail that it is certain Bowling was the man who was stopped at that time or is so intimately acquainted with the man who was stopped that he has carefully prepared an alibi. It would be highly interesting as far as law enforcement is concerned and good investigative technique to find out just how this

October 26th, 1959

alibi was prepared in the event it is not a genuine alibi.

It seems almost certain that Bowen spent the evening at the dance hall, known as the County Line Dance Hall, which apparently was near Duncan, Oklahoma, within a distance of some ten or fifteen miles, and was accompanied by some companion. There can be no question, according to the testimony of the witnesses for the prosecution that at the very time the officers were stopping someone with a Klamath Falls driving license in Vernon, Texas, Bowen and his companion, whoever that companion was, were in this dance hall.

It was assumed by the government at the time of trial and undoubtedly was the theory of the jurors when they returned the verdict of guilty, that Bowen's companion at the dance hall was the same man who participated in the rape.

Two or three witnesses identified Bowling as being Bowen's companion.

It now appears, however, that a deputy sheriff who was in charge of keeping order at the dance that Saturday night, was brought to see Bowen and Bowling when they were in jail and stated that Bowen was one of the men who had been at the dance hall but that Bowling was not.

Apparently this testimony was suppressed by the government and Bowling was never advised of it.

Apparently quite a few other people were brought to the jail for the purpose of identifying Bowen and Bowling and some of them either refused to make the identification or stated positively that Bowling was not the man. Bowling states he tried to get the names of these people but that the officers refused to allow the persons to give him their names and hustled them out of the jail.

It is apparent from an examination of the transcript that Ruth McCauley had either been carefully coached or had a peculiar knack of withholding significant details which were inconsistent with her story. For instance, it wasn't until after many pages of cross-examination and in response to a direct question as to whether she had been gagged, she admitted a gag had been placed in her mouth. Then apparently realizing that this was inconsistent with her testimony in part, she stated that the men would take the gag out whenever it suited their purpose to do so and then place it back in her mouth.

When asked why she hadn't told about the gag on her direct testimony or explained it sooner on cross-examination, she said that she hadn't been specifically asked about it.

October 26th, 1959

Ruth stated to the officers that the man whom she identified as Bowling had had all of his clothes off and she had scratched him for all she was worth. There were no scratch marks on Bowling.

Before Bowling was apprehended, she described Bowen's companion to the officers and emphasized the fact that he either had no front teeth or that there was something peculiar about his mouth. She mentioned this several times.

Bowling has his teeth and there was nothing peculiar about his mouth.

It is an interesting sidelight on what must have happened, no matter how it happened, that Bowen was perfectly willing to let his companion Mr. X drive off with the car which offered his sole means of escape.

After the arrest and at the time of trial, Bowen's attorney tried to plead him guilty but the judge refused to let him plead on the ground that it was a death penalty case.

There are intimations that Bowen would tell a story if given an opportunity, to the effect that after they drove up alongside, and probably after they had assaulted Ralph Bloodworth, Ruth was quite willing to change escorts.

If it should turn out that Bowling was with Bowen on the night of the crime, the best way of getting him to confess is to bring out this phase of the case and ask him whether Ruth was telling the truth, stating that it might make a great deal of difference and that it is important to get the real story of what happened and then check him on the polygraph to see if he is telling the truth about this story.

ERLE STANLEY GARDNER

ESG:hm

ERLE STANLEY GARDNER  
RANCHO DEL PAISANO

Temecula, California

October 28, 1959

Hon. James V. Bennett, Director  
Bureau of Prisons  
Department of Justice  
Washington 25, D. C.

Dear Jim:

The main reason I am writing you this letter is on the polygraph, or lie detector.

I've been trying to get an accurate appraisal of that for some ten years.

The answer, of course, is that the polygraph is a precision instrument and is highly accurate. The trouble is that no one knows for sure the reason back of some of the emotions which register on the polygraph.

An inspector of one of our California Police Departments told me, in effect, that he could give me a more fair evaluation of the polygraph than any of the others because he didn't have to make his living from it; that the trouble with the polygraph experts was that they had to make their living from polygraph examinations and, therefore, they were always inclined to rationalize.

On the other hand, this inspector admitted to me that he had to use the polygraph in order to get confessions.

I have from time to time asked persons who are rated as some of the top polygraph experts in the country the following question: "Assuming that there are two thousand polygraph examiners in the United States, how many of them would you be willing to examine you or some loved one who was accused of crime?"

The answer has always been less than a dozen and sometimes no more than five.

The polygraph, of course, is not a lie detector because it doesn't tell when a person is lying. It is a very accurate instrument to detect emotional disturbance. The trick, therefore, lies in preparing the subject in such a way that he will feel so much depends on the examination that he will be anxious to convince the examiner of his innocence. Then it is also necessary to convince him in advance

that the machine is so infallible that it can virtually read his mind. The subject is prepared for this in various ways; mostly by having him select a card and then have the polygraph show, by his own reactions, the card that he has picked out.

For instance, a medical examiner in Arizona who is quite a good polygraph examiner told me of a case he investigated where a married woman simply disappeared. The husband stated that she was accustomed to leaving him for varying periods of time and that he had no doubt she was out with some other man and would show up when she got ready to come home. He was asked if he would mind taking a polygraph examination and said, "Certainly not." The polygraph examination showed a perfect pattern of a man who had killed his wife and secreted the body. They were trying to get a confession out of him when the wife returned home alive and well and had done just what he claimed she had done - run off with another man for a while.

No one has ever explained this, but the examiner thinks perhaps the man had been intending to kill his wife and this had caused an emotional disturbance.

An examiner, three or four weeks ago in Minnesota, told me of an interesting case where he was examining a man on a rape case. The reactions of the individual showed unmistakably that he was guilty of the rape, but the man tearfully proclaimed his innocence so convincingly that the examiner ran him over and over on the machine, always with the same result. Finally the man broke down and confessed that he had been guilty of a rape under similar circumstances in San Francisco some years earlier; that he had never been detected and whenever the circumstances of this Minnesota rape were brought to his attention he couldn't resist thinking with horror of what he had done in San Francisco.

The average operator or examiner, seeing his reactions on the polygraph, would have pronounced him guilty of the Minnesota rape beyond any question.

Then, of course, since innocence is established simply by the failure to have any significant reactions, the examiner can only tell whether or not he is examining a person who has a nervous system which does not respond by asking a so-called control question, such as, "I am now going to ask you a very embarrassing personal question." If the subject responds with increase in blood pressure and evidences of apprehension to that, the examiner assumes that he is a reactor and the negative record indicates that he is innocent.

There is no question but what this has led on numerous occasions to statements that a guilty person is innocent because some people may react to the control question yet control their reactions on the significant questions. I probably should change that because I doubt if many people can control their reactions; it is simply the fact that some people don't have reactions of apprehension for one reason or another when being questioned about a particular crime but may react to the control question.

Quite obviously, persons who have been subjected to repeated police interrogation over a period of years set up a sort of defensive mechanism so that they don't ordinarily react the way the average person will.

Some persons are such good reactors that anyone can read the graph of the machine and form an accurate opinion.

We had an interesting case a year or so ago. The thing actually started about two or three years ago when a warden told me he had a man in prison who might be innocent. A doctor friend and I went up and interviewed him. The fellow had been convicted of murdering a cashier in the Western Union office, raiding the till and escaping. He told a very convincing story about having been waiting in the office for a wire to come in at the far end of the office when, in the plate glass reflection, he saw the murderer come in, kill the girl, grab the money and dash out. Knowing that he was left alone at the scene of the crime he had tried to escape.

Because of the minute manner in which he described what had taken place as seen in the reflection of the plate glass window, my doctor friend was pretty well convinced the man couldn't be fabricating. The warden was convinced he probably was innocent because of the prison grapevine, etc. I was the doubting Thomas in that case and felt the man was lying, so we didn't do anything.

Some months later the warden went to the same telegraph office at the hour the murder had been committed and found that, because of a peculiar lighting arrangement, the plate glass window did act as a perfect mirror. And, for that reason, he asked us to give this fellow a polygraph test.

The examiner came out and worked with the man for about half a day. At the end of that time he was convinced the fellow was not telling the truth, that he was probably being coached by smart-aleck inmates who thought they knew all about how to beat the machine.

The examiner went to work on the fellow and finally got him to make certain admissions, then he ran him again, again pointed out a record of falsehood and finally the man admitted that he had gone to the till, grabbed the money and made his escape. But he never would admit murdering the woman. However, his graph was such that the examiner could say he wasn't running a clear test even then.

The interesting thing was that this man was undoubtedly being coached by some inmates who had made something of a study of how to beat the polygraph. The fellow had the warden pretty much on his side and might have had an early parole if it hadn't been for his feeling that he could beat the polygraph examination.

The result of this was that from that day on no one in that prison has wanted to take a polygraph examination.

In one of the other prisons where we have been given a free hand to conduct a polygraph examination we have had a similar experience. After the inmates find out that it isn't such an easy job to beat the machine, they suddenly decide they don't want any part of the polygraph.

On the other hand, I know by hearsay of one case where a man who was supposed to be an expert polygraph examiner certified to the innocence of a suspect. While he was conducting the interview with the press, telling them that there could be no question the man was innocent, the chief of police slipped into a room with the subject, told him that the polygraph test had shown he was guilty and the subject immediately caved in and made a confession.

Many polygraph examiners are competent to read the graph of the machine but simply don't know the significance of what they are reading. Some others are near enough to being crooked so that you can't trust them.

Personally, I never want to see the polygraph brought into court. I think it is only a good piece of investigative equipment for officers who are investigating a crime.

I know this: The minute the authorities start giving a free hand to polygraph examiners, regardless of qualifications and acting on the strength of their recommendations, it will be no time at all until just about every prisoner has a framed certificate of innocence signed by some polygraph examiner or another hanging up over his bunk.

I'm giving you all the information I have on the polygraph because I feel that in competent hands it is a very valuable aid in the field of law enforcement. Frankly, however, I think it should be studied carefully by law enforcement authorities who are not dependent on the polygraph for their livelihood.

I know absolutely that the polygraph is too valuable an aid in crime detection to be ignored, and yet I personally feel that it needs an impartial appraisal from the outside in order to determine its limitations.

All my best,

Yours,

Erie

Warden

November 2, 1939

Chief Medical Officer

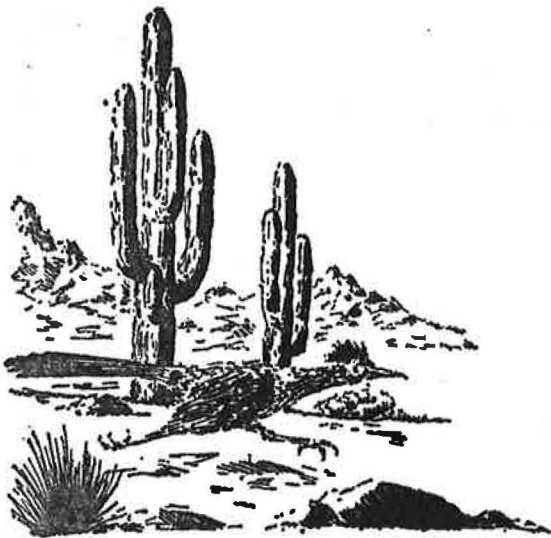
Polygraph Recording by Dr. LeMayne Snyder and Mr. Alex Lee Gregory on  
Marion I. Bowling, Reg. No. 63951-1

1. On the morning of 10-30-39, Doctor Snyder and Mr. Gregory came to the institution and to the Hospital. Approximately one and one-half hours prior to lunch was devoted to interviewing and preliminary questioning of the inmate subject in my office and in my presence. The object of the questioning was to give the inmate ample opportunity to correct any previous falsehoods so that when the polygraph was run he would not show concern, anxiety, and tension relative to material that he may have distorted or withheld, especially if this material did not relate to his current offense under consideration. Bowling did correct some previous information on earlier bootlegging activities and the like. This preliminary interview was also utilized for the purpose of conditioning the subject to the questioning procedure.

2. After lunch the inmate, Mr. Gregory, and Doctor Snyder conducted the polygraph test per se in my presence. We utilized a room on the third floor of the Hospital that was away from all other activity. The actual test itself consisted of the simultaneous recording of three physiological functions: respiration, blood pressure, and skin temperature. A brief period prior to actual testing was again utilized to fully explain the procedure to Bowling. Recordings were made with the subject at rest, while responding to non-stimulating questions, i. e., such as biographical information. The subsequent testing then ran a pattern of interspersing pertinent and non-pertinent questions. General questions relative to the crime were asked so that the subject could not escape lying by answering only specific detail. Doctor Snyder and Mr. Gregory kept a record of the questions asked, and I believe intend to make it part of their report.

3. The impression that Doctor Snyder and Mr. Gregory gained from the polygraph in the brief review of the record here was that Bowling was not lying when he denied commission, knowledge, or presence at the crime. Please note this is only offered as an impression, but both examiners indicated this impression, and indicated no objection to repeating this impression. Both examiners were extremely cooperative, quite considerate of the institutional and Hospital activities and requirements, and equally considerate of the inmate. They went to great lengths to inform everyone, including the inmate, of the precise nature of the test and the fact that it was no substitute for judicial evaluation and action. Bowling was not informed of the results of the test, but merely advised that he would be informed at a later date.

J. L. Baker,  
Medical Director, FHS  
Chief Medical Officer



ERLE STANLEY GARDNER  
RANCHO DEL PAISANO  
*Temecula, California*

November 3, 1959

Mr. Irwin M. Moskowitz  
Paul V. Coates  
5746 Sunset Boulevard  
Hollywood 28, California

Dear Mr. Moskowitz:

I returned early and unexpectedly from Paradise and will probably be here in Temecula now for the next two or three weeks. I am writing this letter on a duplicating machine because I want to send copies to my associates and to the officials of the National District Attorneys' Association. I am not taking time to polish it because of the necessity for haste and the fact that I am simply snowed under with emergency matters. Please forgive evidences of hasty dictation.

I have, however, given more careful consideration to the question of appearance on your program and, frankly, feel that the questions prepared by you dealing with my background as a fiction writer don't have enough smash impact to make it worth my while coming in. And, frankly, I doubt if they will give you the punch that you want on your program.

There has been altogether too much said about my success as a mystery writer, the number of books sold, etc. I no longer need any personal publicity and it certainly isn't going to be to your advantage to give me any on the program.

On the other hand, there are some phases of my activities which you could explore on the program that would, at least in my opinion, make a tremendous sensation on the air.

I would like to amplify the subject of prosecuting attorneys which you brought up briefly in your questions.

For some years my associates and I have been interested in the case of Marion Bowling, who was convicted of rape-kidnapping under the Federal

law some twelve years ago. He was sentenced to life imprisonment and has been serving his sentence in Leavenworth.

Within the past few months J. St. Clair Favrot, at that time President of the National District Attorneys' Association, called the case to the attention of the Executive Committee and, as a result, an unprecedented action was taken. The National District Attorneys' Association commissioned one of its members, Honorable Granville Scanland, Professor of Law at the Oklahoma City Law School, to file a brief on behalf of the Association, asking that Bowling's conviction be set aside.

A few weeks ago Honorable James V. Bennett, Director of Federal Prisons, decided that Alex Lee Gregory, the polygraph examiner and one of a group, of which I am a member, dedicated to improving the administration of justice, and Dr. LeMoyne Snyder, the famous medicolegal expert (author of the book "Homicide Investigation") could go to Leavenworth and give Bowling a lie detector test.

Bowling had always claimed that he was innocent of the crime, claiming that he was actually at home and in bed at an hour which precluded him from having participated in the crime. His wife's statement corroborated this. Moreover, Bowling had always claimed that earlier that night, but still at a time which would have made it impossible for him to have been at the scene of the crime, he was stopped at Vernon, Texas by three officers who wanted to check his driving license. Bowling's driving license had been issued in Klamath Falls, Oregon and the officers had stated in his presence that this was the first driving license they had ever examined that had been issued in Klamath Falls.

The ramifications of the case are too complicated to be discussed in detail, but the lie detector test was given last Thursday to Mrs. Bowling; last Friday to Marion Bowling. As far as I know, it is the first time the authorities have permitted a lie detector test to be given in a Federal prison. The test showed that Mrs. Bowling was telling the truth; that she was positive her husband had been home that night. And the lie detector test given Bowling showed that he was innocent.

I think a great deal of credit in this case is due to the interest of the National District Attorneys' Association in seeing that justice was done.

I would like to tell something about this case and about the problems of public relations of the district attorneys.

Mr. Irwin M. Moskowitz

3.

November 3, 1959

I am enclosing a Thermofax copy of an editorial clipped from the Wisconsin State Journal.

This is a live problem; to some extent, a controversial problem, and it should have a tremendous audience impact.

I am also enclosing a copy of a report made by an investigator of the California Adult Authority in the case of Verlie Brunson.

If you care to examine this report you will find ammunition for perhaps two or three additional programs. Brunson has been in prison for twenty-two years. Recently we have found the witness Hoppie referred to in the report, and Hoppie's statement not only bears out Brunson's contentions but the Chief of Police of the city in which Hoppie is now residing is convinced of Hoppie's truthfulness and sincerity.

The case itself is important simply as a case. But it has an added importance in connection with the problem of law enforcement and the public relations of district attorneys which I would like to discuss on the air.

Here is a case where someone stole an automobile on a New Year's Eve. The owner of the automobile was in the car, dead drunk, and he was taken along with the car apparently because it would have attracted too much attention to have ejected him at the place where the car was parked.

As soon as the persons reached a convenient place they put this drunk out of the car and rolled him of the few dollars he possessed.

Technically this constituted kidnapping. Verlie Brunson was convicted of the crime of kidnapping and sentenced to life without benefit of parole.

Now here is an interesting case which shows, to my mind at least, why district attorneys don't enjoy the best public relations in the world.

Following the Lindbergh kidnapping, public sentiment was so inflamed that it passed laws providing a death penalty for kidnapping. In order to give the prosecutors a tool with which to work, the legislature was exceedingly generous in its definition of kidnapping, the forcible transportation of a person, etc.

What happens?

The prosecutors take a case of this kind, torture it into a kidnapping and

then convict an innocent person.

Years ago people became fed up with the pimps and panderers who seduced young girls and forced them into a so-called life of shame. They passed the Mann White Slavery Act. What happened after that was that a couple of young men took some babes, who were ready, able and willing, on a train from Sacramento to Reno. A prosecuting attorney promptly arrested these men as white slavers. There was no white slavery involved, at least to the extent that people had in mind when they passed the law. The girls co-operated willingly and enthusiastically, only the four people were involved and it was the type of weekend trip that is indulged in by young people from time to time and place to place with the single exception that they crossed a state line.

Frankly, I believe that the people get fed up seeing law enforcement authorities, and particularly prosecutors, take technical advantage of the laws which are enacted to curb a serious crime situation and apply those laws with unusually severe penalties to lesser situations.

Now then, we have the controversial Cahan decision and law enforcement authorities find themselves faced with a situation where they have to have new laws in order to cope with modern conditions. And what happens? The legislature refuses to give the law enforcement authorities the tools they need.

The reason is that the people don't trust the prosecutors to apply these laws properly.

Recently I have had occasion to become familiar with the National District Attorneys' Association. The men who are the wheel horses in that organization are men who are keenly alive to these problems. J. St. Clair Favrot, District Attorney at Baton Rouge, Louisiana, the immediate Past-President of the Association, is one of the most able men I have ever met and has a remarkably sane perspective about all phases of law enforcement. Ed Silver, the District Attorney of Kings County, Brooklyn, is the new President. He is keenly conscious of the problem of public relations and in his office takes elaborate safeguards to see that no innocent person is ever convicted.

Honorable William B. McKesson, the Los Angeles District Attorney, is one of the wheel horses of the organization and is, I believe, Chairman of a newly-elected committee on public relations.

November 3, 1959

One of the objectives of this organization is to furnish ideals for prosecutors and, so to speak, a code of ethics which will curb the political eager-beaver in the smaller communities who is interested primarily in the office of prosecutor because of its opportunities for political advancement.

This is a tremendously important development in the field of law enforcement.

Study this report in the Verlie Brunson case, then realize that this report has been buried in the files of the Adult Authority for twelve years; that nothing has been done with it. Take into consideration the fact that an ordinary auto theft by a bunch of winos on a New Year's Eve was tortured into a kidnapping because the owner of the car was drunk on the back seat and because he was rolled when they dumped him out of the car. Then realize that in their zeal to get a conviction an innocent man was made the goat and you have a subject for television that will make people start talking and keep talking.

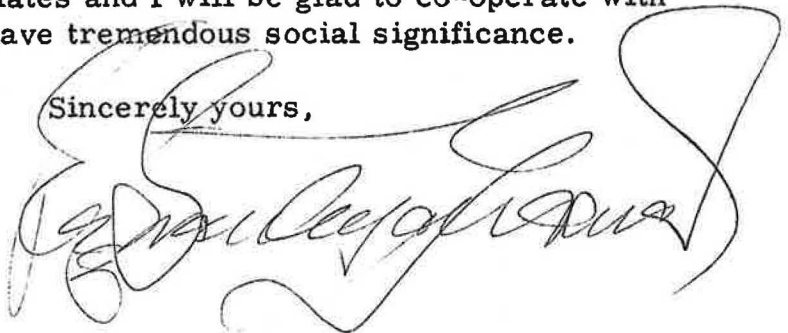
These are the problems that face our citizens today. Unless we give law enforcement authorities better tools with which to work their hands are tied. They are licked before they start and the citizens are being placed progressively at the mercy of the criminals.

Yet the legislatures won't give law enforcement the tools with which it needs to work because they distrust what the law enforcement authorities will do with those tools.

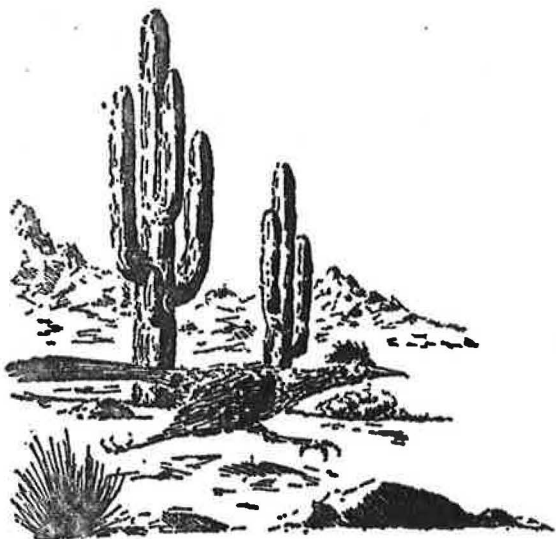
This is the basic problem of public relations confronting law enforcement today. It isn't a question of how the district attorneys are portrayed on television. It's the fundamental problem of how the people themselves feel toward prosecutors and toward police.

Bring this problem out in the open, discuss it thoroughly and you have a television subject which my associates and I will be glad to co-operate with you on and a program which will have tremendous social significance.

Sincerely yours,

A large, stylized handwritten signature in dark ink, appearing to read "Robert Lee of Iowa". The signature is written over the "Sincerely yours," and extends across the right side of the page.

ESG/mc  
Encl.



ERLE STANLEY GARDNER  
RANCHO DEL PAISANO

*Temecula, California*

November 3, 1959

Hon. Chal Wheeler  
Norman & Wheeler  
Attorneys at Law  
Fourth & Boston Streets  
Muskogee, Oklahoma

Dear Chal:

Now that Bowling's innocence has been established in the best way that we have available under our present system of scientific interrogation, I think we should do something about those prison records if it is possible to do anything.

I make that last statement because I have a feeling so many persons have had access to the original records that it may be impossible at the present time to discover exactly what happened.

When Inspector Malone of the FBI came to the ranch, he made a point about the statement supposedly made by Bowling on his admission that he was drunk that night and didn't know what he was doing.

In my opinion this never was Bowling's statement but was Bowen's statement. This fact, to my mind, is established not only because of the factual situation surrounding Bowling's admission to prison but because in a letter written in 1953 to Park Street the warden, as a part of that statement, says:

"In reviewing the Admission Summary I note the statement allegedly made by Bowling indicating that he was with another boy and that they were drunk at the time of the crime. This statement is from the transcription of notes by a former employee who was my secretary at the time

and who took such notes during my interview with the inmate when I was Associate Warden here. In my summary of the interview at the time, however, I find that my comments were to the effect that the inmate stated he pleaded guilty to the charge, that he was found guilty by a jury and insisted that he was innocent. I made no reference to any statement of his to the effect that he was drunk at the time. The only way we could be positive about the stenographer's transcription would be to have the notes available for checking and this would not be possible inasmuch as the interview in question took place nearly six years ago and the notes would have long since been destroyed."

Bowling has always contended he was home and in bed during the time of at least part of the crime; that he had been stopped by the officers in Vernon, Texas, etc. Bowling pleaded not guilty.

Bowen, on the other hand, even at the time of the trial, said that he was drunk that night and didn't know what he was doing. Bowen pleaded guilty, or tried to, but the judge refused to accept the plea and Bowen was convicted.

I know from sad experience how easy it is to confuse the names of Bowling and Bowen in dictation and in transcription. During the time I have been writing about the case I have myself frequently made slips and written Bowen when I meant Bowling and vice-versa.

When Inspector Malone came to my ranch I showed him the original letter to Park Street, a thermofax copy of which is enclosed. Inspector Malone told me that he had examined the records and that the carbon copy of this letter sent to Park Street had the word "not" inserted before the word "guilty"; that the warden had told him the records were not made on the same date and that in his opinion there was no possibility of confusion.

I challenged that statement when Inspector Malone was here and I challenge it now. I told Inspector Malone I was willing to go before the bar of public opinion on this point.

Here is a case where a penitentiary, having sole custody of the records, makes what would seem to be a mistake in getting the admission statement of Bowen mixed up with that of Bowling, writes a letter in 1953,

and then, at some future date which may have been months or years later, changes the entire meaning of that letter by inserting the word "not" in the carbon copy.

What would you do if you had written a letter to a person which contained a sentence conveying exactly the opposite impression you wanted to convey? Wouldn't you promptly, upon discovering that mistake, write the person and tell him the date on which that error had been discovered? If it appeared there had been a substitution of one statement for another, wouldn't you go back and check the original records?

Now, if Warden Looney's letter to Park Street means anything at all, it means exactly what it says, to wit, that on his admission Bowling stated he was out with another boy and was drunk at the time that he had pleaded guilty and the jury had found him guilty. When Park Street wanted to confirm, the warden wrote him that in his notes he had "made no reference to any statement" of Bowling that he was drunk at the time.

Apparently, then, this record was not made by the warden in his "summary of the interview" but "from the transcription of notes by a former employee," and the original notes "have long since been destroyed."

If Bowling said on his admission that he was with another boy and they were drunk at the time, this would have been a most important statement. Why is it then that the warden's summary of the interview "made no reference to any statement of his (Bowling's) to the effect that he was drunk at the time?"

If, however, this statement had been by Bowen, then the letter and the report would have made perfect sense because Bowen tried to plead guilty, the judge wouldn't accept the plea, and the jury found him guilty.

As I recollect my conversation with Inspector Malone, the admission notes now show that Bowling stated he was drunk at the time and didn't know what he was doing; that he pleaded not guilty and the jury found him guilty. The records in a penitentiary are kept within the four walls of the institution. They are too voluminous for the warden to keep them under his personal supervision. In view of the physical facts as we know them that Bowling thought his case was on appeal when he was admitted; that he was still protesting his innocence, as he always had, continued to protest his innocence; that when he found his attorney hadn't perfected an appeal he tried to perfect an appeal himself, I am firmly convinced that Bowling never made any statement to the effect that he was drunk at the time and didn't know what he was

doing.

And in view of the thorough examination given Bowling on the polygraph, it is apparent that Bowling not only claimed he was innocent but actually was innocent.

Under the circumstances, the fact that any contention could be made that Bowling confessed to the crime, at least by implication, on being admitted to the penitentiary makes this case a travesty, and to my mind indicates either a tampering by someone with the records or a substitution of Bowen's statement for that of Bowling.

If this is to be considered a factor in the case, I feel we should have some qualified expert on questioned documents go to the penitentiary and try to find out just what did happen.

I am sending a copy of this letter to Rex Hawks because I think we should have some more investigation if there is to be any point made of this admission statement. Bowling has been the victim of enough mistakes in law enforcement so that he should at least be spared having incorrect records used against him.

Incidentally, it would certainly seem that statements made by prisoners on their admission should be submitted to the prisoner and signed by him. Even a competent stenographer could easily confuse the name Bowen and Bowling when they relate to the same case. And the fact that secretarial services available to wardens are not always of the best is indicated by the fact that somebody saw fit to change the carbon copy of a letter presumably dictated, and certainly signed, by the warden.

I don't like this situation.

It was my impression, after I had told Inspector Malone we would meet him before the bar of public opinion on this issue, that he conceded the weakness of the Government's position on this point. In any event, he said no more about it. Of course, I have no way of knowing absolutely how he felt, since Inspector Malone was at my ranch to discuss the case and certainly not to make any concessions on behalf of the Government.

Personally, I would hate to be the warden of a penitentiary who tried to substantiate those records if the records now show that Bowling said he was drunk at the time and didn't know what he was doing; that he pleaded not guilty but was found guilty by a jury.

November 3, 1959

If you feel the Government wants to make any point of this, let's ask to have a supplementary hearing before Judge Wallace so we can find out about those records, and find out when the statement was inserted in the admission record that Bowling said he was drunk at the time, particularly in view of Warden Looney's letter to Park Street in which he says he made no reference to that fact in "my summary of the interview at the time."

I am sending copies of this to Andy Wilcoxon, Granville Scanland, Rex Hawks and Park Street. I am also sending a copy to Reed Cozart. I feel that we should get this point either into the case or out of it one way or the other. There have been altogether too many innuendoes and side comments to the effect that Bowling admitted his guilt when he arrived at the penitentiary.

With kindest regards,

Sincerely

ESG/mc

(I am putting this letter on a duplicating machine because I want to send copies to my associates in the Court of Last Resort and to Ed Silver and J. St. Clair Favrot.)

November 3, 1959

Honorable William B. McKesson  
District Attorney of Los Angeles County  
600 Hall of Justice  
Los Angeles, California

Dear Bill:

I'm enclosing copy of a letter I am sending Irwin Moskowitz at the Paul Coates program.

I wish you would read this report of Seibert Sefton's in the Verlie Brunson case. I want to discuss that case with you.

I have just received this copy of the report. I believe it contains Mr. Sefton's findings but does not contain his report on the record of Verlie Brunson. This omission is not due to me but is due to the fact that I only received the portion of the report dealing with the facts in the case. Brunson apparently was a drifter who would get drunk and get into trouble. I think his most serious trouble was the theft of an automobile.

Here is a case that is completely indicative of the situation Park Street and I discussed with you and Ed Silver in Miami.

Mr. Sefton is now, I believe, practicing law and has a very hazy, independent recollection of the case because he investigated so many cases for the Adult Authority and this was just one of hundreds.

However, here is a report by an employee of the state which, to my mind, screams to heaven of injustice. And the fact that it could have been buried for twelve years is indicative of the necessity for sweeping reforms. Since this report, Hoppie has been located, confirms everything that Brunson said and completes the missing link in the chain.

With kindest regards,

ESG/mc  
Encl.

A large, stylized handwritten signature, likely of Edgar Silver, is written in the bottom right corner of the letter. The signature is fluid and cursive, with a prominent 'E' and 'S'.

United States Department of Justice  
Office of the Pardon Attorney  
Washington

November 5, 1959

Mr. Erle Stanley Gardner  
Rancho Del Paisano  
Temecula, California

Re: Marion I. Bowling  
Applicant for Pardon

Dear Erle:

I have your letter of November 3, 1959, enclosing a copy of the letter you wrote to Mr. Wheeler.

Apparently, this case has now reached the stage where a decision will have to be made, and it is my present intention to summarize all the information I have at hand and present it, along with the entire case, to the Attorney General. I have been reading your letters and the various correspondence you have referred to me, along with all the reports filed by the Federal Bureau of Investigation as a result of the investigation in the case and will attempt to present as complete a picture as possible to the Attorney General. As you know, if any commutation is ever to be issued in this case, it would have to be upon his recommendation.

Sincerely,

  
Reed Cozart  
Pardon Attorney

UNITED STATES DEPARTMENT OF JUSTICE  
BUREAU OF PRISONS  
WASHINGTON 25

November 4, 1959

Mr. Eric Stanley Gardner  
Rancho Del Paisano  
Temecula, California

Dear Eric:

That was certainly a most interesting and useful letter you wrote me on October 28, 1959, pointing out the strengths and weaknesses of the polygraph and those who operate it. I would like to see this sort of straightforward, no-nonsense explanation put in writing and made available to people in the law enforcement field, including both federal and state.

Thinking that you might not have time to do so, I have had your letter retyped, as attached, leaving out any references to Dr. Snyder or other personalities, and if you approve, I would like to have the letter published as an open letter to me in our Federal Prison Service house organ or in the American Correctional Association Journal.

I do hope you are well and thanks for writing me as you did.

Sincerely yours,

Director

*Marked in file 100-2-11-100*  
*100*

JAMES V. BENNETT  
DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE  
BUREAU OF PRISONS  
WASHINGTON 25

November 4, 1959

Mr. Erle Stanley Gardner  
Rancho Del Paisano  
Temecula, California

Dear Erle:

That was certainly a most interesting and useful letter you wrote me on October 28, 1959, pointing out the strengths and weaknesses of the polygraph and those who operate it. I would like to see this sort of straightforward, no-nonsense explanation put in writing and made available to people in the law enforcement field, including both federal and state.

Thinking that you might not have time to do so, I have had your letter retyped, as attached, leaving out any references to Dr. Snyder or other personalities, and if you approve, I would like to have the letter published as an open letter to me in our Federal Prison Service house organ or in the American Correctional Association Journal. .

I do hope you are well and thanks for writing me as you did.

Sincerely yours,

  
Director

*Attached is the letter as requested.*

Autograph received from Alex L. Gregory at Paradise on 11-3-59:

This is Sunday, the 1st of November at around noontime and this is LeMoynes and Alex reporting to Erie about our trip to Leavenworth and everything that happened, and this is LeMoynes speaking now and we thought we would sort of divide up this report and I'll report on the generalities of the situation and I'll leave it to Alex to put in the details.

Well, Erie, my first thought about this whole thing is that I wish you would write an article under the title called The Moment of Truth. Now we hear a lot about bullfights and the moment of truth but there is no moment of truth in a bullfight like the moment when Alex starts in the interrogation on the polygraph after an interview such as we had with Bowling down there in the penitentiary, and I hope by the time this record is finished you will have the whole, complete picture of the entire situation.

The trip itself was a little bit on the hectic side from this standpoint: Alex and Clara had driven down there, the weather was miserable, and it was raining while we were in Leavenworth and raining all the way back - foggy, cloudy and misty. After we got finished up with everything in Leavenworth, we drove up into Missouri a couple of hundred miles and then home yesterday seven hundred miles, so we got in late last night and were pretty tired.

So to begin with, here's the whole story about what happened in Kansas City and Leavenworth:

Alex and Clara arrived shortly after noon or around noon and they got into the Neuhilbach Hotel and so forth, and met up with Mrs. Bowling an hour or so before I arrived so that Alex had had quite a conference with her by the time that I arrived. We then talked with her privately for another hour or so, following which Alex gave her a run on the polygraph and she left about 9:30 that night to catch a train back to Wichita Falls.

Now the next morning, Alex and I went out to the penitentiary at Leavenworth, which is thirty miles from Kansas City. We got Clara a room in the hotel so that she could be comfortable during the day and we went out to the prison where we first met Warden Jackson - Warden Taylor, I meant. I presume you've met Taylor. At any rate, he was very nice and very cordial. At the same time, he is fearful of any publicity that there might be surrounding this thing. We assured him that as far as we were concerned there would be no publicity whatever; that after we had finished our interview with Bowling that we would report to him as to what our findings were, and Dr. Baker, who was to be present all the time, would, of course, have his own findings and that we were not releasing any information to any reporters as to the results of the test or anything of the kind, which seemed to please him very much. He invited us to have lunch with him but inasmuch as we wanted to get downtown to call you at noontime, we declined the invitation. There is no

place in the prison to send an outside call without it being monitored by half a dozen people, so we went down and had lunch with Clara and put in the call to you.

After our interview with Taylor, we took in the equipment and the place they had set up for us was back in the prison hospital, which is reached through the main gate; you have to walk clear back through the prison and lug all the stuff all the way back there. And there we met Dr. Baker. Dr. Baker is a psychiatrist; he's forty-five years old, a graduate of Temple University Medical School in Philadelphia, and has spent his entire career as an officer in the U. S. Public Health Service and is on routine assignment to Leavenworth Prison. He's been there for two years and a half now. He was very friendly and helpful and helped us with any suggestions we had as to the arrangement and so forth, and we concluded - First of all, the place that they had set up for the actual test was up on the third floor of the hospital in a corner room that was fairly well isolated, but inasmuch as he had a lot of paper work to do, merely signing a bunch of papers and so forth, he suggested that it might be as well to hold the interview right in his office and he could be working on his papers at the same time. We suggested to Dr. Baker that maybe the best plan was to have an interview with Bowling before lunch and defer the actual polygraph examination until after lunch, and this would give us and Bowling a good chance to get everything squared away so there would be no confusion when we came to run the actual test.

Bowling was there when we arrived at the office and came in and we proceeded to have a talk with Bowling, which lasted for an hour and a half, I suppose, before lunch. The whole thing was put up to Bowling simply cold turkey. Alex did a masterful job in explaining to him, and incidentally to Dr. Baker, just what we were there for.--We weren't for Bowling and we weren't against him; we were there simply to get the truth and if we weren't going to get the truth there was no point in us hanging around there, and the result of it was that by the time we had finished and were ready for lunch, Bowling had completely revealed his past, and when I say he had completely revealed it I really mean that. I don't think that Bowling ever swiped a postage stamp that he didn't tell us about before that lunchtime interview. And, of course, the picture of Bowling changed considerably when we got the whole truth about that situation.

Well, I will - I'll let Alex fill you in on all of the details of that, the revelations we got and the discrepancies between his story and that of Mrs. Bowling. Incidentally, both Alex and I were favorably impressed with Mrs. Bowling, although as Alex will point out to you she knew very little about the real activities of Bowling, and he had been successful in pulling the wool over her eyes for a long time, but I'll let Alex fill you in on the details of that. Well, we came back after lunch and proceeded to go upstairs and Dr. Baker was with us at all times. As a matter of fact, we were never alone with Bowling a moment from the time that we were there and even during the time that we were in this room with Bowling and Dr. Baker, there was a guard stationed out in the hall behind the door all the time that we were there.

Dr. Baker sent down for Bowling's complete prison file so that we had that available to refer to anything that was necessary and we had some further interview with Bowling shortly, this was not protracted at all, before Alex set up the machine and attached the various instruments to Bowling and proceeded with the examination, making out a list of questions, repeating them to Bowling and getting everything cleared for the test itself.

The test was run at some length. I presume that Alex ran at least six or eight different series of questions on him and when we were finished, we were all very well satisfied that we had the whole truth from Bowling, not only about the crime on which he is now serving time, but of all of his prior activities as well. Rather an interesting thing about this that I think Alex will elaborate on was this: According to Bowling he had been very apprehensive and nervous and keyed up about this test. However, by the time we had gotten done with that morning interview with him in which he had really bared his soul, when it came time for the test itself, he seemed to me to be very much at ease and I think that the charts also revealed that. That he just had nothing more to conceal and consequently the tensions which he had had before and which he had never revealed to anyone before, to his wife and I think he had even kept some of them to him--hadn't dared to reveal them to himself hardly, so that when it came time for the actual test itself it went off very smoothly and very easily and we're well satisfied that we have the whole truth. Of course, as Alex will tell you, Bowling had no part in this crime for which he's been convicted, but the whole picture shows how he happened to become involved in this thing and how he happened to be convicted and all the rest of the thing that goes with it.

Well, Dr. Baker, I am sure, was very well satisfied with the test and I think that he was rather - had his eyes opened as to how we operate and after the test was completed, which was around four o'clock in the afternoon, we went down and met the warden again, explained to him the results of the test and so forth, and he seemed to be very happy and completely satisfied with everything. We saw no reporters, talked to no one whatever about this case, and then went down to the telegraph office and filed all the wires which you had prepared and sent them out direct-wire to everyone concerned. We then went back and having already check out of the Meuhlbach Hotel early in the morning, we took off for home about five o'clock and drove until nine or ten o'clock that night. It was raining and miserable, foggy, dark; it wasn't pleasant, but we got over into the middle of Missouri someplace and stayed the night, then got an early start yesterday morning and drove clear through to Detroit here and got in around ten o'clock last night; 698 miles - a lot of it through pretty heavy traffic which was a full day's work.

Well, that is all I have to say right at the moment, so I'll turn this over to Alex and if there's any space left when Alex gets done, I might come back again for some comments on the thing. So I'll sign off right now, Erle, and turn this over to Alex and he can fill you in on all the details of Bowling's story and how it jibes up with Mrs. Bowling, and everything else concerned, so I'll let Alex take on from here.

Incidentally, Erle - I'm back on again - just so there's no confusion, the wire that we sent to all of these people was the one saying that

"Completed polygraph examinations of Bowling and his wife revealed no indications of guilty knowledge." That was the one that we sent. So, I'll turn this over to Alex here.

Hi, Erle, this is Alex. Before I get into this Bowling case and while it's on my mind, I think I better tell you that I had a telephone call from this attorney Ratner, and he called me from Denver saying that they had told him that there was a letter from you at his office but he didn't know exactly what it was and so he didn't know just what we should discuss. I hadn't recalled that this woman, Mrs. Moerer, was out on parole but anyway, it seems to me that they haven't done as much work on that case as they should have in expecting us to try to give them any help. The other woman is serving time up at Lansing and I didn't realize how close Lansing was to Leavenworth at the time I talked to him so I probably should have made some arrangement to go over and visit her if I could have known more about the case from him, or if he could have been there. But anyway, neither he nor any of the other people involved in this case have ever interviewed the woman who is serving time that confessed to the last checks on which Mrs. Moerer was suspected and I told him over the telephone that I thought that they should interview her and try to get some idea why she wouldn't take responsibility for the checks on which Mrs. Moerer was originally convicted if she actually did write those checks, as I think that we really should know what her attitude is going to be. They're thinking in terms of having her take a polygraph test and there's no sense in trying to talk about polygraph tests until they know just what she's going to say or if she's going to talk at all. They don't even know if she'll take a polygraph test. So I suggested that they should do some more work on the case and not only that, but it also seems that there's some question as to the ability of the handwriting expert which was used as a witness against Mrs. Moerer. I suggested that they check him out and find out what his qualifications were, something about his background as far as integrity and whether or not to rely fully on his interpretation, his opinion, as to the handwriting when Mrs. Moerer was originally convicted. He also told me that the prosecutor in the case is the one who is the main stumbling block and I suggested that he pursue the possibilities of bringing this attitude of the prosecutor before this new prosecutors' association because they might have some bearing on getting this prosecutor to give a little more cooperation. Now, you would know far more about that than I would, but I still think it's a possibility that if that prosecutor could be removed as a stumbling block, it could save a lot of work and effort. So I told him that he could write you and discuss that problem with you because you could advise him more completely. But it seems to me that that is a step that should be taken if it's at all possible.

Well, now to get back to this Bowling case. As LeMoyné told you, I met Mrs. Bowling - I didn't know that she was going to go up and visit Marion before she came down to see me, and I'd hoped she would get in earlier in the afternoon but she didn't call until about 6:30 that night and had her immediately come up to the room and I had on a little less than an hour with her before LeMoyné arrived. But anyway, I was impressed by her sincerity; at the same time, she apparently is a woman who is very naive and didn't know too much about what Bowling was

actually doing. Practically all of her information, as far as his activities are concerned, have come from what he's told her and he certainly has pulled the wool over her eyes and done a good job of it. And much of her story is at variance with the story that he tells although I am fully convinced that everything she says she had believed and isn't making any deliberate attempt to deceive. I made some notes on her statements so it will give you a general idea of what the difference is between her story and his. I covered Saturday, the day previous to the crime, - now as we understood it, Saturday was the 27th of April, 1946 and I had her go over in detail all of her activities for that particular Saturday, and keeping in mind, of course, that I was going to have him do the same thing to find out if there was any great variation in their stories.

Now she says that they went to the grocery store with his mother and younger sister; that is, from Holiday, where they lived, into Wichita Falls, to buy groceries. They bought the groceries and left the mother and younger daughter in Wichita Falls; the mother and daughter intended to go to the movie that afternoon and would return at a later date. She doesn't recall just what time they got home or how they came home, but thinks they must have come home on the bus. She and Marion then return home to Holiday, they put the groceries away and then Marion told her that he was going down to the gas station to get some gasoline; he'd be back in a few minutes. That he went to the gas station and she said he got into a little poker game there at the gas station and that he played poker for about an hour, and that he then drove into Wichita Falls. Now it seems that they had discussed the possibility of his making some money by picking up people who were waiting for buses and couldn't make good bus connections and taking them north, either to Vernon or even as far as Amarillo or various directions; that it's quite common that people in that part of the country do that, that they get their transportation that way, by catching rides and people will go around to the bus station and find somebody that's going and that helps pay the expenses, or some of them even make money that way.

Her story is this: That he left the gas station, after playing poker for about an hour, and drove into Wichita Falls and went to the bus station where he picked up a couple of passengers. Now she's not quite sure whether he picked up two passengers at the bus station and one later out on the highway at a little stop-off place, or whether he got one at the bus station and two on the highway, it doesn't make too much difference. But that he told these passengers that he would drive them up to Vernon and that if he could pick up some more passengers at Vernon, he would then take them on to Amarillo, which is about 200 miles north of Wichita Falls. That they did drive up to Vernon but that after he went to the bus station there, he couldn't find any more passengers and so he left his passengers that he had brought with him and returned to his home there in Holiday and that he arrived there, to the best of her belief, at about 1:30. She said that she had been crocheting that night and had finished a piece of crocheting at one o'clock, and went to bed, and she feels sure that she hadn't been asleep when he arrived home and she's quite positive it was around 1:00 o'clock, I mean around 1:30, or a little after.

Now in giving her the polygraph test, I couldn't pin her down as to the exact time, so I approached it from two angles. One question I asked her,

I asked her if she honestly believed that he was home before two o'clock, and she said that she honestly believed he was, but in asking her to be absolutely positive she said she couldn't be positive. Of course, that she hadn't been asleep, she didn't think she was, so I also asked her the question, "Are you positive that he was home before daylight?" because she said she was awake when he came home and of course she would have known if it had been daylight. Soe she's absolutely positive that he was home before daylight and she honestly believes that he was home before 2:00 o'clock. She also said that he had not been drinking; that if he had been drinking that she would have been angry and have raised a little hell with him for not coming back. I went quite a lot into detail as to the usual procedure, whether he stayed out nights and things of that kind, and she said, "No, the only night he went out was when he went to his union meetings", and that she knew he wasn't playing around with any other women because his--it was only about the one night a week that he went to these union meetings and that's why she was positive that he couldn't have stayed at Bowen's house and played dominos as Mrs. Bowen had testified on the stand, and she is so positive of that, that there's no question but what she's telling the truth. I also asked her if they had had any sexual relations that night, thinking that if they had had such relations, it would probably indicate that he hadn't been out indulging in any sex orgies with some other woman, but she wasn't too sure; she thought probably they didn't have any sexual relations, so it didn't have any particular bearing on the matter.

Now I went into detail with her about his bootlegging activities and it's very, very obvious that she had no knowledge of the extent of his bootlegging activities, or other activities that he might have been indulging in that we found out from him later. She said that they came home and I started back up in Oregon with her to get the whole thing in the proper sequence. They left Oregon and went to California where they had traded in their car that they had brought from Oregon and had California plates on the car in which they returned to Texas sometime early in the Fall of 1945; she thinks it was about October, and I went into detail as to whether they had acquired Texas license plates or drivers' licenses when they returned to Texas, and she said that they had not acquired Texas drivers' licenses for-the-car but she thinks that he had obtained Texas license plates for the car. Now she wasn't absolutely sure about that but she thinks that he did get Texas license plates for that car.

Now asking her about his bootlegging activities, she said that he had discussed bootlegging with her; that he wanted to make some money and that he did make one trip down to somewhere around Fort Worth, or the vicinity of Fort Worth, Texas, and brought back several cases of whiskey; that he was supposed to deliver this whiskey to some tourist place on the outskirts of Wichita Falls and get his money for it, but that when he got the whiskey out to this tourist place the person who was supposed to pick it up wasn't there and that he went to make a telephone call and she wasn't sure whether the whiskey was stolen from the car or whether he had unloaded the whiskey and hidden it someplace, but while he was gone she said the whiskey was stolen, and she said he was angry and called the police and reported that his whiskey was stolen. And she claims that he was arrested and convicted of having whiskey in his possession and that he paid a fine of about \$100.00. Now I have

to assume she doesn't really recall. her recollections aren't too good on these things, but apparently he has told her these things and she assumes that they're true, although she doesn't know anything about the details, yam just the story that he was arrested and paid \$100.00 for the possession of liquor. And she says that is the only bootlegging he did; that that was such an expensive experience that he decided to quit and so that as far as she knows that was the only bootlegging he did after they returned from Oregon and California. Of course, she knows that he did some bootlegging before that, and she says that was back around 1942, somewhere in that neighborhood.

Well, I then gave her a series of polygraph tests in which I asked her about their activities and the possibility of them having any collusion as far as their stories were concerned and covered everything pretty generally. Whether she had deliberately lied at any time on the witness stand during the trial and whether Marion had ever told her that he was with Foster Bowen at any time on April 27 or 28th, 1946, and covered it so completely that I am completely convinced that she is telling the truth; that she had no part in any possible framing of an alibi and frankly, she doesn't know half ~~xxxxxx~~ of what was going on. And that she has absolutely no guilty knowledge of this crime whatever and she honestly believes and is positive that he had nothing to do with this particular crime. She wasn't the best subject in the world but I mean it's that kind of a test that there just can't be any mistake as far as I am concerned on it. It's my feeling about it. I think she was quite fatigued; she had had a long trip and she had been on the train all the night before and she had been up at the penitentiary and talked to him and then had gotten the bus and come back down to Leavenworth - I mean come back down to Kansas City - and she was a little bit tired but she responded to artificial stimuli to the extent that I'm convinced she was capable of reacting if she had been attempting to lie about it.

So as far as I am concerned, she's entirely clear on the whole thing except that she knows absolutely nothing about the true facts of his activities.

Now I'm going to turn this over before I go into the report on Bowling.

Well, now we'll get into the report on the Bowling interview and subsequent polygraph interrogations. As LeMoyné told you, we had a preliminary interview and - in the office of Dr. Baker, and Dr. Baker was very co-operative. He took very little part in it and I frequently stopped doing the interview to ask him if he had any suggestions or ideas and he seemed to feel that it was carried out quite completely and satisfactorily as far as he was concerned.

I went into great detail with Bowling to inform him as to our attitude, that we were only interested in the absolute truth of the entire situation; that we had gone to a great deal of trouble and expense and the expense and trouble that you and Park Street and Marsh Houts had been to in trying to protect him and give him the very best you could; and that if he had withheld any information or deliberately falsified any information, that he certainly owed it to you to tell everything. I also explained to him that as far as a polygraph test was concerned, that I wanted him to tell what he knew to be the truth and I also wanted the complete truth regarding all of his previous activities because I didn't want to get into a polygraph test and have him sitting there worrying and becoming upset, in fear that I might ask him something about previous activity that we knew nothing about. I also explained to him that it was entirely possible that if he had indulged in other activities that we didn't know about, that the officials, the investigators, police officers and prosecutors, might be able to dig up information about his activities that could be brought out later and would seriously embarrass us if we went to bat for him.

So then we really got into detail on his previous activities. I first started questioning him about his activities on Saturday, April 27th, 1946 and his story is very similar to that of his wife as to getting the groceries and returning home. He doesn't remember too much about just what happened when they returned home, but anyway, he said that he went in to Leavenworth, and I had to suggest a little bit -- I don't mean in to Leavenworth I mean in to Wichita Falls -- and I had to suggest a little bit before he remembered going to the gas station. And his activities at the gas station, he said he didn't get into any poker game at the gas station -- I didn't come right out and ask him directly, I didn't tell him that his wife said he did -- but he was positive that he didn't kill any time at the gas station gambling, playing poker; he said he sometimes shot a little crap in the gas station and he didn't remember whether he got into a crap game that night or not but he's sure he didn't play any poker.

And from there he went into Wichita Falls and this is where their story varies completely. He had no intention of picking up any passengers whatever. He didn't go there with that intention. He was a bootlegger and not a petty bootlegger at that. I had also taken him down from his trip from Oregon into California and back to Texas to make sure he didn't have any Texas driver's license so that anyone else could have used his Oregon driver's license to give him an alibi later on.

But anyway, he started going into the details of this bootlegging and I'm telling you that that boy was probably one of the best. The only thing is, he wasn't even an honest bootlegger. He told us that practically all of the whiskey that he was selling -- and he was not only selling it by the bottle, by the case, or anything they wanted -- and he secured this either by highjacking or by burglary. He and a fellow named

Martin (I believe his buddy was) would highjack trucks of liquor as they would be brought into Wichita Falls. In most cases they had an arrangement with the truck driver where they would pay the truck driver a hundred dollars or so to let them take the load and then the truck driver would claim that he was highjacked; but that in some cases, that Martin always carried a gun and that they had used the gun in actual holding up of the truck driver -- he said they had to have a gun to convince some of these people, he said some of them wouldn't go along with a pay-off. So they actually held up some of these trucks with a gun to get the truckload of liquor. And that liquor he was selling on the job as well as selling in case lots to any sources of outlets he could find.

And he also said that on one occasion they burglarized this warehouse there and took three hundred cases of liquor which was their main supply for some time. And that he had also run liquor up into Oklahoma on numerous occasions. I didn't try to pin him down to great detail on these activities because I didn't want to get him so scared that he would be upset and not be in condition to run a good test. But he gave us the general details and he certainly wasn't pulling any punches. He said that he had been arrested on, I think there was five different occasions, and convicted for burglary once in his younger years. I didn't pin him down as to exactly when it was, but I was under the impression that this rape case in which he had . . . it's been discussed in your correspondence . . . had taken place a good many years ago. And in discussing that he told the whole story, that this tourist place outside of Wichita Falls, where they had been regular customers of his; that is, a woman and her daughter had been selling liquor and he had been selling them in apparently case lots; that the daughter was sixteen years old and that he had been going to bed with her quite regularly. And that on the night in question that this rape charge came up, he had intended to go to bed with her but that he hadn't been there long enough when apparently there was a disagreement over the payment of liquor or something of that kind, and that the mother had eventually charged him with rape.

Now, I want to make sure we get this clear. We've been discussing it here. That it seems that he claims . . . Bowling says that this girl's mother knew that he had been going to bed with her and there had never been any objections; that the girl had had a baby -- now, I didn't try to pin down the date of that. I asked him if he was the father and he said he was pretty sure he wasn't, but he had no way of knowing. Anyway, it seems that it was the father and not the mother who preferred rape charges against him. And then everybody knew that it was a frame-up because apparently the Police Department knew everything about their bootlegging activities and knew the family and consequently the rape charges were dropped.

Now the thing that is significant in this situation is the fact that on this rape charge he had the same attorney who represented him on this case that we're interested in. So he apparently knew the attorney and the attorney ~~and-th-~~ knew him pretty well. And this whole affair had taken place shortly before this case of Retha McCauley -- or, he didn't pinpoint the exact date of that situation but I think the record would show whatever the date was. That wouldn't be difficult to get anyway.

And after discussing his sexual activities with this girl I asked him about other people and he said, well, he never passed anything up; that he was getting it whenever

he could and wherever the opportunity presented, so that he wasn't limiting his activities to this sixteen-year-old girl but was taking anything that came along.

Another thing that was significant in this interview, that came out, was the fact that although he didn't know Bowen too well, that Bowen had applied for a job and he wasn't too sure on this, Bowen had applied for a job or had some connection with the place where he was working. And he did know Bowen; in fact, on the night that he was in Wichita Falls before he went to Vernon, Texas he took Bowen several blocks in his car, just to give him a lift. Apparently there was no contact and that they didn't run around together and he doesn't know how much Bowen knew of his activities or anything of that kind; but they weren't buddies . . . and. . . but it was just rather significant that Bowen was in his car that night about seven o'clock, before he left for Vernon.

And when he left for Vernon, he went there for the sole purpose of trying to get rid of some of this whiskey, this three hundred cases of whiskey, that had been stolen from the warehouse. And he said that he didn't carry a lot of it but he'd taken along some samples and that he drove up to Vernon and made some contacts in Vernon, trying to get rid of that whiskey. And he also made some contact stops on the way back. He also said that he had picked up a couple of hitchhikers on this ride up to Vernon but he hadn't taken them up there for the purpose of collecting money for them nor anything of the kind; that they were merely hitchhikers that he'd picked up and given a lift.

Now, we went over his story as to why he stopped where he did when the officers stopped to check him out, and he said he'd been having some trouble, the lights had been flickering on his car and that he had bent down under the dash and was horsing with the wires under the dash and when he raised up, here these two officers were standing beside the car; that there was supposed to be three of them but he only saw two of them and he never did see the third officer. But that was the reason why he stopped where he did and that was when the police checked him out.

Now, we went into his own personal drinking habits and both he and his wife state, and I believe it's very true, that he never was a heavy drinker at any time and so that drinking was no problem as far as he was concerned. So I don't think that'll have any bearing in this particular matter.

We went over some detail with him as to just how much his wife had known about his activities and he told us that she knew practically nothing, either about the bootlegging, and she knew nothing about his extramarital sexual activities. And he said one of his main worries had been that she would find out because if she ever found out about his outside activities she'd divorce him in a minute and he was apparently quite worried about that. We explained to him that we had no intention of passing this information on to his wife but that we did have to have every detail of his previous activities if we were to do a good job and give him . . . and have the polygraph test give him the protection that he wanted.

Of course after this preliminary interview it was quite obvious to us that he's not any angel. As he said, there's not much that he hasn't done and he doesn't claim to be any angel or anything of the kind. But that he did not commit this particular offense.

And following this interview (which LeMoyne has told you lasted for an hour and a half or so) I broke it up deliberately to e the preliminary interview and told him to go and have his lunch and think careful if there's anything at all in his entire career that he had deliberately withheld or was still concealing from us; and if there was we wanted him to disclose it before we started with the polygraph tests. And of course the lunch break also gave him a rest period so that he would be in better physical condition and there wouldn't possible fatigue as a result of the interview and then going right into a polygraph test.

We returned and after lunch at about one-thirty we went up to the third floor where we had one of the rooms in the hospital on this third floor. Dr. Baker accompanied us and was present at all times and I prepared the questions and went over them carefully and asked Dr. Baker if he had any suggestions to make after the questions had been prepared and if he felt that they covered the matter comprehensively and satisfactorily, and he said he was sure they did. So then of course I went into this series of polygraph tests. I was very careful to establish good normal patterns for him, both when no questions were being asked, and then went through a series of irrelevant questions to get any pattern or apprehensive pattern, as we call it, that might reflect any nervous tensions he might have. And then continued with tests which contain the pertinent questions as to whether or not he had been telling the truth, whether he had been in Oklahoma at any time on April 27th or 28th, 1946, and, in fact, I think it might be a good idea for me to read you the list of questions that were asked. I don't know as it will make a great deal of difference but it should give you some idea.

Now I'm not going to put in here irrelevant questions that were used, but these were the pertinent questions that were asked:

1. Do you know of your own knowledge who was with Foster Bowen on the night of Saturday, April 27th or April 28th...or Sunday, April 28th, 1946 when this crime was committed?
2. Were you in the State of Oklahoma at any time on Saturday, April 27th or Sunday, April 28th, 1946?
3. Did you see Retha McCauley at any time on Saturday, April 27th or Sunday, April 28th, 1946?
4. Did you ever in your life have any kind of sexual relations with Retha McCauley?
5. Have you deliberately lied at any time during this interview or these tests today?
6. Are you now deliberately withholding or concealing any information about your activities previous to this crime?
7. Are you deliberately withholding or concealing any information that would have any bearing on this particular case?

On some other tests I made up another list that we were using some artificial stimuli to get patterns to indicate that he was capable of reacting and these pertinent questions were also asked.

1. (the question is repeated) Were you in the State of Oklahoma at any time on April 27th or 28th, 1946?
2. Was Retha McCauley with you in a car at any time on April 27th or 28th, 1946?
3. (and repeated) Did you ever have sexual relations with Retha McCauley?

Now, on this test there was one rather unusual situation that I still don't quite understand. I used it for the purpose of trying to get a reaction from him and I asked him the question: Would you like to get even with Bowen for testifying against you? And he said, "No," and strange as it may seem, it didn't cause him any serious disturbance.

We discussed that with Dr. Baker and he seems to feel that that goes along pretty well with Bowling's pattern. And he was also asked: Have you deliberately complained of fake ailments? Since you have been here in the Penitentiary? And that seems to cause him a little disturbance because he's been a chronic complainer of various types of ailments and they haven't been at all sure that they were all justified. Dr. went into some detail... Dr. Baker did... with LeMoyné explaining his mental problems, that he keeps pretty much to himself and he feels that there's a tendency toward schizophrenia and perhaps a little paranoia, but that probably this is based on the fact that he is serving time for something that he didn't do and he doesn't feel that it should affect his normal reactions in any way.

In fact, before the test was started I asked Dr. Baker right out, I said, asked him if, in his opinion, this man was mentally and physically capable of responding in a normal manner to a polygraph test and he said he didn't think there was anything wrong with him either mentally or physically that would interfere with a test of this kind.

There were a number of other questions asked that we went into after discussing it with Dr. Baker and that is regarding his ever having committed any abnormal sex act, both in and out of the penitentiary. And there's no indication that he's indulged in any abnormal sexual activity. He was also asked the question, Had he violated any prison rules and regulations that the authorities didn't know about and strangely enough this is the one question that disturbed him probably more than any other question that was asked. And it gave us a pretty good control and showed us that he was capable of responding.

Now, following the series of tests, we went over the charts carefully and showed them to Dr. Baker and before we finished with him we asked Dr. Baker if he had any suggestions or ideas as to other questions that might be asked and he said he thought it had been covered completely and satisfactorily.

Now, in this discussion with Dr. Baker after the tests were completed, of course he did not commit himself and say that he thought Bowling was telling the truth or that the charts proved he was telling the truth, and we didn't tell Bowling the results of

the tests when we got through. We left that up to the doctor and the doctor said that Bowling would be after him the next morning to find out the result, because we had told Bowling that we had to study the charts before forming any opinion and of course we wanted to discuss it with Dr. Baker before we did render any opinion. And one thing Dr. Baker would tell him the next morning, that there certainly was nothing in the charts to contradict in any way the statements that he had already made as far as this particular case was concerned. In other words, it fits right down the line with the wire that we sent, that there were no indications of guilty knowledge and no indications of deception as far as this case were concerned.

Well, Erie, I think that covers my phase of this case pretty well and all I can say is that he's not nearly as nice a boy as I had in mind when I went down there but at the same time he's still an individual who is serving a life sentence for a crime that he didn't commit. At the same time there is no question but what he would have ended up eventually at the rate he was going in his illegal activities -- it couldn't have lasted too long.

But that has no bearing on this particular case. So I'm going to turn this back to LeMoyne and if there's anything that I've left out he'll pick it up or if you have any questions you want to ask, why let me know. So long for now, Alex.

This is LeMoyne again and I think Alex has covered everything in very good shape. Just in finishing up there is one little thought that comes to my mind and that is that Bowling is thoroughly convinced that his lawyer simply threw him to the wolves at the time of his trial. Now, as was mentioned before in this disk, this lawyer, only a short time previously had defended him on this rape charge. When the Grand Jury refused to indict him for rape, and as Alex said, he had full intentions of having relations with this girl on the occasion that he was charged that he did but for some reason time was cut short and he just didn't get around to it.

Apparently, as Bowling told us, in interviews with this lawyer prior to his trial, the one question which Bowling wanted to avoid was the reason for his trip to Vernon, Texas and he discussed with the lawyer that if that question was ever asked him when he was on the stand, by all means to object or create some situation so he wouldn't have to answer it. But when he took the stand he said about the first question that his lawyer asked him, his own lawyer, was, what was the reason for your trip to Vernon, Texas? And he realized immediately that his lawyer was simply selling him down the river. He made up some sort of an answer that he had gone down to get some window frames in connection with a house that he was working on, or something to that effect. But he was convinced immediately that he'd been sold down the river.

Well, that's just one little interesting highlight on the thing. But, as Alex has pointed out, this case is like so many that we get into, he's not guilty of this crime that he's serving time for but on the other hand he was guilty of armed robbery, burglary, bootlegging, rape -- statutory rape, at least -- and a whole lot of other crimes which he had not only committed but was committing repeatedly at the time that he was charged on this particular offense. If he hadn't gone down to Vernon, Texas that night to do a little bootlegging he never would have been stopped by the officers down there. I don't know, maybe that's what saved him.

However, I think that Alex, and I'm sure that I am, completely convinced that Bowling completely bared his soul, not only with respect to this affair but everything else that he had ever been involved in. He said he'd been arrested five times; the first time when he was seventeen years old and convicted of burglary and given a suspended sentence. He states he was guilty of that and the other offenses which stretched along through the years from that time were for various other depredations, I don't recall them all, but they were serious offenses. On the other hand, not crimes of violence. We didn't try to press him too closely on the details of these various other things. My recollection is that he had served short periods of time on one or two of them; by that I mean, thirty days in jail or sixty days or something of that sort.

But at any rate, this fellow is no stranger to the law or being arrested or anything of that sort, before this thing turned up.

In discussing this matter with the Warden after we were all finished we were just talking generally about such things as this, and I mentioned to the Warden that while Bowling was no rosy character, on the other hand the attitude that some people had that just because he hadn't been a pillar of the church or a pillar of the community, on the other hand the fact that he was serving a life sentence for a crime that was committed by another man who was free, still wasn't justice. To which the Warden agreed completely and we left on very friendly terms and he seemed to be very happy that there had been no publicity whatever in connection with this thing, at least on the local level or in the local papers, and I think, Erle, that one piece of good is going to come out of this at least, and I don't mean it's the only good that's going to come out of it, but I think that we are going to be able to get into Federal prisons from now on when there's a good occasion to do it. At least I don't see what conceivable objection Bennett or any of the rest of them can have on the way this particular interview and examination was conducted and I'm quite sure the Warden feels the same.

Well, that's about all there is to it, Erle, and I'll be back in ten days or so and will see you and anything else that you have in mind I can discuss with you at that time. So we'll sign off here and get this into the mail so that you'll have it in a day or so.

So long for now, Erle.

LEMMY

November 5, 1959

Hon. Chal Wheeler  
Norman & Wheeler  
Attorneys at Law  
Fourth & Boston Streets  
Muskogee, Oklahoma

Dear Chal:

There is one point on which I would like to check. Regardless of the name of the firm who represented Bowling, did the same individual represent him in the rape case before the Grand Jury that represented him in the Retha McCawley case?

This is just a hurried note.

Hastily yours,

ESG/mc

C  
O  
P  
Y

November 5, 1959

Mr. Alex Lee Gregory  
14418 Penrod Road  
Detroit 23, Michigan

Dear Alex:

Right at the moment I can't put my finger on the facts, but it is my recollection that the attorney, E. D. West, who represented Bowling at the trial on the rape case was not the same attorney who represented him in the statutory rape case. I had the impression that either there was a partnership or, in some way, a different individual handled the rape case for Bowling. I am only writing you this letter and sending a copy to Park Street and Marsh Houts so that they can check.

I am also enclosing copy of a letter to Chal Wheeler.

Congratulations on the job you did on the polygraph with Bowling!

Hastily yours,

ESG/mc  
Encl.

C  
O  
P  
Y

November 5, 1959

Hon. Park Street  
Attorney at Law  
800 NBC Building  
San Antonio 5, Texas

Dear Park:

Just a hurried note.

Can you check with your investigator and find out if the person who represented Bowling in the rape case at the time of the Grand Jury investigation was the same individual who represented him in the Retha McCawley case?

It is my opinion that he was not. As I remember it, your investigator called me on the phone, and at that time the individual who represented Bowling when the rape case was before the Grand Jury talked to me on the phone. -- I know that I talked to him somewhere and discussed the case with him or else I have some letters on the case, but I can't clarify my recollection.

Hurriedly yours,

ESG/mc  
Encl.

C  
O  
P  
Y

COPY

TELEGRAM

November 9, 1959

Hon. Reed Cozart  
Pardon Attorney  
Department of Justice  
Office of the Pardon Attorney  
Washington, D. C.

RELET BOWLING AM NOW COMPLETELY CONVINCED BOWLING INNOCENT  
OF CRIME FOR WHICH CONVICTED BUT MY PERSONAL INCLINATION AFTER  
CONSIDERING HIS RECORD IS TO ASK FOR COMMUTATION OF SENTENCE  
SO HE CAN BE RELEASED ON PAROLE AND KEPT UNDER SUPERVISION  
UNTIL HE MAKES READJUSTMENT. AM AWARE THIS PROBABLY IN CON-  
FLICT WITH WISHES OF BOWLING'S COUNSEL BUT IT IS MY PERSONAL  
FEELING IN MATTER STOP ON DUKE CASE AM TO DISCUSS MATTER  
PERSONALLY WITH JUDGE TOLIN AND HOPE TO HAVE JUDGE CARTER  
PRESENT. WILL KEEP YOU POSTED.

REGARDS,

ERLE STANLEY GARDNER

COPY

November 5, 1959

MEMORANDUM

TO: Messrs. James V. Bennett, Reed Cozart, J. St. Clair Favrot, Alex Gregory, Rex Hawks, J. Edgar Hoover, Marshall Houts, Gene Lowall, Frank D. McSherry, Granville Scanland, Edward S. Silver, LeMoyne Snyder, Harry Steeger, Park Street, Chal Wheeler, Andrew Wilcoxon

FROM: Erle Stanley Gardner

As a veteran lawyer with some courtroom experience, as an investigator who has tried to unscramble a few cases after an individual has been convicted, I have always appreciated the limitations of trying to probe the mind of another and trying to establish the true facts. It is, therefore, always a pleasure to watch a really expert polygraph examiner at work.

I regard Alex Lee Gregory as one of the best in the business. Experts in the field may say that my opinion is founded on a somewhat limited experience. However, Dr. LeMoyne Snyder, who is himself a past-president of the Academy for Scientific Interrogation, who is not a polygraph examiner but who has made a deep study of the subject and has been present at innumerable polygraph examinations, tells me that he regards Gregory as tops.

In my opinion, the success or failure of a polygraph examination depends quite largely on the extent to which the examiner wins the confidence of the subject and the manner in which he prepares the subject. If the subject feels that it is inevitable that the truth, whatever it is, will come out, if he feels confidence in the integrity and fairness of the examiner, he will quite frequently confess his guilt before the actual test is made.

Unless the examiner has a thorough knowledge of his subject and a background of experience, a large percentage of his examinations will be "inconclusive." To the extent that he develops more confidence and more practical experience, the percentage of inconclusive examinations shrinks away to virtually nothing.

A good examiner tries to get the confidence of the man he is going to examine, then explains to him that if, in the back of the subject's mind, there are any sub-conscious fears, those fears will cause tensions during some portion of the

examination and will register on the machine and may impair the test. To the extent that he is reasonable and logical in his approach, to the extent that he is sincere and honest, he begins to win the confidence of the subject.

Once he has won the confidence of the subject, the subject begins to explain to him the things in his life which may cause tension under questioning. And once he starts confessing to the examiner it is easy to go just a step farther and then again another step farther.

If the examiner is understanding, if he has had a broad enough experience with human nature to understand human weaknesses and temptations, the subject will gradually start pouring out his problems.

Men who have violated the law, particularly in moments of weakness or intoxication, start rationalizing with themselves and eventually reach a point where they have a real yearning to be understood by their fellow men and get the bad part of it off their chest.

I make these observations because of my knowledge of the cases where Gregory has been called in after hours and days of police interrogation have failed, where a subject is defiantly contending that he is innocent of the crime charged but where, within an hour or two, or perhaps even within the first thirty minutes, he has made a detailed confession to Gregory without ever having been examined on the polygraph.

Gregory used this technique with Marion Bowling. Before Bowling was ever put on the polygraph, Gregory knew all about his life, his weaknesses and his sins. By the time Bowling was put on the polygraph he had told so much that there was nothing else to confess, and, as a result, he was free from tensions and was able to give such a conclusive test that Gregory and Snyder are both completely convinced of his innocence of the crime of rape-kidnapping for which he was convicted. They are also convinced that there can be no doubt Bowling was the man who was stopped by the officers in Vernon, Texas and that this was on the Saturday night when Bowen and his companion were at the dance in Oklahoma.

I hesitate to start any dissertation on the technique of polygraph examination, but I think it is safe to say generally that most expert examiners try to find some question on which a man is going to lie. They want to get his pattern of answering questions truthfully and his pattern of telling a falsehood. Quite frequently, these control questions can be found in the field of sexual behavior; sometimes it is only enough to hint that the examiner is going to

ask questions of an embarrassing personal nature in order to bring about sufficient reactions so the examiner can determine the subject's pattern.

I know that in one examination which I witnessed (an examination made by a person other than Gregory) the subject was asked whether he had ever taken dope. He admitted that he had. He was then asked if he had ever had dope since he had been in prison. The subject lied and the question made a good control question until the subject, who had evidently decided to come clean all the way through (and who, incidentally, was innocent of the crime for which he had been convicted) suddenly changed his answer and blurted out that he had had dope in prison.

With Marion Bowling, the question which caused the most disturbance and which gave a good pattern for the examiner was whether he had violated the rules and regulations of the prison.

Gregory and Snyder did not follow this up. They were interested only in determining Bowling's guilt or innocence of the crime charged.

I mention this point because, in view of the co-operation we have received from the Government in connection with this test, I feel we should put all the cards on the table.

Dr. James Baker was, I understand, present at all times and Gregory and Dr. Snyder never interviewed Bowling except in the presence of Dr. Baker.

As is so frequently the case, the examination showed that Bowling was, in many respects, unworthy of the loyal devotion of his wife. However, in all probability, adequate polygraph examinations would indicate that about ninety-five percent of the men who are married to loyal, devoted wives are not entirely worthy of the trust and confidence placed in them by their wives.

I am not going to touch upon this point because I feel that it is highly desirable, under the present status of the case, to have the marriage preserved. It is my personal opinion that Bowling has learned a lesson the hard way.

Because I have a curiosity in the case and feel that it might well be significant as an investigative problem, I would like to have Gregory and Snyder examine both Bowen and Retha McCawley. However, this quite apparently is out of the question and, for our purposes, is entirely

unnecessary.

Marion Bowling is no angel. He was, however, in Vernon, Texas at the time Bowen and Bowen's companion were at the County Line Dance Hall near Duncan, Oklahoma. Bowling was home probably around two o'clock on the Sunday morning, at a time when Bowen and his companion had picked up Retha McCawley. Marion Bowling was unquestionably home before daylight. Mrs. Bowling is completely sincere and truthful and has never, in any way, suppressed or falsified any evidence which would be of value in determining the case.

Of course, as attorneys we can realize that if there had been adequate cross-examination the case would probably have fallen apart in the courtroom. It is, nevertheless, disturbing to think that an innocent man can be convicted of a crime he did not commit and spend twelve years of his life in prison.

We have tried to co-operate with the authorities in this case and we certainly appreciate the extent to which the various authorities have co-operated with us.

ERLE STANLEY GARDNER

ESG/mc

November 10, 1959

Hon. William B. McKesson  
District Attorney of Los Angeles County  
600 Hall of Justice  
Los Angeles 12, California

Dear Bill:

I am tremendously interested in the part of your letter of November 5th which indicates you are standing at the crossroads wondering whether to run for re-election in 1960, or to "take on the job of spearheading the movement" which my associates in the Court of Last Resort and I have carried forward. I would like to discuss this matter with you sometime when we can both draw a long breath. It is a little too complicated to discuss in a letter, but I am now working on the following general idea:-

1. Park Street will incorporate a non-profit organization in Texas along the lines outlined in the pamphlet, "Just Justice".
2. The original incorporators would be the members of the Court of Last Resort, but this would be merely for the purpose of getting the thing underway without having all of the various differences of opinion which would result from trying to get a large group to reach an agreement. It would, moreover, prevent persons who are interested, but who couldn't attend the meeting in Texas, from feeling they had been discriminated against.
3. For a period of ninety days after incorporation any person interested would be permitted to join as a charter member. Thereafter his certificate of membership would show that he was a charter member of the organization and this characterization would be carried forward during the life of his membership.

C  
O  
P  
Y

November 10, 1959

4. There would be no dues for a period of ninety days. After ninety days charter members would start paying the same dues as regular members, and all persons applying for membership after ninety days would be regular members at reasonable dues, such as five dollars a year.

5. There would also be a sustaining membership at a hundred dollars or more per year.

6. The Court of Last Resort has, in my opinion, somewhat overemphasized the problem of the innocent person who is wrongfully convicted. This corporation would cover the entire field of justice and in particular would be designed to improve obedience to law and respect for law, but it would work on a hardheaded business basis and not get trapped within a circle of generalities where it had no specific interim objectives. (Some people, intending to climb a mountain, simply think of how nice it would be to reach the top. The professional mountain climber, who actually gets up the mountain, maps out each step of the ascent.)

It would be very easy to get bogged down in banal generalities. People aren't going to respect law and obey law unless the importance of so doing is brought home to them.

You have a lot of friends, a lot of influence, and a background which would be of great value in reaching the desired objectives, and it just might be that you would find something of this sort would be a crowning achievement.

I am probably going to be making a tape on the Paul Coates' program tomorrow night. I don't know whether they plan to put it on the same night or later on.

I am glad you're taking an interest in this Verlie Brunson case. This is a case where it would seem that the facts are pretty well established. Give me a few cases where prosecutors show their eagerness to correct miscarriages of justice and I'll show you an improvement in your public relations that will be astounding.

I just don't think prosecutors generally realize how much they do need to improve their public relations, or how much good would be accomplished in the whole field of law enforcement if they would make such improvement.

With all good wishes,

Yours,

ESG:hr

C  
O  
P  
Y

November 10, 1959

Hon. James V. Bennett, Director  
Bureau of Prisons  
Department of Justice  
Washington 25, D. C.

Dear Jim:

I was mighty glad to get your letter of November 4th with a copy of Dr. Baker's report, but I am in quite a spot when you suggest that my retyped letter be published because that letter would be subject to two major criticisms. One of them is that I am trying to pose as an expert without sufficient background or knowledge and the second is that this letter might impair the efficiency of polygraph examinations if potential subjects realized the importance of getting the proper mental attitude on the part of the subject prior to starting the examination.

This is one of the reasons that I have such tremendous confidence in Alex Gregory. I think the way in which he works with a subject makes the subject a push-over when he is actually hooked on to the machine.

It's hard to tell just how important this is, but on Page 76 of the Second Edition of Fred E. Inbau's "Lie Detection and Criminal Interrogation" there are two graphs. One of them is that of a burglar who felt that the test was simply a bluff and therefore had no fear of the questions or of the examination. The result was that, even though guilty, he ran a perfect record of innocence. However, due to certain circumstantial evidence, the examiner, acting purely on a hunch, bluffed him into making a confession which was verified by the discovery of the stolen property.

The second case indicates a pattern of a sex pervert who would have escaped detection entirely if it hadn't been for conscientious police work which resulted in a confession that was verified by the finding of the body.

C  
O  
P  
Y

Hon. James V. Bennett

2.

November 10, 1959

On Page 21 of the same book there is a graph in which apparently a guilty person would have been declared innocent if it hadn't been for a peculiar rhythm in the breathing twenty seconds after his answer to a pertinent question. I believe that some examiners ask questions at ten-second intervals.

In this same book by Inbau, on Page 11 he suggests a lapse of time of fifteen to twenty seconds.

This book was subsequently expanded into a third edition in which John E. Reid, the noted polygraph examiner, joined as an author.

I have not carefully checked the later edition to see if these same graphs appear.

My letter to you in which I gave you my opinion of the polygraph was marked Personal and Confidential because I didn't send a copy to my associates in the Court of Last Resort, and particularly to Dr. Snyder and Alex Gregory. Since you were playing so fair with us and because I felt you were becoming keenly interested in the progress of the case and, in particular, in the polygraph examination, I wanted you to have my frank, personal appraisal before the test was made and before the outcome was known.

Some years ago I was honored by being elected to life membership in the Academy for Scientific Interrogation. I would dislike to have anything published over my name that would perhaps antagonize a large segment of the members of this organization and yet I can appreciate your desire to have some accurate appraisal so that persons associated with you can know a little more about the polygraph.

Incidentally, at the bottom of Page 2 of the retyped letter, the first sentence in the last paragraph should read: "There is no question but what this has led on numerous occasions to findings by the less experienced polygraph examiners that a guilty person is innocent because he may have reacted to a control question yet failed to react to significant questions concerning the crime."

However, Jim, I don't think there is much need to discuss this further because quite apparently what you are interested in is getting an accurate, factual appraisal of the polygraph; not necessarily from the viewpoint of the expert examiner but from the viewpoint of a man whose official responsibilities make it necessary for him to detect deception from time to time.

Therefore, why not arrange to have material sent directly to you and then let you prepare a report, giving a summary of the opinions sent in from various individuals; and, on the strength of that report, determine the policy to be used

C  
O  
P  
Y

Hon. James V. Bennett

3.

November 10, 1959

in connection with polygraph examinations in the Federal prisons (starting out with the premise that polygraph examinations would be permitted only in exceptional cases and that the weight to be given reports would depend on the circumstances of the case, the appraisal of the warden as to the manner in which the test was conducted, etc., etc.). I am mentioning these hurriedly by way of offhand suggestion. You would want to work them out carefully after you had all the data at hand. I think I could arrange to put you in contact with sources from which data could be obtained.

I am sending copy of this letter to Alex Gregory and Dr. LeMoyne Snyder and asking them to write you frankly, giving their personal opinions.

Inspector Riedel of the Berkeley Police has, I believe, retired. He was the man who was most emphatic in his statement that persons who made their living by the polygraph were prone to rationalize some of the problems involved.

Unless there is some personal reason why you don't want to do this, an appraisal by you of the entire situation would be of the greatest value in law enforcement and in the field of crime investigation.

There are, of course, differences of opinion among the really competent experts. I have a feeling that Fred Inbau thinks that Alex Gregory wastes altogether too much time with a subject and perhaps makes too many tests. On the other hand, Dr. Snyder tells me Gregory is head and shoulders above most of the experts in the field. I personally know this: That a great deal depends on the manner in which a subject is prepared, and I know from actual experience the conscientious attention to detail given by Gregory in this respect.

As I remember it, Inbau made the suggestion that after a man had been convicted and incarcerated it was very difficult to get an accurate chart and he was quite apt to run a chart indicating innocence when he was actually guilty.

I know that Gregory and Snyder have had repeated experiences with the Court of Last Resort where men, after many years of imprisonment, have reacted on the polygraph and shown unmistakable indications of guilt. In fact, I think Gregory feels that if the subject is properly prepared in advance he can reach an accurate determination with the polygraph regardless of how long the man has been in prison.

If you would like to go into this a little more I think I can get you a letter from Dr. Condon in Phoenix, Arizona about the case of the innocent man who registered guilt, and I feel quite certain Chick Hanscom in Minneapolis would like to write you about his general ideas and, in particular, about two or three

C  
O  
P  
Y

Hon. James V. Bennett

4.

November 10, 1959

specific cases which I know he has handled and which I would call to his attention.

You would then have virtually all of my source material at your command and you could handle it any way you wanted to; either a memorandum to your wardens or a paper to be read at some particular meeting and thereafter published.

If, on the other hand, you want to handle it as you suggested in your letter of November 4th, let me get a little more data and perhaps rephrase some of the conclusions therein so that they will not arouse too much antagonism. (For instance, in place of making it my own conclusion that there should be an evaluation of the polygraph by persons who don't use it as a means of livelihood, I would try to get authority to quote Inspector Riedel on that point.)

In the meantime, Dr. Snyder and Alex Gregory know far more about the subject than I do and I am asking them to give you their views.

I personally feel there are times when you will want to use the polygraph and I feel that a great deal of good can be accomplished by having some person in an official capacity such as yours make a general survey of the field in order to submit a disinterested report to persons engaged in investigative work and, in particular, in the field of penology.

I'm tremendously interested in this whole thing because I think it is highly important.

With all best wishes,

Yours,

ESG/mc

C  
O  
P  
Y



ERLE STANLEY GARDNER  
RANCHO DEL PAISANO  
*Temecula, California*

November 10, 1959

MEMORANDUM

TO: Messrs. Alex Gregory and LeMoyne Snyder

FROM: Erle Stanley Gardner

Apparently we have started something which may turn out to be of considerable benefit and again it may prove embarrassing.

As you folks undoubtedly realize, I have been becoming increasingly friendly with Jim Bennett.

Acting on a hunch, I sent Bennett a letter which I marked Personal and Confidential in which I gave him my personal opinion of the polygraph. I felt that he would accept my good faith in the matter and that it was quite possible this attempt at a fair appraisal, as nearly as I could give it, would loosen up the tensions which have undoubtedly existed as far as polygraph work is concerned in the Federal prisons.

The thing worked too well. I have now received a letter from Jim Bennett, copy of which is enclosed.

This puts me way out on the end of a limb and I am writing Jim, according to copy enclosed.

All of this correspondence should be studied carefully.

Incidentally, you folks would probably be interested in a copy of the confidential report which went to Jim Bennett from Dr. Baker regarding your appearance there in Leavenworth, and I am enclosing a copy of that report, which was

Memorandum

2.

November 10, 1959

forwarded me by Jim Bennett.

I am also enclosing copy of a letter from Reed Cozart and a copy of a confidential telegram which I sent him.

I have a feeling that in the ultimate analysis this Bowling case will open up channels of co-operation which have heretofore been closed or clogged.

All this correspondence should be kept highly confidential because, as you can see, we are working in an area of extreme delicacy but, I feel, are making progress.

ERLE STANLEY GARDNER

ESG/mc

Encl. -

Copy of letter from ESG to Jim Bennett, dated November 10, 1959

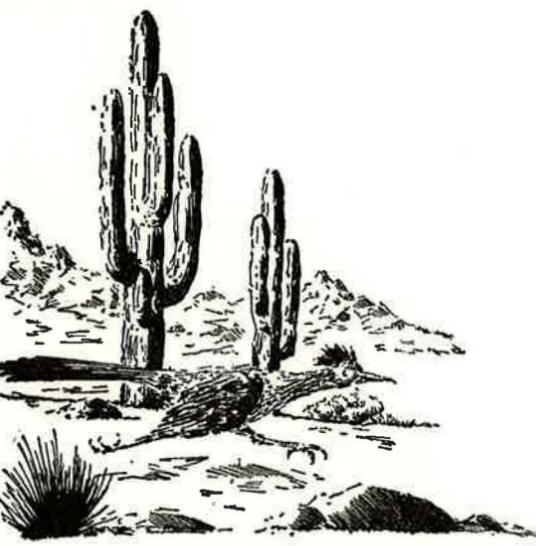
Copy of letter from ESG to Jim Bennett, dated October 28, 1959

Copy of Dr. J. L. Baker report

Copy of letter from Reed Cozart to ESG, dated November 5, 1959

Copy of telegram from ESG to Reed Cozart, dated November 9, 1959

C  
O  
P  
Y



ERLE STANLEY GARDNER  
RANCHO DEL PAISANO  
*Temecula, California*

November 10, 1959

LeMoyne Snyder, Esq.  
325 Valley View Drive  
Paradise, California

Dear LeMoyne:

This is a confidential letter. I am not sending a copy to anyone, although I am writing Gregory a somewhat similar letter.

I think this is one of the best opportunities we will ever have to improve the administration of justice, to cement friendly relations for the Court of Last Resort and to impress law enforcement officers with our sincerity.

I think it would be of enormous personal benefit to you to follow up on this.

Hurriedly yours,



ESG/mc

will with appropriate results and will be an important  
contribution with the November 30, 1959. The purpose of these  
examinations will be to determine if the person has been  
I have never heard of a polygraph before and of course  
believe to have independence to conduct the entire procedure.  
After the occasional results are checked as one of the  
successes of the polygraph procedure is that the person  
understand the case and the entire combination of the  
facts of evidence that comes before the court. It is to  
Honor James V. Bennett, Director, Bureau of Prisons  
Bureau of Prisons and experienced examiner for the  
United States Department of Justice, demonstrated that when  
Washington 25, D.C. the same as all of the other part of the  
Bureau of Prisons procedure. This procedure was the  
Dear Mr. Bennett, in the results of the poly-

graph for some reason the court and the entire  
About a month ago I was with Alex Gregory when  
he conducted a polygraph examination on Marion I. Bowling  
in the prison at Leavenworth. The previous evening a sim-  
ilar test was conducted on Mrs. Bowling in the Muehlebach  
Hotel in Kansas City. The results of these tests have been  
forwarded to you. Because the person's independence and  
test --- the results of the polygraph of a person

For more than twenty-five years I have been  
closely associated with the development of the polygraph  
and the technique of interrogation. In fact in 1934 I  
purchased for the Michigan State Police the first polygraph  
sold commercially in this country. The person of a person  
proceeds to the person's independence on occasion  
been given. The polygraph is simply a piece of diagnostic  
equipment which is founded on sound physiological and psycho-  
logical principles which have endured the test of time. In  
this respect the polygraph is in exactly the same position  
as are blood tests, x-rays, the microscope, the electro-  
cardiograph and dozens of other devices in daily use by  
doctors and scientists throughout the world. The instrument  
faithfully records on a moving strip of paper changes in  
blood pressure, pulse rate, depth and rhythm of breathing  
and changes in the resistance of the skin to the transfer of  
an electric current. Any person of average intelligence  
could easily be taught how to apply the instrument, make the  
necessary adjustments and get a suitable recording just as  
he can be taught how to take an x-ray plate, make a blood  
count or adjust the focus of a microscope.

The entire crux of all diagnostic devices lies in  
the interpretation of the findings. A microscope by itself  
cannot diagnose cancer in a thin piece of tissue on a glass  
slide nor can a polygraph tell when a person is lying or  
Hon. James A. Bennett - JJ-30-22 - BRS S.

Hon. James V. Bennett - 11-30-'59 - page 2.

telling less than the whole truth. In the interpretation of results of scientific tests there is required an enormous amount of background in the form of training, experience, complete honesty and a thorough knowledge of all of the pitfalls and sources of error which may be encountered in making a diagnosis of various infectious diseases. In the interpretation of the skin for the diagnosis of syphilis, for example, no scientific test or procedure which does not contain sources of error. For one thing there are always borderline situations where the best trained and most eminently qualified scientist may be uncertain about the interpretation of his findings. Frequently I have seen pathologists with years of training uncertain and confused as to whether or not the arrangement of a few cells under the microscope is really cancer. Healthy persons have been diagnosed as syphilitic on the basis of a positive blood test. Highly trained roentgenologists on occasion are completely misled in the interpretation of shadows they see on an x-ray film. There is no end of illustrations of this important truth.

Doctors and scientists generally recognize this fact --- are always aware of the possibility of a mistake but in spite of it recognize the tremendous importance and usefulness of these diagnostic procedures. Courts in the United States are eager to accept evidence obtained as a result of such tests and at the present time an x-ray viewing box is a standard piece of courtroom equipment.

But for some reason the courts and the public generally demand infallibility in the results of the polygraph interrogation technique. This procedure has its sources of error the same as all of the others but over the past three decades it has been amply demonstrated that when conducted by a trained and experienced examiner the results of this technique are far more reliable than most other types of evidence that courts accept so eagerly. As is so frequently the case with anything comparatively new the successes of the polygraph technique receive scant attention while the occasional failures are played up out of all proportion to their importance to condemn the entire procedure. I have never owned a polygraph personally or conducted examinations with it. However I have been intimately associated with examiners on literally hundreds of cases, many with spectacular results and with few if any situations

where we were lead to believe an innocent man was guilty or a guilty man innocent as the result of these tests.

As the result of our interview and the subsequent test on Marion Bowling there is not the slightest question in my mind that he is innocent of the crime for which he is now incarcerated. This is not a borderline case.

In the present stage of the development of the polygraph I agree with Erle that we are not yet ready to allow unrestricted presentation of polygraph evidence in court. However within the last week I was a witness on a murder trial in the State of Washington where a complete disclosure of all findings by the polygraph technique was admitted in court without objection. At present we have no recognized standards by law for qualifying experts in this field. For that matter we do not have such standards for handwriting experts, firearms examiners and others in this general field either. But before too long the time will come when such standards will be set and accepted and when that time comes I see no reason why the results of polygraph examinations should not be accepted in court the same as any other type of scientific evidence.

Very truly yours,

LMS/vs

CC to Erle Stanley Gardner  
Alex Gregory

LeMoyne Snyder, M.D.

December 2, 1959

Hon. James V. Bennett, Director  
Bureau of Prisons  
United States Department of Justice  
Washington 25, D.C.

Dear Mr. Bennett:

I am taking the liberty of sending you a copy of my book HOMICIDE INVESTIGATION which I hope you will accept with my compliments.

One of the chapters is on the technique of scientific interrogation written by Alex Gregory who conducted the test on Bowling. I think it may help to give you a more complete picture of the whole problem of the search for truth.

Sincerely yours,

IMS/vs

LeMoyne Snyder, M.D.

CC to Erle Stanley Gardner

JAMES V. BENNETT  
DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE  
BUREAU OF PRISONS  
WASHINGTON 25

December 11, 1959

Dr. LeMoyne Snyder  
325 Valley View Drive  
Paradise, California

Dear Dr. Snyder:

I have your letters of November 30 and December 2 and the copy of your book that you so thoughtfully sent me. As Erle has told you, I am personally very much interested in this matter of polygraph examination. I want to develop a policy on its use that will be fair to the inmates of our institutions and an accurate guide to us in weighing the advisability of permitting polygraph examinations in exceptional cases.

I certainly appreciate your kind assistance, and after I have collected and organized enough material on the subject, I may wish to write you again concerning any questions that may occur to me.

With best wishes for an enjoyable holiday season,

Sincerely,

  
Director

December 23, 1959

Erle Stanley Gardner, Esq.  
Rancho del Paisano  
Temecula, California

Dear Erle:

I have just received your bulletin about the Bowling case and it is just the sort of double talk that I anticipated we would get from Rogers. When he talks about the lapse of thirteen years casting a doubt about the reliability of the polygraph test he simply doesn't know what he is talking about. That juicy morsel was undoubtedly handed to him from someone from the F.B.I. and he is using it simply as a means of crawling out of this situation.

I don't know whether or not it is still possible to appeal the decision of the judge in Oklahoma and take this matter before the United States Circuit Court of Appeals.

At any rate I am ready and willing to put this matter before John Hannah and Frederick Mueller, Secretary of Commerce. The only question at the moment is what is the best way to do it. I expect to be back in East Lansing the latter part of February and would much prefer to lay the whole story before him personally rather than trying to do it by mail. Of course this whole pardoning business is not a matter of fixed government policy but is simply a matter of the whim of the Attorney General. You may recall that shortly after President Truman took office he pardoned several notorious Kansas City hoodlums who happened to be tied up with the Prendergast machine. In that case there was no question of their guilt and they had served only a short part of their minimum sentences.

I hope we can get together before long and talk this matter over and further I hope that when you write Rogers you don't pull any punches and let him have both barrels. If they think that the Bowling case has now been swept under the rug let them know that there is a shake-out coming that they will

ELIS 285UNJEL 0812UEL' Ead' - JS-53-122 - beke S'

December 23, 1959

Erle Stanley Gardner, Esq.  
Rancho del Palmar  
Temecula, California

Dear Erle:

I have just received your bulletin about the Bowling case and it is just the sort of double talk that I anticipated we would get from Rogers. When he talks about the lapse of thirteen years casting a doubt about the reliability of the photograph test he simply doesn't know what he is talking about. That juicy morsel was undoubtedly handed to him from someone from the F.B.I. and he is using it simply as a means of crawling out of this situation.

I don't know whether or not it is still possible to appeal the decision of the Judge in Oklahoma and take this matter before the United States Circuit Court of Appeals.

At any rate I am ready and willing to put this matter before John Hannah and Frederick Mueller, Secretary of Commerce. The only question at the moment is what is the best way to do it. I expect to be back in East Lansing the latter part of February and would much prefer to lay the whole matter before him personally rather than trying to do it by mail. Of course this whole pardon thing is a matter of fixed government policy but is simply a matter of the whim of the Attorney General. You may recall that shortly after President Truman took office he pardoned several notorious Kansas City hoodlums who happened to be up with the President's machine. In that case there was no question of their being pardoned. They had served only a short part of their minimum sentences. Best of holiday greetings to all of you at

some day be darned glad to forget. I hope that when you write Rogers you don't pull any punches and let him have both barrels. If they think that the Bowling case has now been swept under the rug let them know that there is a shake-out coming that they will

Erle Stanley Gardner, Esq. - 12-23-59 - Page 2.

January 8, 1960

Lt. Peter A. Betz  
Box 57, 923rd ACWRON  
APO 434, New York

Dear Lieutenant:

I have received your letter of December 27th inquiring about the possibilities in the field of Forensic Science.

It would seem to me that with the fine background you have in the field of Zoology that you could get ahead much more rapidly by pursuing that field than getting into something completely different. The field of Forensic Science is so completely different from what you have already been well trained in that I think your time could be much better spent towards getting a Masters in Zoology.

However if you are convinced that this is what you want to do I would suggest that you write to the Dept. of Police Administration of Michigan State University in East Lansing. They give courses in all the various lines of police science and I think they could inform you as to what would be necessary to qualify yourself.

Sincerely yours,

LMS/vs

LeMoyne Snyder, M.D.

Lt. PETER A. BETZ  
Box 57, 923rd ACWRON  
APO 434, New York

27 December 1959

Dr. LeMoyne Snyder  
P.O. Box 1125  
Paradise, California

Dear Sir:

I recently wrote to Mr. Erle Stanley Gardner in hope of obtaining advice on the field of Forensic Science, and his secretary, Hedy Roripaugh, suggested that you might be willing to help me.

I am a graduate of the University of Michigan, having obtained a B.S. in Zoology in 1957. Since then I have been in the Air Force, in the incongruous job of Radar Intercept Director in the Air Defense System. I have no desire to remain in this field or in the Air Force and am expecting to be released within a year. I am unmarried and twenty-four years old.

In addition, I am intensely interested in firearms. I am accumulating a fair collection of modern weapons and am studying up in preparation for collecting earlier cartridge arms. I also collect cartridges and have been making a serious study of ballistics and firearms development. All this has led to an interest in Forensic Ballistics and scientific crime detection in general, and I strongly desire to find employment in some type of law enforcement laboratory when I separate from the Air Force. Mr. Gardner's secretary tells me you are engaged in this field and if you could take the time to give me some advice along this line I would appreciate it very much.

My main questions are as follows:

Is my background suitable to qualify me for a

position in Forensic Science?

What type and degree of schooling, other than a medical degree, would be appropriate to improve my chances?

Where is the best place to start making inquiries for employment -- State Police? Cities in which I'm interested? Can you give me the names of any specific individuals to whom I ought to write?

I am especially interested in the Southwest, and am under the impression that facilities are scarce in that area. Is this true, and how can I find out where the various labs are?

Any other information you would care to give me would also be greatly appreciated, and I thank you for whatever assistance you can supply.

Sincerely,

A handwritten signature in dark ink, appearing to read "Peter A. Betz". The signature is stylized with a large, looped "P" and a cursive "Betz".

Peter A. Betz  
1st Lt, USAF

February 6, 1960

Erle Stanley Gardner, Esq.  
Rancho del Paisano  
Temecula, California

Dear Erle:

It was very nice to hear from you again and I think we are all anxious to hear about your trip and the events that took place.

Now about this Bowling case.

Speaking only for myself, I am perfectly willing to go back to Leavenworth at my own time and expense to assist in running a polygraph test on Bowen if there is the slightest prospect that it would do any good.

Respectfully,  
R.D.

BUT -----

It seems to me that there is little point in trying to get any further solid evidence in this case when every government official involved from Rogers, Cozart, Hoover et al to the judge who turned down Bowling's motion is not interested in knowing the facts of the case and is actually much more interested in concealing the facts of the case. The most unwelcome news to them would be that we had turned up the man who was with Bowen on that night and obtained from him a confession with solid supporting evidence. If we were able to get a satisfactory interrogation of Bowen and developed even further convincing evidence of Bowling's innocence we would then simply have the old wall again. "But the results of a polygraph test are not admissible in court."

After all at our own time and expense we are simply trying to do a job that the F.B.I. should have done a dozen years ago and it seems to me that before we go into this thing any further we are entitled to some forthright answers from Rogers and Cozart as to just what they demand in the way of further evidence to pardon Bowling and some assurance that if such evidence is produced they will keep faith with us and release him.

Now as to Bowen himself. Since he has formally requested an interrogation, before we make any attempt to get permission for such a test Bowen should give us some forthright answers now. I

Erle Stanley Gardner, Esq. - February 6, 1960 - page 2.

suggest that a series of questions be drawn up covering all the angles of the crime and that Bowen submit his answers to these questions in writing. On the basis of his answers we can then decide upon whether it is worthwhile to try to obtain permission for the test. If Bowen does supply us with answers there would then be a foundation of material on which to interrogate him.

This is the way the Bowling affair adds up in my estimation at the present time and I would be glad to have the opinion of the rest of you fellows about it.

I suggest we have our meeting in Chicago in the evening of Friday, March 4th.

All best,

END -----

LMS/vs

LeMoyne Snyder, M.D.

CC to: Henry Steeger

back to Park Street, Esq.

Alex L. Gregory

Marshall Houts, Esq.

FROM: ERLE STANLEY GARDNER

by:cc

IF YOU WOULD LIKE TO MEET WITH ME IN CHICAGO I WILL BE GLAD TO DO SO

DEAR ERLE:

THANK YOU FOR YOUR LETTER

YOURS TRULY

ERLE STANLEY GARDNER, Esq.

LEMOYNE S. SNYDER

COPY

From Foster L. Bowen

Date February 15, 1960

PMB 63980

To Erle Stanley Gardner

Temecula, California

Honorable Sir:

I have received your letter of February 3th. I am glad to hear you are interested in the case. Now I want to assure you I want the test and I am willing to cooperate with who ever you send here to work with me.

I am sure you realize the U.S. Attorney will get a copy of this letter before you get it. So I think it wise to send one of your investigation here to get the facts, and verify them before making them know to the U.S. Attorney.

And the facts will prove I was not where the McCauley woman swore she was held all night, and I am sure the records will show there was no tracks at the place she showed the Sheriff the same day.

The reason I was not afraid of being arrested in Ringold Texas at the bus station is that I had not committed no crime.

When I was arrested at the bus station and the Sheriff put me in his car, this McCauley woman turned around on the seat and look at me for some time, and then she told the Sheriff to watch me for I had some guns. But the fact is I never owned a gun in my life. She also told the Sheriff it happened about 10:30 P. M.

Ruth McCauley is the only person I know who could give you the name of my companion that night. I am sure she know him well.

Now I was robbed for one hundred and eighty dollars that night, the only money I had left the next day was a little change.

But the officials dont want to hear about this. Why?

Very truly yours,

/s/ Foster L. Bowen

COPY

COPY

COPY

From Foster L. Bowen  
P. M. B. 63980  
To Erle Stanley Gardner

March 6, 1960  
(Date)  
Rancho Del Paisano  
Temecula, California

Honorable Sir:

I want to thank you for what you are trying to do for me and a lot of others.

Now the truth is so simple there is no one who will believe it, they say I am lying about it, but I am not.

About the test the sooner I get it the better for I dont know any thing about the crime.

And another thing I dont lie to any one. My word is my bond here and out side too so you need not worry about that.

But I know some one is lying about it and I am sure I know who it is but I have no way to prove it, and I am sure you know to.

I am sure some of the records has been clutter up, but I know where we can get a true copy of at lest some of them.

Yes justice is something we could use a lot of but the way I see it we dont get much of it. Maybe I am bitter after so long a time with out it, I just dont know.

But I am ready for the test any time they get down here.

Very truly yours

(signed) Foster L. Bowen



ERLE STANLEY GARDNER  
RANCHO DEL PAISANO  
*Temecula, California*

March 26, 1960

MEMORANDUM

TO: Messrs. Gregory and Snyder

FROM: Erle Stanley Gardner

I have just listened to the record dictated by Alex on Monday, March 21st in which he states that he feels he should know what he is going to try to prove before he goes down to run Bowen on a lie detector.

We aren't trying to prove anything except our good faith and the efficacy of scientific interrogation.

We are committed to try and find the truth in this Bowling case. Bowen's story, whatever it may be, enters into it. If we don't take Bowen's statement, whatever it may be, and test it for truth, the feeling will be either that we are afraid to do so because we distrust the results we got with Bowling, or that we don't have enough confidence in a polygraph examination to let it be checked by a polygraph examination of another individual who has knowledge of the facts.

I don't know what Bowen's story is going to be.

There was a letter received during my absence from him in which he gave a somewhat sketchy statement to the effect that he was the victim rather than the aggressor. In talking with the warden over the telephone, I gathered a few more details. Unless I am mistaken, Bowen's story will be something like this: "I was very drunk. I was with someone but I don't know who he was. This man had a girl companion. That girl was Ruth McCawley. I had nearly two hundred dollars in my pocket. When I sobered up, I had been rolled. I was in a field outside of this small town in Texas. I got up from the grass where I had been lying; I felt terrible. I walked to the bus station. That is all I know. I do know that Retha McCawley was the girl who picked me up and I feel that she and her companion

March 26, 1960

rolled me of my money."

I doubt very much if this could be put off until such time as LeMoyne Snyder just happens to be back East on other matters, unless there is a May seminar and a definite date could be fixed in May -- in which event that date should be announced right now.

There is always the possibility that Bowen may change his mind.

We must remember to look at this from the viewpoint of the FBI and the Federal Prison Bureau, as well as the Attorney General's Office. From their viewpoint, if we are sincere in our desire to investigate all aspects of this case we would have jumped at the chance to give Bowen a lie detector test. Every day's delay makes it look as though we have been caught by an unexpected development which we didn't anticipate and which we don't welcome.

I feel very definitely that we should fix a definite time and give Jim Bennett an opportunity to be there.

Alex has given him an invitation to come and watch him run someone on the polygraph. Bennett is interested. Bennett, however, is tremendously interested in this case. He wants to know more about it. Therefore, this is the case in which we should make our demonstration.

If Bowen thinks he is telling the truth, bring that out. If he is lying, bring that out. And, above all, at the time you talk with him, before you administer the polygraph test, try and get him to tell the truth as he knows it. It is quite possible that Bowen was pretty drunk that night. If it were not for the testimony of Ralph Bloodworth, I would feel somewhat different about the entire case. As it is, however, I think Bowen's story, if it conforms to the above pattern, will show that it is, in part, true and, in part, false.

I feel that Bowen is very sincere in his desire to have Ruth McCawley given a polygraph test. I don't think she will take one. There is no way she can be forced to take one. She can very well state that she desires to have this a closed chapter in her life.

It is my opinion that within the next week we should fix a date for the examination, that that should be the earliest possible date, that we should notify the warden and Bennett and notify Bowen that you will be there on that date.

Let's nail this one down while we have the chance and not let it slip through our fingers.

ERLE STANLEY GARDNER

ESG/mc

*Let's see  
John Belmont*

86TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 1268 }

# NATIONAL PENITENTIARIES

---

## REPORT

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

EIGHTY-SIXTH CONGRESS, SECOND SESSION

MADE BY ITS

SUBCOMMITTEE ON NATIONAL PENITENTIARIES

PURSUANT TO S. RES. 60, 86TH CONG., 1ST SESS.,

AS EXTENDED.



APRIL 11, 1960.—Ordered to be printed

---

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1960

49008

## NATIONAL PENITENTIARIES

APRIL 11, 1960.—Ordered to be printed

Mr. HENNINGS, from the Committee on the Judiciary, submitted the following

### REPORT

[Pursuant to S. Res. 60, 86th Cong., 1st sess., as extended]

The standing Subcommittee on National Penitentiaries of the Committee on the Judiciary, pursuant to Senate Resolution 60, agreed to February 2, 1959, which provided that the Committee on the Judiciary, or any duly authorized subcommittee, examine, investigate, and inspect national penitentiaries in accordance with the committee's jurisdiction specified by rule 25 of the Standing Rules of the Senate and report its findings to the Senate, reports as follows:

During the 1st session of the 86th Congress, members and representatives of the subcommittee have visited the U.S. penitentiaries at Alcatraz, Calif., and Atlanta, Ga., the Federal reformatory for women at Alderson, W. Va., the correctional institutions at Lompoc, Calif., and Englewood, Colo., and the National Training School for Boys in Washington, D.C.

By their very nature and purposes prisons represent a highly sensitive area of public administration, and it is the considered view of the committee that the standing Subcommittee on National Penitentiaries, which has been in existence since the 80th Congress, has had a salutary influence on the operation of our Federal prisons. In other jurisdictions the penal system is a typically neglected facet of government, and the work of the subcommittee in inspecting our Federal institutions affords a significant means of determining the needs of these institutions, the efficiency with which they are operated, and the welfare of inmates and employees alike. Through frequent visits to these institutions the Members of the Senate have an opportunity to talk to the inmates and to hear any grievances which they may feel they have. The members of the subcommittee also discuss with the personnel of the Federal Prison Service the problems affecting housing, custody, discipline, food, health, and recreation for inmates. The members of the subcommittee feel that their activities definitely contribute to the inmate and personnel morale of our Federal prisons

## COMMITTEE ON THE JUDICIARY

JAMES O. EASTLAND, Mississippi, *Chairman*

ESTES KEFAUVER, Tennessee	ALEXANDER WILEY, Wisconsin
OLIN D. JOHNSTON, South Carolina	EVERETT MCKINLEY DIRKSEN, Illinois
THOMAS C. HENNINGS, Jr., Missouri	ROMAN L. HRUSKA, Nebraska
JOHN L. McCLELLAN, Arkansas	KENNETH B. KEATING, New York
JOSEPH C. O'MAHONEY, Wyoming	NORRIS COTTON, New Hampshire
SAM J. ERVIN, Jr., North Carolina	
JOHN A. CARROLL, Colorado	
THOMAS J. DODD, Connecticut	
PHILIP A. HART, Michigan	

### SUBCOMMITTEE TO EXAMINE, INVESTIGATE, AND INSPECT NATIONAL PENITENTIARIES

86th Congress

THOMAS C. HENNINGS, JR., Missouri, *Chairman*

OLIN D. JOHNSTON, South Carolina	ROMAN L. HRUSKA, Nebraska
	NORRIS COTTON, New Hampshire

The late Hon. William Langer, while a member of this committee and subcommittee, died on Nov. 8, 1959.

and help to maintain the quality of justice that should be characteristic of the Federal jurisdiction.

The subcommittee has incurred no expenditures for staff personnel during the past year. Mr. Francis C. Rosenberger, a member of the staff of the full committee, has served as counsel to the subcommittee in addition to his other duties. The modest expenditures of the subcommittee have been used entirely in connection with the visits of members of the committee to the Federal penal institutions.

The various visits made by members of the committee to the Federal prisons and the many discussions with Director James V. Bennett and his staff from time to time during the year disclose that the Bureau of Prisons was extremely active during 1959. The problems and duties of this agency have increased markedly, with the total prisoner population experiencing annual increments of 600 to 1,000 prisoners in recent years. For example, the Bureau of Prisons received 16,000 prisoners from the Federal courts during calendar year 1959, discharged 15,300, and at the end of December had more than 22,600 in confinement, as compared with 1948 when the Bureau received 12,300 prisoners, discharged 13,800, and ended the period with 16,300.

In an effort to contain this rapidly expanding prisoner population, the Bureau of Prisons extended its institutional capacity by about 10 percent during 1959. This was accomplished by reopening a prison at Sandstone, Minn., which had been on lease to the State, converting to a correctional institution a disciplinary barracks declared excess to the Army's needs at Lompoc, Calif., and developing the facilities of three prison camps to accommodate more prisoners. The opening of the two institutions has reduced overcrowding from the very serious proportions described in the subcommittee's report last year. Less than 5 months after Lompoc and Sandstone were made available for the commitment of Federal prisoners, their combined population had reached over 1,050 and, we are informed, will soon reach 1,800, the combined design capacity of the two institutions.

The subcommittee was pleased to note that the Congress at the last session appropriated funds to begin the construction of a new maximum custody penitentiary, as recommended by this subcommittee a year ago. The Bureau of Prisons has already selected a site for this institution near Marion, Ill., developed architectural plans, and performed preparatory groundwork to facilitate the start of actual construction later in 1960. The new penitentiary is expected to be completed sometime late in 1962.

Last year the Judiciary Committee approved and the Senate passed a bill authorizing the replacement of the National Training School for Boys at Washington, D.C. Specifically, the bill authorized the sale of the property of the present school and the use of the proceeds for the construction of a new school elsewhere. This bill, however, has not yet been acted upon by the House. The need for replacing the present school is becoming increasingly imperative. With a rated capacity of 288, the school now houses about 450 boys, and approximately the same number of boys have had to be diverted to other facilities. Even if the school were not overcrowded, its facilities would still be inadequate for its purposes in the opinion of the subcommittee, which sent its staff counsel to inspect the school in April 1959. Many of its buildings are among the oldest in the

Federal prison service, dating back to 1875. At least two of the cottages and several of the other buildings are rundown structures, and even the few buildings that have had some renovation are hazardous from the standpoint of fire safety. It seems unfortunate that the Federal Government's sole institution for the care and treatment of juvenile delinquents should have the most wornout and inadequate facilities in the Federal prison system. The location of the school was once a pleasant countryside on the outskirts of Washington, but the metropolitan area has grown up around it, making it a highly inappropriate place for the detention and correctional treatment of young offenders. The subcommittee urges that the Congress take early action to appropriate funds to permit construction of a new and modern boys' school.

Among other pressing construction needs of the Federal prison system is another medical center for Federal prisoners. The present Springfield, Mo., facility was constructed early in the 1930's when the Federal prison population was nearly 10,000 less than it is now and when the character of the population was much more stable. With the expanding use of probation and the dwindling proportion of the relatively amenable types of offenders, the Federal prisons have assumed the care and treatment of an increasing proportion of prisoners who have chronic mental illnesses, psychoses, physical pathologies, and deformities. The Springfield Center, with a rated capacity of about 1,100, falls considerably short of accommodating all the prisoners who should be receiving long-term medical, psychiatric, and hospital care, and the excess has had to be retained in the penitentiaries and correctional institutions, none of which is satisfactorily equipped to handle other than short-term medical problems.

Because the prisoner populations of the 32 Bureau of Prisons institutions are increasing at a much faster rate than the size of the employee complements, the Bureau reorganized its entire personnel program during the year in order to strengthen employee performance and carry the greatly augmented workloads. Entrance examinations for prison personnel were made more difficult, screening procedures for prospective applicants were tightened up, and the training of personnel was intensified. The typical prison service employee now participates continuously in some type of training from the day he enters on duty until the time of his retirement. Despite these greater pressures, personnel turnover for the Prison Bureau averaged in 1959 only half the rate for the Government service as a whole. The subcommittee was pleased to note this as evidence of the good working relationship in the Prison Bureau. We also were pleased that the last session of the Congress recommended that the Bureau of Prisons receive at least four more supergrade positions.

As in past years, the prison service stressed economy during 1959; the average cost of feeding one inmate for 1 day, for example, was kept down to 49 cents. This was done by highly selective purchasing and by a more efficient operation of the 24 prison farms of the service. These farms produced one-third of the total food poundage consumed in all the Bureau's institutions for one-half what it would have cost to purchase the same quantity of food on the market. The agricultural and animal husbandry activities produced more than 75 million pounds of all commodities, exceeding the agency's records for previous years and national averages for similar types of production. Other

economies were also achieved by an energetically pursued policy of using equipment, materials, and supplies declared excess to the needs of other agencies, a policy which kept the Bureau's budget for these items 20 percent below what it would have been had these acquisitions been made by purchase.

The Bureau participated in a pilot sentencing institute at Boulder, Colo., in July 1959, under legislation approved by this committee and enacted by the Congress in 1958 to provide a means for minimizing excessive disparities in the sentences imposed upon convicted Federal offenders. The Bureau prepared much of the statistics, case histories, and other materials used at the conference, and cooperated with the Federal judiciary in developing and carrying out the agenda. This committee was represented at the institute by Mr. Francis C. Rosenberger of the committee staff. The institute explored various factors affecting the sentencing process and the alternative types of sentences that can be imposed on the individual offender. Similar institutes were held by several of the circuits during the latter part of 1959, as a part of the regular institute program which will be carried out in the future in conjunction with the circuit conferences. As a result of these institutes, an increasing number of prisoners are being committed to the Bureau of Prisons institutions under the new presentence diagnostic procedures and the new indeterminate sentence provisions of the 1958 statute. The subcommittee finds that this development helps the Bureau of Prisons to do a more professional job of rehabilitating offenders; the new procedures also enable the Bureau to retain for longer periods many prisoners who cannot be safely released.

Federal Prison Industries, Inc., the Government corporation charged with operating the 52 industrial shops and factories in the Federal penal institutions, continued to produce at high levels during 1959. For the fiscal year ended June 30, 1959, it sold more than \$31 million in goods and services to other Government agencies, earned net industrial profits of \$5¼ million, and paid a dividend of \$4 million into the Treasury of the United States. It employed on a full-time basis about 20 percent of all Federal prisoners, paying them average wages of about \$33 monthly. The corporation made substantial progress on a \$5 million expansion program to provide opportunities for the employment of a larger number of prisoners. New industrial activities were put into production in the manufacture of electronic components, canvas goods, and rubber products, and two new service industries, furniture refinishing and the repair of scales and equipment used by other Federal agencies, were started. The corporation is now studying 10 other types of industry for their potential value in furnishing additional inmate employment and increasing the annual dividends paid into the Treasury.

Although the Bureau of Prisons has continued to base its management policies on considerations of stringent economy, it is apparent that the Bureau, in addition to new institutional construction, must have funds to improve its existing facilities. Needed plant repairs and improvements are accumulating at a faster rate than funds to meet these needs have been made available. The backlog of such projects now totals \$6 million and, considering the fact that the present institutions are 20 to 85 years old, the further accumulation of such needed repairs and the accelerated deterioration of the

physical plants can be prevented only if more adequate funds are made available promptly. Also, the older plants at the time of their design and construction made little provision for treatment facilities, and modern correctional treatment programs now require expansion of these plants for such purposes as recreation, religion, education, and training. A few of these facilities have been added to the older institutions over the years, and the Bureau is now reorganizing them in order that they may be grouped more efficiently for treatment purposes.

The last Congress appropriated \$225,000 for staff housing for the Federal prisons, and it seems apparent that additional housing must be provided. Staff housing is a particularly vital need at penal institutions, for manpower must be readily available in the event of escape, riot, disturbance, or breakdown of mechanical facilities. Most Bureau of Prisons institutions have some staff housing, but not enough to afford the degree of security each institution should have, particularly in an era which has seen a good deal of prison unrest. During 1959, for example, 26 Federal institutions had either an escape or a disturbance which required the recall of personnel. Institutional emergency plans direct the recall of personnel living on the prison reservation on these occasions, and this is quickly done by sounding an alarm in the form of a powerhouse whistle or siren. Inasmuch as the rental charged to employees is enough to cover the amortization of construction costs and the furnishing of maintenance services, it is evident that staff housing on Federal prison reservations provides a considerable amount of protection at little or no cost. The Bureau of Prisons has about 700 housing units presently occupied or under construction at its 32 institutions, and should have about 300 more in order that the institutions with relatively little housing can be brought up to a desirable standard.

The subcommittee believes that the work of the Bureau of Prisons has been carried on in a highly creditable manner during the past years, in the face of many operating problems. Inspections made by members of the subcommittee confirm the fact that Federal prisoners are being treated humanely and that every effort is made to prepare them for responsible community life. The personnel of the Federal prison service, although receiving relatively modest salaries, are performing their duties on a 7-day, round-the-clock basis in a generally efficient and professional manner.

The United States, under the International Cooperation Administration, the United Nations, and other auspices, plays host each year to scores of correctional and criminological personnel from other nations who visit our Federal prisons to study their methods. At the same time the public press from time to time carries accounts of the reactions of lay Americans to the penal systems they have observed in other nations. These accounts frequently report that other nations have developed prison programs containing desirable features that are not associated with prisons in this country. The subcommittee believes that further exchanges of personnel between American penologists and their foreign counterparts would be useful in the development of policies that will be of mutual benefit.

We cannot close this report without noting with deep sorrow the passing of Senator William Langer who was a member of this subcommittee from its inception and chairman in the 80th and 83d Congresses.

He had an abiding interest in the problems of men in prison and was never too busy to listen to their complaints. He sought unceasingly and objectively to advance opportunities for the rehabilitation of all those unfortunates whose lives had, often for many and complex reasons, gone awry.

The committee also commends the work of Director James V. Bennett. Through his leadership and guidance the Bureau of Prisons has earned national and international standing as the best prison system in the world. Director Bennett has labored earnestly to improve the administration of justice in the United States and has cooperated with many States and foreign nations which have sought his advice and counsel on problems in the fields of criminal justice and corrections. In 1959, as in previous years, he was consulted by the Department of Defense on correctional matters, and he responded generously to numerous requests by the Federal judiciary for his presence and counsel at various judicial conferences and sentencing institutes. He has also made his expert knowledge available to universities which ask him to address groups of undergraduates, graduates, and special students on the intricate problems of crime control. In these and in many other ways he has made maximum use of every opportunity to contribute to the safety and welfare of his fellow citizens. The committee feels that Director Bennett's lifelong efforts to improve the administration of justice, both nationally and internationally, are deserving of high recognition.

Attached and made a part of this report are individual statements by members of the committee who have visited penal institutions during the past year.

#### STATEMENT BY SENATOR THOMAS C. HENNINGS, JR., CHAIRMAN OF THE SUBCOMMITTEE

The huge increase in our Federal prison population and the overcrowding of our penal installations have created penal problems which, throughout 1959, demanded the utmost effort and attention from each member of the Subcommittee on National Penitentiaries. As chairman of the subcommittee, I take particular pride in reporting that the subcommittee membership responded in full measure, each giving many valuable hours to the discussion and analyzation of the many problems besetting our penal system as well as visiting in person many of the various correctional institutions.

Too well I know the difficulties under which most of these individual visits were undertaken. My own visits to correctional institutions were undertaken during periods when I was enmeshed in our other forms of Senate business but was able to find the hours necessary to fulfill my duties as chairman.

Over the years, some eight in number, I have spent many weeks in total travel and inspection time in visiting our Federal penal institutions from coast to coast. Last November, while in San Francisco to conduct hearings incident to the business of another subcommittee, I took the opportunity to carry out the duties of the Subcommittee on National Penitentiaries and on November 18 I visited the U.S. penitentiary at Alcatraz. Warden Paul J. Madigan met me at the San Francisco dock and we met in his office with Associate Warden Blackwell, Business Manager Kaepfel, Captain Rychner, and Personnel Officer Bertrand.

At the time of my visit, Alcatraz had an inmate population of 263 and a personnel complement of 160. During the last fiscal year the penitentiary averaged a daily inmate population of 279. The relatively high ratio of personnel to inmates, in comparison with other penal and correctional institutions, is explained by the specialized nature of the penitentiary and its island location.

Alcatraz was established for the purpose of confining in one place the kind of inmate who, if left in other institutions, would handicap efforts to rehabilitate the majority of Federal prisoners who show an inclination for self-improvement and who are apparently susceptible to rehabilitative treatment. The offenses committed by the prisoners at Alcatraz include murder, bank robbery, kidnaping, post office robbery, rape, violations of the Narcotics Act, transporting stolen automobiles, armed robbery, assault with a deadly weapon, and white slavery. In addition to about 20 lifers, Alcatraz has about a dozen prisoners who have sentences of from 45 to 300 years.

The supervision and control of a prisoner population of this character unquestionably requires more personnel than do other types of penal institutions. More personnel are also needed because prisoner details cannot be assigned to maintenance duties outside the security area, a common practice in other institutions. The island location

also dictates the use of a number of officers for boat operations, maintaining the supply of water which must be barged to the island and the generation of electricity. From the business manager, I learned that the daily per capita cost for the last fiscal year was \$11.28, \$7.76 of which was accounted for by the high personnel requirement. The cost of feeding one prisoner for 1 day is about 64 cents which, in view of present food prices and the fact that unlike other Federal institutions Alcatraz does not have a farm, must be considered highly economical.

Because of the age of the penitentiary and the constant eroding of buildings and ironwork by salt spray, the penitentiary has a serious maintenance problem. At the time of my visit substantial repairs at a cost of about \$295,000 had been made on the cellhouse which houses the entire prisoner population. Other repair and alteration projects underway or about to get underway included a new communication and activity control center, additional plumbing for the individual cells, and the installation of new roofs on two of the buildings. I inspected the repair job on the cellhouse and in general was quite pleased with its appearance. However, although large areas of the outer walls have been repaired, the funds for this project are exhausted, leaving the other portions still badly deteriorated. I observed also that the catwalks are extremely hazardous and Warden Madigan informed me that funds are insufficient to repair them. I was told, too, that the electrical system of the island, a direct-current type, is not only obsolete but generally worn out and must be replaced. Most of the Alcatraz buildings appear to be structurally sound and, if needed repairs and maintenance work can be budgeted, should last for many years to come. Without this repair, however, it appears that they will continue to deteriorate rapidly. The apartment building in which employee families must live is clearly in bad repair. The backlog of these and other needed construction and repairs now totals more than a million dollars and other items are accumulating more rapidly than remedial work is being authorized and budgeted.

Warden Madigan escorted me about the interior of the institution and I found the various areas in clean and orderly condition. In the kitchen I sampled the coffee being prepared for the inmates' luncheon and it was quite satisfactory in quality. I also talked to several inmates who worked there. They seemed to appreciate the opportunity to talk to someone from the Congress of the United States. In visiting the unit where a few of the inmates are confined for disciplinary purposes, I sensed from the attitudes and general demeanor of these men that they are quite difficult to handle. However, it is to the penitentiary's credit that the treatment of the inmates in the disciplinary block was good, and that the food was entirely adequate.

During the afternoon, I toured the industrial activities, including the brush shop, clothing factory, glove factory, and furniture-refinishing shop. These industries employ an average of 155 inmates on a full-time basis and during the last fiscal year the sales of goods and services to other Government agencies amounted to \$724,000. The net industrial profits came to \$88,000, which would have been more except for the loss of \$34,000 sustained by the laundry when military demand for its services declined. This industry was closed when it became apparent it was no longer profitable. I talked to the inmates in each shop and watched them at work. I noted that the men worked earnestly at their assignments and that individual production was on the whole comparable to that in civilian industry.

By its very nature Alcatraz is operated on a relatively strict disciplinary basis, with few of the privileges found in other penal and correctional institutions. However, the men are not denied opportunities for self-improvement. The Alcatraz library has more than 12,000 volumes and each inmate reads an average of 80 books a year and a higher proportion of nonfiction than the typical user of a community library. They also have access to the latest magazines and periodicals. Musical instruments are furnished those inmates who wish to develop their talents, and a competitive sports program is conducted on the recreation field each weekend. Because of custodial and space restrictions, educational classes are not feasible, but the inmates may take extension correspondence courses from a number of outside educational institutions. It was particularly interesting to discover that a number of inmates, about 15 percent, according to Warden Madigan, have an active interest in art, and exhibitions of their work have been held in San Francisco. The men are given the opportunity to attend religious services weekly and to secure spiritual guidance from representatives of their own denominations.

As I toured the island and became familiar with the working and living circumstances of the employees, I could not help but feel that these people must live under extreme tensions and pressures. Their jobs are unquestionably difficult and hazardous, responsible as they are for the control of some of the most dangerous felons in America. During off hours they and their families are still subject to hardships. They are dependent on the limited resources of the island on which they live, on a boat schedule to the mainland, and on living quarters which, in some cases, leave much to be desired. Because of these inconveniences and hardships imposed upon the families of employees, Alcatraz over the years has experienced a high personnel turnover.

These conditions relating to employees, the age of the institution, its location far from the source of most of its intake, and high maintenance costs give rise inevitably to questions concerned with the wisdom of continued operation of this type of prison at its present location. Without doubt or question the Federal Government needs an institution of this type for its most serious offenders. It is essential to a large integrated prison system because it takes the strain off other institutions and makes possible programs of rehabilitation and training for the great bulk of prisoners that could not be operated in the face of constant hazards caused by the presence of a few dangerous, escape-conscious, and disrupting prisoners. With Alcatraz or some similar institution available, the other institutions need not be run at the level of the most recalcitrant and obstreperous.

Of as much or more importance in considering the future of the institution is the fact that Alcatraz symbolizes the deterrent effect of strict prison regime on crime control. There is, of course, considerable dispute as to the value of sure, strict, and unescapable punishment on the maintenance of law and order. But however one may feel about this, all must agree that at our present stage of knowledge about human behavior we must continue to rely heavily upon a system of just but humane punishment of those who will not respect the rights or property of others.

While Alcatraz epitomizes this deeply rooted belief I am satisfied that it is operated in a thoroughly humane and understanding manner. I also believe, after my talks with the warden and discussing

the kinds of prisoners transferred to Alcatraz, that no one has been transferred to that institution who had not, in the words of Mr. Bennett, the Director of Federal Prisons, earned his way there by the record he has made elsewhere. It should be recalled in this connection that prisoners are transferred back to other institutions as soon as their conduct and attitude justifies such action. Each man's case is considered by a committee regularly and recommendations as to transfer made whenever indicated. Also, the central office in Washington maintains careful and continuing oversight on the conduct and adjustment of each prisoner. I commend the Bureau of Prisons and Warden Madigan and his staff for performing valuable and able service.

On December 28, 29, and 30 of 1959, I accompanied Director James V. Bennett of the Prison Bureau to the Federal Reformatory for Women at Alderson, W. Va. My desire to visit Alderson stemmed from my understanding that the number of women being committed to Federal institutions has been steadily increasing over the past several years. In 1949 the Federal courts committed 672; by 1959 the rate of commitments had risen 30 percent. Alderson has a rated capacity of 453, but at the time of my visit the population was 584.

In the course of my visit, I learned that the temporary facilities comprising the women's unit at Terminal Island, Calif., were improvised for a population of about 125, but they now hold about 200. The Bureau of Prisons has also had to contract with various State institutions to find additional space for convicted women. In view, therefore, of the steadily increasing numbers of female offenders being committed by the Federal courts, it is apparent that the existing facilities must be expanded. It would seem the logical course to build a separate institution for women to serve Western United States.

Warden Nina Kinsella, a personable and capable veteran of nearly 40 years in prison work, escorted us about the reformatory and its beautifully maintained grounds. We inspected the new Catholic chapel that was recently installed in a section of the school building. It is most artistic, colorful, and attractive. I also visited the self-governing cottages where carefully selected prisoners live with only nominal supervision. My impression of this effort to develop self-reliance and self-respect through placing confidence and trust in the inmates was most favorable.

The reformatory has two industries: a laundry which sells its services to several government agencies in the area, and a garment factory. The factory makes shirts, shorts, drawers, and pajamas for the Veterans' Administration and also the various types of shirts used by the inmates and uniformed personnel of the other institutions of the Bureau of Prisons. This industry affords a splendid means of training women in the kind of occupations they can follow when they are released from the reformatory. The equipment is modern and up to date, and the staff has had unusual success in finding similar civilian employment for released inmates who have been trained in this factory. During the last fiscal year the Alderson industries sold about \$340,000 in goods and services and made a net industrial profit of about \$48,000. An average of 150 women are employed on a full-time basis in the two industrial activities, and the average wages run to about \$30 monthly for those in the garment factory and about \$20 monthly for those in the laundry. The largest proportion of these

earnings are either sent by the women to their dependents or are saved by them toward the day of their eventual release.

During the course of my visit I attended a meeting of the reformatory's classification committee and, prior to a discussion of the individual cases being considered by the committee on that day, Warden Kinsella briefed me on the numbers and types of inmates in the institution. The ages of the inmates run from six girls of 17 to one woman of 70, but the median age is about 30.

The many purposes which the Federal Government's only institution for women must serve is illustrated by the types of sentences the inmates have. The reformatory has 3 lifers, but it also has 15 girls sentenced under the Federal Juvenile Delinquency Act, including 10 with minority sentences, and 31 young women sentenced under the Federal Youth Correction Act. Forty-five women have sentences of 1 year or less; the sentences of the remainder range between that point and life. In addition the reformatory is presently caring for eight babies.

The largest category of offenses for which these women were sentenced involves violations of the narcotics law; 176 of the women presently at Alderson were sentenced under those statutes, and of that number 124 are not eligible for parole. Other large categories are those convicted of forgery, 145; larceny (chiefly mail theft and auto theft), 101; interstate transportation forged securities, 32; and liquor violations, 23. The reformatory also has 14 women serving sentences for bank robbery and 6 for murder on a government reservation. Unlike the male institutions I have visited, there was only one woman serving a sentence for income tax evasion.

I was particularly interested in what Warden Kinsella had to say about the States from which these prisoners came. It seemed understandable enough that 61 of the women came from New York State (41 of them from New York City), but I was somewhat dismayed to find that the next largest number, 42, came from my own State of Missouri. However, Michigan was represented by 41. Texas, Indiana, and Florida each had 30-odd women represented in the population; Virginia, Illinois, Ohio, North Carolina, and Georgia from 23 to 29, and Tennessee, Oklahoma, South Carolina, New Jersey, Kentucky, Pennsylvania, and Louisiana from 10 to 19. The rest of the States had less than 10 or none, with no prisoners from North Dakota, Idaho, Maine, and Utah.

A number of interesting and difficult cases were discussed by the classification committee. One 34-year-old prisoner, who was serving 5 to 15 years for counterfeiting, had already appeared before several State courts on a variety of charges. As a child, she had never known a stable home, and the disorganized life she had to lead as a youngster continued to characterize her adult life. After a short-lived but ambitious conspiracy to print and circulate counterfeit notes, she was committed to Alderson. She is now working in the garment industry and is considered to be an excellent worker. When I visited the school building I examined a sewing project on which she was engaged during her leisure time, a Department of Justice flag.

As an indication of the serious character of some of the young women at Alderson, my attention was called to the case of a 17-year-old girl who had a minority sentence for interstate transportation of a stolen motor vehicle. Early in 1959 she and a companion ran away

from a State girls' training school where they had been committed following previous escapades, and broke into a farmhouse where they stole a knife and a pistol. They then broke into a second house and stole some money, and at a third dwelling, they kidnaped the head of the household and forced him to drive them into another State. They commandeered other cars twice, but eventually were caught by a highway patrol car. This girl has proved to be a difficult disciplinary problem at Alderson, and so far only Warden Kinsella has seemed to be able to develop any degree of rapport with her as shown by the fact that for Christmas 1959, this juvenile girl spent some of her spare time making a Christmas card for the warden. I was informed that this and other incidents offer hope that eventually this young girl can be reached and guided away from her previous career.

My visit coincided with the formal opening of the new vocational shops building at Alderson. Here facilities for training the women prisoners in dressmaking, cooking and domestic arts, clerical work, beauty culture, and so on have been collected in a single building constructed from funds earned by the industries. The Board of Directors of Federal Prison Industries is to be congratulated for this worthwhile effort to promote the rehabilitation of these inmates. During the ceremony accompanying the inauguration of the building's activities all the Alderson inmates were given an opportunity to see for themselves the facilities that were being made available to them. Together with Warden Kinsella and Director Bennett, I received the inmates as they entered the building and was thus able to observe face to face the many different types of persons in the institution.

I also sat in with Mr. Bennett while he interviewed a number of inmates who had asked to see him. I understand that it is his custom whenever he goes to an institution to talk with any inmate who wishes to see him about any problem that the inmate may have. Several of the women who came to see Mr. Bennett requested they be transferred elsewhere, usually because they wanted to be closer to their families. Some sought his help with alleged miscarriages of justice in their cases and some brought up matters relating to disciplinary and adjustment problems. One of the young ladies, for instance, complained that she had been tried as an adult when, as a matter of fact, she was only 17 years of age at the time she became involved in a bank robbery. Typical of the background of so many of these prisoners, she had had an unpleasant childhood. She ran away on several occasions, incurred an unsuccessful marriage at an early age, and later while living alone in a large midwestern city became associated with a professional criminal. Her part in the crime for which she was sentenced was to keep the getaway car running while her three male companions robbed a bank of about \$23,000. She was also suspected of participating in other robberies. At Alderson she had a difficult time adjusting at first and on one occasion escaped from the reformatory with four other women. Apprehended the next day, she received an additional sentence of 1 year and 2 months. Now assigned to the reformatory hospital as an attendant, she has been awarded meritorious good time for exceptionally fine performance.

Another woman came to complain to Mr. Bennett that her constitutional rights had been violated by the arresting officers. Another wanted an explanation as to why, after the splendid record she had

made and the efforts she had put forth to rehabilitate herself, she had been denied parole. Another wanted more help from the local welfare agency for her children. Mr. Bennett gave each inmate as specific an answer as possible and he counseled others patiently as to the course they should follow.

Following a reception at the warden's home where I had the opportunity to meet most of the reformatory's staff, I returned to Washington. The entire atmosphere of the institution had a purposefulness about it. The inmates are not mollicoddled. On the contrary, each inmate is given definite goals she must achieve to earn credits for good behavior and favorable consideration for parole. The staff is well trained for their positions and treat the many unique disciplinary and adjustment problems firmly but with understanding. The institution seemed to be well maintained and I believe it is being operated efficiently and economically.

I was somewhat disappointed to note that the courts are not using the indeterminate sentencing provisions of the bill which I cosponsored in the 85th Congress as frequently as I had hoped. From my observations of both men and women offenders, I believe women present far more difficult problems of sentencing than men do and it seems to me that there should be a greater sharing of responsibilities for determining the length of time required to bring about their rehabilitation and return to society as law-abiding, self-respecting citizens. It is altogether understandable that some courts, out of sympathy for the opposite sex, will tend to give sentences of insufficient length to permit their retraining while other courts may be so shocked that a woman would take advantage of her sex to the extent some of them do that long sentences are imposed. The most intelligent answer to this problem would seem to be for the courts to use the indeterminate sentencing provisions of the new statute more extensively.

Several of the cases I saw and discussed prompt me to suggest that the committee might want to look into the appropriateness of the mandatory sentence provisions of the Narcotics Control Act. More than 25 percent of the inmates are there for long sentences on narcotics charges, and most of these have no hope for parole; many of these women are to a large extent victims of the narcotic racketeer. Many of them are young colored girls from our large cities who have been addicted to drugs by unscrupulous men who prey upon women, and when the women are of no further value to them, the men inform upon them.

One 29-year-old woman, for example, who came from a highly reputable and economically secure family, had married a man who, although the son of wealthy and respectable parents, was a drug addict and drifter. He started her smoking marihuana and later introduced her to morphine and heroin. She eventually separated from her husband and became involved with two other men who traveled with her to Mexico to procure drugs. Apprehended by customs agents as they were reentering the United States, this young woman, like her codefendants, received a 5-year sentence under the no-parole provisions of the Narcotic Act even though she was a first offender. Warden Kinsella advises that she is a good worker, volunteers for extra work, and is considerate of her fellow inmates.

Another case that shows the Draconian nature of these penalties is that of a woman who was given a 40-year sentence, on a charge that

she sold narcotics to another addict and codefendant, who in turn sold them to an undercover agent. Warden Kinsella commented to me that this woman is doing an excellent job in her assignment as a hospital laboratory technician, and has been maintaining an exemplary conduct record. This woman, 41 at the time of her commitment to Alderson, cannot be released, even with good-time credits, until she is 70 years old.

I strongly urge other members of the committee and subcommittee to visit Alderson when an opportunity presents itself, in order to become acquainted with its unique problems. My colleagues will find the pleasant atmosphere of Alderson to be much unlike what one would expect to encounter at a penal institution, and they will be particularly pleased in their observations of the dedicated work of the Alderson personnel and particularly of Warden Kinsella, who is a heart-warming example of administrative competence on the one hand and of an exquisite sense of humanity on the other.

I cannot close my section of the subcommittee's report without commenting on Director James V. Bennett's stewardship of the Federal prison system. I have consistently found Director Bennett to be discharging his difficult responsibilities in a highly commendable manner. He has been unstinting in his efforts to improve the efficiency of his organization and to insure that the prisoners committed to our Federal institutions receive the kind of care best calculated to bring about their rehabilitation. Through his leadership and the skilled support of the experienced and able persons he has chosen for his assistants—M. E. Alexander, A. H. Conner, A. A. Evans, and F. Loveland—the Bureau of Prisons has developed into an organization that is dedicated to the public safety and welfare and an organization that is geared to serve the interest of the taxpayers by doing its job in as economical a manner as possible.

I would also express my sadness at the passing of Senator William Langer who was one of the subcommittee's more knowledgeable and understanding members. During his years on the subcommittee, Bill Langer visited virtually every one of the installations in the Federal prison system. He worked tirelessly for the improvement of criminal justice and advocated many, many progressive measures that will remain a monument to his courage, foresight, and keen understanding of both human aspirations and judicial processes.

## STATEMENT OF SENATOR ROMAN L. HRUSKA

This statement essentially is in two parts.

The first portion incorporates and makes current my report on the Federal Correctional Institution at Lompoc, Calif. (formerly the Branch U.S. Disciplinary Barracks) made in July 1959.

The second portion is directed to the numerous and noteworthy civic and humanitarian activities undertaken by prisoners in all the institutions within the Federal Bureau of Prisons.

### I

The original Lompoc report follows:

The U.S. Disciplinary Barracks, Lompoc, Calif., was inspected on July 3, 1959, in behalf of the National Penitentiaries Subcommittee and the Appropriations Committee of the U.S. Senate. My tour was made in company with Warden Preston S. Smith of the Federal Correctional Institution at Terminal Island, Calif.; Mr. Greig Richardson, who had been appointed warden at Lompoc; and Mr. Charles R. Lins, who will be transferred from Terminal Island to Lompoc in the capacity of associate warden.

The party was escorted through Lompoc by Col. Weldon W. Cox, commandant since December 1957; Col. Joseph W. Pettet, director of custody; and Col. John P. Feeham. The tour and briefing occupied a 4-hour period.

*Area and location.*—The installation covers 3,172 acres of land, approximately 5 miles northwest of the city of Lompoc, Calif., which has a population of 10,000. Other cities in the vicinity are Santa Maria (population 30,000) which is 27 miles away and Santa Barbara (population 90,000), 60 miles distant.

*Principal building.*—The barracks comprises a multiple-winged, reinforced concrete structure, patterned after the penitentiary at Terre Haute, Ind. It has facilities for a maximum of 1,431 prisoners. The building contains 1,023 one-man cells and 40 larger cells.

It was reported to me that the security equipment in the principal building is such that the institution has a high degree of security which will be particularly helpful in dealing with the young, assaultive, escape-conscious prisoner. Confinement of this class of individual is most effective when adequate cell space is available. One feature which would improve the security requirements would be the construction of a more effective outer enclosure around the principal building and its immediate grounds.

Included in the principal building are the administrative offices, dining hall, laundry, hospital, library, chapel, theater, classrooms, and the bachelor officer quarters. A chain-

linked cyclone fence encloses the area of approximately 20 acres, which includes a separate vocational shops building and the athletic field.

*General condition.*—The condition of this installation can be summarized in one word: excellent. The barracks has been in use only since January 15, 1947, which may in part account for its modern, efficient appearance. It is well constructed and has been well maintained. There is every evidence that proper and systematic housekeeping is being performed at all times.

*Extent of use.*—Since activation in January 1947, more than 20,000 prisoners have been confined in this installation. The operation is, however, now in the process of being phased out. On July 3, 1959, the date of the tour, the prison population was down to 191.

By July 25, 1959, all but 30 of these prisoners were scheduled for transfer to the Fort Leavenworth Disciplinary Barracks. The others were scheduled to be taken into the regular Bureau of Prisons' system in accordance with the requirements of each case. The mean population by calendar years is as follows:

1955.....	1,450
1956.....	1,050
1957.....	900
1958.....	700
1959.....	450

*Personnel.*—The administration of the barracks at the present time involves 185 military personnel and approximately the same number of civilian employees. There are plans to place the civilians on the Bureau of Prisons' rolls insofar as they would be able to qualify and could be absorbed. It is estimated that 46 of these employees transferred.

*Housing.*—Sixty Capehart housing units are in the process of being constructed in the area. In addition, there are 36 units that have been constructed under the military appropriated housing program. Fifty-five or sixty spaces are available in the trailer area for temporary quarters. Because of the proximity of the Vandenberg Air Force Base, housing is in very short supply in the surrounding residential areas.

*Dining hall, kitchen, hospital, chapel, and theater.*—Each of these facilities was inspected and found to be well planned, equipped, and maintained. It is quite evident that they are ample for serving the scheduled maximum capacity and, perhaps, even more.

*Laundry.*—This operation has the capacity and equipment to do all the work necessary for the institution and still be able to perform outside contracts.

*Vocational shops.*—The facilities and equipment for training and industrial activities are well arranged in more than adequate quarters. There appears to be ample room in the industries' area for expansion when found desirable.

*Education.*—The classrooms are very well suited for teaching courses from the grade school through the college level. The library and reading room are similarly well planned and

equipped. Accreditation has been arranged for elementary, secondary, and college courses, including the award of diplomas and degrees by neighboring schools for the successful completion of such work. Apprenticeship certificates are also issued upon completion of the requisite vocational training.

*Farming.*—The vocational farm center is about 1 mile southeast of the principal building. Up to the present time approximately 3,800 acres have been available for farm use. Of this, 2,700 are allocated for grazing purposes and 600 are under cultivation, 200 acres of which are sprinkler irrigated.

There are 22 acres of old English walnut groves and 11 acres of younger trees. This year the institution will produce about 60,000 to 65,000 pounds of walnuts. No fruit is grown at Lompoc. Oats, barley, and alfalfa crops are harvested. The possibility for truck gardens is excellent but the institution has not been able to pursue such activity this year because of the lack of manpower.

There is some land near the north boundary of the farm which would lend itself well to additional cultivation for feed grains. It would seem in order for the Bureau of Prisons to negotiate with the Air Force for its use as the latter is not using the land nor is it foreseeable that the Vandenberg airfield will require such use.

The farming operation is generally very attractive for the type of institution planned or now being operated at Lompoc.

*Livestock and poultry.*—With the present buildings and equipment, the institution can handle 500 cattle, 450 hogs, and 5,000 chickens. It therefore has no difficulty supplying its own slaughterhouse for the production of beef, pork, and poultry products.

*Summary and general conclusions.*—Incorporation of Lompoc into the Federal prison system would be one of the more notable developments and improvements occurring within the Bureau of Prisons in recent years.

At least three vital objectives will be achieved:

(1) Alleviation of overcrowded conditions in the several Federal institutions in the Pacific coast area, resulting in substantial reductions in cost of transportation, and more efficient operation of the relieved institutions.

(2) Creation of a much-needed diagnostic and reception center for the west coast.

(3) Establishment of an adequate, well-equipped training and treatment institution for young offenders.

Agencies and their officials concerned are to be highly commended for steps taken thus far toward achievement of these goals.

It is my urgent and earnest recommendation that the Appropriations Committee take such steps and do such things as will be necessary to consummate negotiations heretofore had.

## CURRENT STATUS AND FUTURE OF LOMPOC

During the months since the foregoing was written, the Senate Appropriations Committee acted on the several recommendations which were made by authorizing the steps necessary to enable the Bureau of Prisons to acquire the Lompoc institution. Negotiations between the Department of the Army and the Bureau of Prisons were concluded by a formal lease agreement on July 22, 1959, and the facility was promptly taken over by the Bureau on August 1, 1959, and designated as a Federal correctional institution.

While it is now being used primarily as an institution for youthful offenders, Lompoc is also accepting other prisoners committed by the Federal courts for observation and recommendations by the Bureau of Prisons prior to imposition of final sentence. This procedure was authorized by section 4208(b) of Public Law 85-752; similar studies are made in the cases of youthful offenders committed under section 5010(e) of the Federal Youth Correction Act. The courts in the western region of the country are committing large numbers under both procedures, and Lompoc now provides an ideally located facility for this purpose.

With the opening of Lompoc the Bureau of Prisons began reducing the overcrowding in the youth and reformatory-type institutions and removing youthful offenders from adult correctional- and penitentiary-type institutions. At this writing the Lompoc prisoner population has reached 770 and it is expected to number approximately 1,200 by June 30, 1960. Substantial numbers of prisoners have been transferred to Lompoc from El Reno, Terminal Island, and McNeil Island. Prisoners have also been shifted from the Chillicothe to the El Reno Reformatory to reduce severe crowding in the former institution. My conversations with Director Bennett's Office indicate that the opening of the Lompoc institution has relieved much of the pressures on all the youth-reformatory-type institutions and also the adult institutions in the western section of the United States.

Although the Lompoc institution has perhaps the best equipped physical plant of all the prisons in the world, it is my information that it unfortunately lacks the staff needed to make maximum use of those facilities for corrective treatment purposes or even for prisoner housing. Because of the highly specialized diagnostic and treatment functions assigned to Lompoc, the institution should have personnel of the highest caliber for medical, psychiatric, and psychological diagnosis and treatment; for the development of sociological and social studies of the individual's history; for educational and vocational analyses and training; for religious training, and for intensive group and individual counseling.

The need for such personnel is immediate. Since the opening of Lompoc as a Federal correctional institution it has received about 40 percent of the cases committed by the Federal courts for observation and study during this period, and the rate at which these cases are being committed is increasing each month. Virtually all of these cases are committed because of the courts' belief that they are characterized by psychiatric problems which should receive full study before the courts make disposition. Also, it is obvious that the youthful offender should be afforded more training and treatment resources than those made available to other types of offenders.

The correctional efforts expended on this age group may be expected to substantially reduce the public expense which would otherwise be caused by the criminality of this group in their later years.

At present there are 164 personnel employed at the Lompoc institution. However, in order to accommodate the contemplated prisoner population of 1,200, this staff should be augmented to the level of approximately 225 employees at least for the fiscal year 1961. This level would still fall far below the minimum number of personnel that should be provided an institution with this type of population and the type and size of the workload that is now being assumed. However, it would provide a basis of experience in accurately determining what the ultimate staff requirements should be.

Warden Richardson of the Lompoc institution indicates he is encountering some difficulty in the recruitment of personnel. With the expanding missile programs of the Air Force and the Navy in that area, there is considerable interagency competition for persons with mechanical skills. As noted in my first report, the defense efforts have brought large numbers of people into the Lompoc area and as a result housing is in short supply and living costs are high. However, the warden expects that the highly professional program being developed at Lompoc will aid him considerably in attracting technical and professional personnel. Although this Bureau of Prisons operation has only recently been inaugurated, the program is functioning smoothly and relationships between the Lompoc institution and the Air Force base on which it is located are extremely harmonious.

Inasmuch as the funds used to open and operate the Lompoc institution from August 1959 to June 1960 were reprogrammed from those intended for other purposes, the 1961 appropriation for the Bureau of Prisons should include funds for a full-year operation of Lompoc.

The Bureau of Prisons, in my opinion, is to be commended for making use of these excess Army facilities for so noteworthy a purpose. This facility is located in an area where additional capacity was most needed by the Bureau, and its lease by the Bureau saves the Government a large expenditure which would otherwise be required to solve the critical problem of prisoner overcrowding. The replacement value of the Lompoc institution is approximately \$20 million. The negotiation of the transfer of these facilities was carried out over a considerable period of time and involved numerous technical difficulties, but once the agreement was approved the Bureau and other agencies quickly expedited the procedural arrangements needed to take over this facility.

## II

## CIVIC AND HUMANITARIAN ACTIVITIES OF INMATES

In the course of my visits to different institutions in the past years, reports of numerous good deeds performed by Federal prisoners in behalf of the free society outside their institutions have come to my attention. These notable contributions in my opinion provide an excellent means of gauging the worth of the rehabilitative efforts of these institutions and demonstrate that funds expended on the rehabilitation of convicted offenders produce worthwhile results, particularly in terms of human values. Inasmuch as such contributions reflect the caliber of the services being performed by Federal

prison service personnel in constructively motivating prisoners and bringing about real changes in attitude, it is appropriate to make at least a few of these incidents a matter of record in this report.

*Blood donation.*—The prisoners of the Federal institutions donate blood regularly to the American Red Cross and to other community blood banks. In addition to regular donations, the inmates of the Leavenworth Penitentiary, for example, have undertaken to supply all the blood needs of Johnny P., a 10-year-old Kansas City boy who has had over 180 transfusions and requires blood every 4 to 6 weeks. Since his family has exhausted all financial resources and other friendly donors, Johnny now lives only by virtue of the blood donated by Leavenworth's inmates. The Leavenworth inmates also provide the blood needs of a second child, Chris E., a hemophiliac who has used over 100 pints so far, and a third, Paul B., a hemophiliac who in addition to regular transfusions requires hospitalization whenever a minor injury occurs. Similar donations for special purposes have also been made at such other Federal prisons as Tallahassee, Fla.; Seagoville, Tex., and even Alcatraz, Calif.

*Help for underprivileged children abroad.*—Because Federal prisoners come typically from underprivileged homes, it is perhaps understandable that they would have a deep interest in underprivileged children. For nearly 6 years the Leavenworth inmates have sponsored two war orphans, one in Korea and the other in France. Both boys are now over 15 years old; the French boy is now enrolled in a preparatory school and the Korean boy is in a military academy. With these two boys now well on the road to a useful life, the men of Leavenworth have assumed the sponsorship of two more children, one in Greece and the other on an Indian reservation in this country. Although the yearly support of one child is only \$120, the men usually contribute well over \$400. Similar sponsorship programs are supported at other Federal prisons. The inmates of the Atlanta Penitentiary send funds every month for the care of a Chinese girl in Hong Kong. The men at the Terminal Island and Terre Haute institutions sponsor Korean children, and those at La Tuna, an Italian child.

*Help for underprivileged children in the United States.*—Federal prisoners also assist underprivileged children in our own Nation. The inmates of the Federal Correctional Institution at Seagoville, Tex., sponsor two underprivileged Dallas boys, one white and one colored. The inmates contribute quarterly to provide a continuous sponsorship of the two boys, and in addition to numerous gifts at birthday parties for the boys and a joint Christmas party, the inmates give each boy a weekly allowance of \$3. The inmates of a religious group at the Milan, Mich., institution contribute funds for the support of a 6-year-old girl in Kentucky. A large number of their fellow inmates sponsor a Little League team in the neighboring community. Little League teams are also sponsored by inmates at the Lewisburg Penitentiary and the Terminal Island institution. On two occasions over the past year the inmates of the Atlanta Penitentiary, by donating their skin in grafting operations, saved the lives of children who had been critically burned in accidents and were near death.

*Medical experimentation.*—The voluntary participation of Federal prisoners in medical experiments may in the long run represent their most notable contribution to their fellow citizens in the free community. During 1959 a total of more than 1,300 prisoners at the

Terre Haute Penitentiary took part in projects to test certain certain vaccines and antibiotic drugs on such diseases as typhus, smallpox, influenza, and polio. At the Atlanta Penitentiary the inmates cooperated in medical experimentation of several different types, including projects to develop improved drugs for the prevention and treatment of malaria and to find a human serum for tetanus antitoxin. At Tallahassee, Fla., the inmates assisted in testing the safety of a dusting powder intended for use in controlling the body lice that cause epidemics of typhus and relapsing fever in several areas of the world. These inmates were dusted five times a week from their neck to their toes with this powder and during the course of the experiment underwent considerable hardship. The powder was left on more than 23 hours a day, and in addition to the mere dusting and inconvenience caused by the odor of the powder they submitted to periodic blood and urine analyses. While these inmates assumed a definite risk in participating in this project, their sacrifices should materially aid world health. A number of additional medical experiments were carried out at other Federal prisons.

*Firefighting in institution areas.*—All Federal institutions have fire trucks and highly trained inmate crews to operate them. These services are made available to the local communities, who regularly call upon them during firefighting emergencies. For example, during 1959 the inmate fire department of the Texarkana, Tex., institution on 38 occasions put out residential fires or other fires directly threatening residential areas when no other firefighting service was immediately available. The three Federal prison camps in Arizona maintain regular lists of inmate volunteers for fighting forest fires. During the last year these inmates contributed 15,000 hours to this work.

*Flood disaster and community drives.*—The inmates of the Chillicothe, Ohio, Reformatory provided a particularly valuable reservoir of manpower when in January 1959 the city suffered a disastrous flood. The inmates labored for long hours in miserably damp and cold weather sandbagging levees, evacuating flood victims, and assisting in the cleanup work and restoration of property in the flooded area. The Federal prisoners helped their local communities in many other ways. From their own meager resources they contributed funds to local community chest drives, and they assisted these drives further by preparing solicitation envelopes and by holding talent shows open to the public. They renovated thousands of toys for donation to needy children, and they prepared materials for State agencies charged with the education and training of the blind.

It is apparent from innumerable activities of this kind that the Federal prisons do provide a realistic means by which convicted Federal offenders can enter into programs of rehabilitation and eventually prove in a concrete way that they can be a credit to society. The personnel of the Federal prison service are to be commended for the highly creditable manner in which they have thus pointed the way toward rehabilitation and motivated these convicted offenders to take meaningful steps in that direction.

## STATEMENT OF SENATOR OLIN D. JOHNSTON

Over the years that I have been a member of the Subcommittee on National Penitentiaries I have visited and inspected our Federal prisons on a number of occasions. These visits have proved useful to me in getting firsthand insights into the problems and the daily routines of a penal institution. The short duration of an inspection visit, however, makes it difficult to judge the program of an institution over an extended period of time. These questions have often occurred to me: Is the enthusiasm and sense of purposefulness noted during a visit sporadic or is it sustained? What problems are encountered and overcome in the course of a year? What new objectives have been achieved? Consequently during my last visit to Atlanta I undertook to get the answers to some of these questions with regard to that penitentiary, one that I already believed to be one of the best run in the country.

Since the welfare of Federal employees is one of my primary interests, I inquired first into the personnel situation. The pay standards of Atlanta's employees have improved in recent years due to the 10 percent increase granted by Congress in 1958, a subsequent upgrading of many positions by civil service procedure, and the transfer of other positions to wage board scales. Several of the employees expressed to me their appreciation for the action of the Congress in making these improvements possible. Warden Wilkinson advised me that the turnover of personnel has already declined appreciably because of the better pay. Employee performance has been further improved by a more intensive program of employee training. Also during the past year the warden has weeded out several employees who had failed to show a desirable level of devotion to the government service.

Another personnel improvement that occurred during the year was the establishment of a civilian clerical complement for the classification and inmate records division, with 1960 fiscal year funds authorized by the Congress for this purpose. Previously inmates manned these units where official records are in daily use. With civilian clerks now employed in these departments, such confidential records as FBI and other law enforcement agency reports, presentencing reports and social histories, and commitment papers and correspondence from the courts, have been handled for the past several months without a single security leak. However, funds are still needed to replace with civilians similar clerical jobs now filled by inmates in the hospital psychologist's clinic and in the employment-placement office, both of which are engaged in relatively confidential work. On the basis of Atlanta's experience, I would also recommend that the Bureau of Prisons be given the funds to hire civilians for the other Federal prisons where inmates must now be used in offices dealing with confidential matters.

During the calendar year 1959, the penitentiary experienced financial problems in meeting its subsistence requirements. Prices

rose in such essential items as food, clothing, and commercial transportation requirements for inmates, and other price increases occurred in such categories as equipment replacement, maintenance, and operation. For example, within the last 2 months of the year the local gas company twice increased the price of the natural gas used by the institution powerhouse. These increases were attributed to higher costs at the sources of supply in Texas. The institution's management was able to offset these price increases, at least partially, by making rigid economies and by deferring some needed upkeep and maintenance of facilities. Nevertheless the institution had to reduce its inventory in many subsistence items to a very slim margin. While it is normally considered good management to have an inventory of about 30 days' supply of staple food items, fuel, and other commodities that must be bought on bids, that level could not be maintained and in many items of this kind the institution could keep on hand no more than 1 week's supply.

On the more favorable side, Atlanta's honor farm had an excellent year. Hay, ensilage, and the other food for the cattle were in plentiful supply. An excellent corn crop, fed to the cattle, brought about a good return to the Government. The farm met all the institution's needs for dairy products, and the cattle herd supplied about 40 percent of the beef requirements. Also the swine herd furnished the institution's full pork requirements.

The staff's resourcefulness in operating as economically as possible was apparent in other ways. During the year the warden obtained a metal truss building from surplus metal stores and, with the use of brickmasons, metalsmiths, plumbers, and carpenters trained in the prison's vocational schools, this building was erected, completely covered with brick, and otherwise made attractive and highly utilitarian. As a result, the institution was able to demolish its long outmoded shop building and secure improved facilities for the maintenance shops and also a site for a new addition to the present textile mill. The latter addition has been approved by the Board of Directors of Federal Prison Industries, Inc., and utilities for this project are already being laid. The addition will be completed within the next 2½ years and into it will be moved the prison's entire weaving operation and other activities such as the tailor shop. The industries at Atlanta have maintained a very high level of employment, averaging about 1,000 inmates, whose wages go largely toward the support of their families, or are placed in savings pending the day of their release. These industrial activities are expected, for the current fiscal year, to make a profit which will about equal the amount appropriated for the operation of the entire institution. A portion of these profits are used to finance the vocational training program and to provide small sums for special meritorious awards to inmates, but most of the profits are eventually paid into the Treasury of the United States in form of dividends.

In December of 1959 the penitentiary opened a new three-story building, the first floor of which will be used for the institution's entire laundry operations and the second and third floors for dormitory housing. The two new dormitories are modern and functional and they will help to reduce the overcrowding in the cellhouses, a condition which has seemed so deplorable to me during my past visits to the prison. However, Atlanta will continue to be plagued with a condition

of general overcrowding and, in my opinion, the only real solution is the eventual construction of additional institutions. The penitentiary's population has been reduced by about 150 men within the last 6 months but it still remains at a level of approximately 2,650. The maximum population for Atlanta and its program, if men are to be successfully rehabilitated before their return to society, should not greatly exceed 2,000.

During the year the institution expended a great deal of effort in repairing and maintaining this relatively old physical plant. Several of the buildings were painted, new roofs and gutters were installed in the old buildings, some of the utility lines were replaced, and the roads about the prison reservation were paved.

The security of the prison experienced recurrent periods of stress during the year. The population includes 350 to 400 desperate security risks who are serving long terms and who have detainers on additional charges lodged against them by other jurisdictions. Many of these men have been tried in other institutions, where they were the source of a great deal of trouble, including agitation, escapes, and attempted assaults. It was therefore absolutely necessary to move them to the close-custody facility. Despite the numerous escape plans that the staff detected and others that were circumvented by standing escape procedures, there was only one escape from inside the main institution. Five men, however, walked away from the honor farm. Warden Wilkinson complimented his employees for displaying on several occasions great resourcefulness, courage, and alertness in preventing escape attempts that might have resulted in injury or even death to other employees.

The programs of vocational training and academic school for day students and especially for night classes were greatly extended and improved during the year. Religious programs were emphasized and a high rate of attendance was brought about through the efforts of the chaplains and by bringing in interested and religious-minded citizens of the community. The institution has a longstanding need for a chapel that can be used for both Protestant and Catholic services. Another urgent need seems to be a central room where families may visit inmates. The present arrangements are makeshift and highly unsatisfactory in appearance, efficiency of layout, or ease of supervision. I am pleased to report that funds have now been made available for the construction of a central visiting room.

According to the warden, the new sentencing legislation approved by this committee and enacted by the Congress in 1958 has brought about some improved flexibility in the matter of equitable sentencing and parole practices. These procedures are still relatively new and their increased use can be expected. The percentage of paroles, however, continues to be low and has a depressing and discouraging effect on many long-term inmates who have profited from the training and therapeutic programs of the institution.

Considering the fact that Atlanta is being operated with a prisoner population at least 30 percent higher than its design capacity, that its plant is outmoded in terms of the facilities considered necessary for modern treatment programs, and that its budget and personnel complement are limited, the penitentiary must be credited with achieving

substantial progress during the past year. This has been due largely to the experienced, resourceful, and expert management of the prison staff and the Bureau of Prisons in general. I am gratified to note that the recommendation that I submitted to this subcommittee a year ago concerning the need for additional supergrades for several of the top positions of the Bureau of Prisons has been partially realized during the past year. Full recognition is warranted and should do a great deal to maintain the high caliber of services we have come to expect from this agency.

## STATEMENT OF SENATOR JAMES O. EASTLAND

As a part of my duties as chairman of the Senate Committee on the Judiciary and because of my personal interest in the Federal penal system, I visited the U.S. penitentiary at Atlanta, Ga., on Wednesday, December 9. Before touring the buildings and grounds of the prison, I discussed with Warden Fred T. Wilkinson the general problems of the prison and some of the problems of the Federal prison system as a whole. Warden Wilkinson, who is a veteran of more than 20 years of prison work and has served as warden and superintendent of several other Federal prisons, is highly qualified for his assignment as warden of one of the two largest Federal penitentiaries.

At the time of my visit the penitentiary had an inmate population of 2,640 although, as Warden Wilkinson pointed out, the capacity of the institution is officially rated at 2,103. Such overcrowding appears to be a general characteristic of Federal prisons, the total population of which has risen from 16,826 on January 1, 1950, to 22,561 at the beginning of December 1959, an increase of 5,735. The 1st session of the 86th Congress authorized funds to begin constructing a new maximum custody prison, but this institution will not be ready for occupancy until at least sometime in 1962, by which time the Federal system will undoubtedly have experienced further increases in prison population.

There are a number of reasons for the rise in Federal prisoner population. One is the fact that the general civilian population of the Nation has risen by about 30 million since 1950. With the crime rate also rising, all State and Federal penal institutions have received larger numbers of convicted offenders. The Narcotics Control Act of 1956 which makes the offenders convicted under its provisions ineligible for parole, the rise in the length of the average sentences imposed by the Federal courts for all types of offenses, and the relatively low parole rate for Federal prisoners (30 percent as compared to an average of 55 percent for State jurisdictions), are other reasons for the annual rise of 600 to 1,000 in the number of Federal prisoners.

Warden Wilkinson advised me that Atlanta's personnel staff is at present composed of 419 employees, including 80 persons employed by Federal Prison Industries, Inc. I felt it noteworthy that this relatively small number of persons is responsible for the custody, discipline, care, and treatment of a prisoner population that has averaged well over 2,500 during the past several years. The costs of operating Atlanta are low, about \$3.02 per day per prisoner, including personnel salaries, and I found that each prisoner is fed at a cost of about 38 cents a day. As correctional workers are typically paid low salaries in American prisons, I was pleased to learn that the salaries of persons who are performing such difficult duties so economically at Atlanta have improved in recent years. In 1957 the starting salary for a correctional officer was \$3,670; by the middle of 1958 this salary had been raised to \$4,490. Even so, this salary contrasts unfavorably with wage board rates; for example, unskilled laborers

at a Federal prison on the west coast receive \$6,000, and electricians, carpenters, and mechanics at several Federal prisons are paid as much as \$7,500. It would appear extremely difficult to recruit for \$4,490 alert, intelligent, highly capable persons who can develop into well-trained officers to serve as leaders, teachers, supervisors, and counselors.

Following our conversation on general matters affecting the entire Federal prison system, I accompanied Warden Wilkinson on an inspection of the penitentiary. I looked, for example, at one of the large cellhouses which contains an average of about 1,000 prisoners, and one of the smaller cellhouses which contains an average of about 350 prisoners. In the larger cellhouses many of the cells had as many as 8 men, and in the smaller 2 men were occupying cells designed for only 1 man. The double-deck bunks and the crowding in of the men and their clothing and possessions created an atmosphere of much congestion. I also visited the basement that had been converted into dormitories for additional housing space, and went into the communal shower rooms where several hundred men were bathing and changing clothing.

On our way to the educational department the warden informed me that about one-third of Atlanta's inmates have less than a fifth-grade education when committed and that relatively few had vocational skills of any kind. Nearly 900 of the inmates are enrolled in some type of educational course, and about 400 are undergoing formalized vocational training. The educational program includes grammar school and high school classes, and specialized instruction beyond that level is also provided. Many inmates take correspondence courses from the extension divisions of various colleges. The organized vocational training embraces a large number of trades, including welding, sheet metal, masonry, machine shop, commercial art, radio and television, and electricity. In visiting the commercial art and vocational training section of the industrial area, I thought the mechanical training and the advanced training courses, such as typewriter repair, in that section were particularly well organized.

I observed a need for a more suitable room for family visiting. At present a few small rooms along the main corridor are used for this purpose. This arrangement complicates supervision, requiring excessive officer personnel, and the inadequate space makes it necessary for the institution to impose rigid time restrictions on the inmate visiting privilege. The provision of adequate visiting time is, of course, an important factor in preserving inmate morale and family ties.

From my own knowledge of cotton and textiles, I was impressed with the textile operations of the penitentiary. In addition to a cotton textile mill, Federal Prison Industries, Inc., operates at Atlanta a canvas specialty shop, a clothing factory, a mattress factory, and a print shop. During the last fiscal year the gross sales of these activities came to \$11,700,000. The net industrial profit of about \$2,750,000 for that year suggests that Atlanta is largely self-supporting as most of this profit is eventually paid into the U.S. Treasury in the form of dividends. An average of about 950 prisoners are employed on a full-time basis in these industries and the pay per prisoner worker averages about \$36 a month. These men, in contrast to some public impressions of prison life, seem to go about their duties with-

out requiring overly close supervision and with little indication of tension. I found this generally true of the penitentiary, and although Warden Wilkinson expressed the opinion that Atlanta held about 400 prisoners who must be considered serious escape risks, this circumstance could not be detected from external appearances.

As other Senate duties will permit, I look forward to visiting other Federal prisons to examine at first hand some of the problems they face.

The Senate Judiciary Committee has in the past two sessions of the Congress approved legislation providing for the sale of the present National Training School property and the construction of a new school elsewhere, but upon passage by the Senate this legislation has twice failed to reach the floor of the House. The Federal Bureau of Prisons now has about 1,000 juveniles in its institutional population, and with the capacity of the present National Training School rated at 288, an additional 200 juveniles have had to be crowded into its aged and outworn facilities, and the excess has had to be diverted to other Federal institutions not equipped for this purpose.

The present Springfield, Mo., medical center was opened in September 1933 when the entire Bureau of Prisons inmate population was only 13,600 and was designed to serve as a general hospital. Since that time the number of Federal prisoners has increased markedly, and I am informed that a much larger proportion have serious neuropsychiatric problems, sexual aberrations, and chronic medical disabilities. Because Springfield lacks adequate space and treatment facilities for the greatly expanded requirement for its services, large numbers of medical and psychiatric patients must be retained at Atlanta and the other Federal institutions, none of which is designed or equipped to furnish the needed treatment.

From this visit, I received the impression that the Atlanta staff and the Bureau of Prisons in general is performing an efficient and economical service. The caliber of this management is, of course, a matter of record in the previous annual reports of this committee's Subcommittee on National Penitentiaries.



April 26, 1960

Mr. James V. Bennett, Director  
United States Department of Justice  
Bureau of Prisons  
Washington 25, D.C.

Dear Mr. Bennett :

I have checked with Alex Gregory  
and unless there is some change in your plans  
we will plan to meet with you in Leavenworth  
on the morning of Saturday, May 14th. We will  
probably be staying at the Hotel Muehlebach in  
Kansas City the night before and we look for-  
ward to an interesting and profitable experience.

With all good wishes.

LMS/vs

LeMoyne Snyder, M.D.

C

O

P

Y

April 29th, 1960

Mr. Alex L. Gregory  
14418 Penrod Road  
Detroit 23, Michigan

Dear Mr. Gregory:

Dr. Snyder is in San Francisco and inasmuch as a telegram just arrived from James V. Bennett regarding a change in date for the meeting at Leavenworth I am quoting it here for your information:

"Because of budget hearings have had to change my plans regarding visit to Leavenworth and now hope it will be possible for us to meet there either May 23rd or May 25th. Regards."

Jas. V. Bennett, Director  
Federal Bureau of Prisons  
Washington, D.C.

Dr. Snyder wanted you to be apprised of this change and said to tell you he hopes to see you in a week or so.

Yours very truly,

Virginia G. Scott,  
Secretary

/hs

C  
O  
P  
Y

## CLASS OF SERVICE

This is a fast message unless its deferred character is indicated by the proper symbol.

# WESTERN UNION

## TELEGRAM

W. P. MARSHALL, PRESIDENT

1201

## SYMBOLS

DL=Day Letter

NL=Night Letter

LT=International Letter Telegram

The filing time shown in the date line on domestic telegrams is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination

CH3 GOVT PD=TDSF PWS WASHINGTON DC APR 28 441P:

DR LE MOYNE SNYDER=

325 VALLEY VIEW DR PARADISE CALIF=

BECAUSE OF BUDGET HEARINGS HAVE HAD TO CHANGE MY PLANS  
RE VISIT TO LEAVENWORTH AND NOW HOPE IT WILL BE POSSIBLE  
FOR US TO MEET THERE EITHER MAY TWENTY THIRD OR MAY  
TWENTY FIFTH. REGARDS=

JAMES V BENNETT DIR JUSTICE BUREAU OF PRISONS=

830)A

No. 5579	To adel
By [signature]	At 9:40 To Be mail

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

May 18, 1960

Hon. James V. Bennett, Director  
United States Department of Justice  
Bureau of Prisons  
Washington 25, D.C.

JUNE 15 IS SATISFACTORY FOR BOTH OF US  
AND WE CONFIRM THE MEETING FOR THAT DATE.  
REGARDS.

LeMoyne Snyder

## CLASS OF SERVICE

This is a fast message unless its deferred character is indicated by the proper symbol.

# WESTERN UNION TELEGRAM

W. P. MARSHALL, PRESIDENT

1201

## SYMBOLS

DL=Day Letter

NL=Night Letter

LT=International  
Letter Telegram

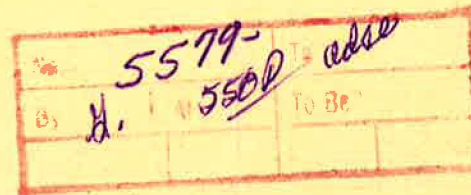
The filing time shown in the date line on domestic telegrams is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination

1 =0B082 SSF473

1960 MAY 17 PM 5 27

O SFJ413 GOVT PD=TDSF PWS WASHINGTON DC 17 451P PDT=  
DR LEMOYNE SNYDER=  
325 VALLEY VIEW DR PARADISE CALIF=

UNFORTUNATELY I HAVE AGAIN HAD TO POSTPONE MY TRIP TO  
LEAVENWORTH WOULD IT BE POSSIBLE FOR YOU AND DR GREGORY  
TO MEET ME THERE ON EITHER JUNE 13 OR 15=  
JAMES W BENNETT DIR BUREAU OF PRISONS.



THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

June 4, 1960

C  
O  
P  
Y

Hon. James V. Bennett, Director  
United States Department of Justice  
Bureau of Prisons  
Washington 25, D.C.

Dear Mr. Bennett:

Many thanks for the splendid article which you sent me. I read it over with great interest and I think you have done a wonderful job in evaluating the usefulness of the polygraph.

There are just one or two small items in the article that I would like to talk to you about and inasmuch as we will be seeing each other in about ten days I will try to do it on that occasion rather than go into the matter in this letter.

Best wishes and I look forward to a nice visit with you soon.

Sincerely,

LMS/vs

LeMoyne Snyder, M.D.

JAMES V. BENNETT  
DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE  
BUREAU OF PRISONS  
WASHINGTON 25

May 27, 1960

Dr. LeMoyne Snyder  
325 Valley View Drive  
Paradise, California

Dear Dr. Snyder:

I am enclosing a preliminary and tentative draft of my evaluation of the polygraph and my policy statement for the guidance of our institutions as a result of this evaluation. I would appreciate your permission to quote you as I have and also any suggestions or criticisms of this paper that may occur to you. I am also asking Alex Gregory, Erle Stanley Gardner, and the other persons quoted in this paper for their opinions.

It may be that I will publish this paper in some suitable professional magazine, and I wish to make sure that I have my facts and conclusions as reasonably accurate and fair as they can be.

Thanks for your assistance.

Sincerely,

  
Director

June 30th, 1960

At Paradise, California

Hon. James V. Bennett, Director  
Bureau of Prisons  
Department of Justice  
Washington 25, D. C.

Dear Jim:

I have had several long talks with Dr. LeMoyne Snyder here in Paradise and have exchanged a couple of Audograph discs with Alex Gregory. As a result, I am tremendously interested in finding out more about Bowen's recollection of what happened.

I think perhaps I may have been prejudiced about the story of alcoholic amnesia because I encountered it so many times in the law business. It is, of course, the stock defense of the man who is trapped by such a series of circumstances that he has no explanation and so he tells the old story of "I had a lot to drink and I simply can't remember what happened."

We hear this story so many times in the law business, and you have heard it so many times in talking with persons who have committed crime, that gradually your mind becomes automatically conditioned to extreme skepticism and downright disbelief whenever you hear the story. And because of that, we overlook the fact that occasionally we do have cases of alcoholic amnesia which are true.

If Retha McCawley's story is true, there are some things I simply can't understand about this whole case. If we assume that Bowen is guilty, why did he let his only means of transportation get away from him? Why was he left with the victim of the crime on the side of a road with daylight coming on?

If Retha McCawley's story is true, why did Bowen remove her class ring? This was a cheap article of novelty jewelry, which had absolutely no value, yet which would have been damning evidence of guilt.

June 30th, 1960

If Retha McCawley's story was true and if she truthfully related the events that happened that night, why would Bowen, knowing that Bloodworth had been beaten up and then escaped from his captors and, of course, gone to the police; knowing that the kidnapping of Retha McCawley would have been reported to the officers long before daylight; knowing that Retha McCawley herself had escaped from him and dashed out to a highway where she had been picked up by passing motorists; make the mistake of going to the nearest bus station, buying a ticket to Wichita Falls, and sitting there with the girl's class ring in his pocket?

All of these things simply don't make sense, - if Retha's story was true.

If Retha McCawley's story is not true, what were the true facts in the case?

Even according to Retha McCawley's testimony, when she pointed out Bowen to the officers and the officers placed him under arrest, Bowen said, "I have never seen this girl before in my life." Then they asked him where the girl's ring was and he said, "In my left-hand pants pocket." If this testimony is true, it would appear that Bowen had started to deny knowing the girl, then when the officers asked him about her ring he realized he was trapped and caved in and said, "The ring is in my pants pocket." But if this had been the case, he would then have thrown up his hands and said, "All right, you've got me. I'm the guy you're looking for. I kidnapped her and raped her."

Your own experience with law enforcement makes you realize that any officer, having found a man in this mental condition, would have gone on and secured a confession from him then and there.

So the facts in the case simply don't add up no matter which story you take.

I am, of course, very much interested in getting justice for Bowling, but right at the moment the importance of the case from the standpoint of evaluating the polygraph reactions of an inmate, makes the case have tremendous significance.

In justice to Bowen, the records show that at all times Bowen had stated he was drunk and couldn't remember what happened. As far as I know, he has never varied from this story. That, of course, is the reason his attorney, knowing that Bowen had had a prior sentence for statutory rape and hearing the testimony of the witnesses, made the statement that he did to the court, which was to the effect that he didn't think his client was guilty of the things Retha McCawley had testified to, but that under the circumstances and in view of

June 30th, 1960

the fact that his client had advised him he had been so drunk he couldn't remember what had happened, the attorney felt that the proper thing to do was to plead his client guilty and throw him on the mercy of the court. The court pointed out that this was a capital case and that a plea of guilty could not be entertained and, therefore, instructed the attorney to proceed with the trial.

There is one method by which it may be possible to find out what happened and that is by using hypnosis.

If Bowen's story is true that he doesn't remember what happened and he was suffering from alcoholic amnesia, it is very possible that once we could reach his subconscious mind through hypnotism we could get a detailed account of what actually did happen, and apparently Bowen would be willing to submit to hypnosis. Whether he is one of the somewhat limited number who could be hypnotized successfully, is another question.

Entirely aside from doing substantial justice in the Bowling case, the question of what happened here is of such importance from a standpoint of law enforcement and in evaluating the polygraph, I would like to see everything done that could possibly be done to find out the true facts in this case.

I will admit that my first reaction to Bowen's story and to Gregory's report was a feeling that somehow Bowen had worked out a method of confusing the examiners, but I have been working with Gregory and Snyder for more than ten years. After talking with Snyder and listening to Gregory's Audograph discs, I have come to the conclusion that the situation isn't that simple; or if that is the explanation, we're dealing with something which must be carefully investigated.

The FBI has made three investigations of this case: The first investigation in connection with the trial; the second, which was, I understand, a "partial investigation" at the instance of Marsh Mouts on behalf of the Court of Last Resort; and the third investigation by Inspector Malone. This last investigation was conducted over a long period of time and with great care, going into every detail of the case. Yet, as I remember it, Inspector Malone told me that he had not talked with Retha McCawley, who is now married to Ralph Bloodworth, and I gathered that he didn't intend to.

Obviously, a reinvestigation of a case in which no attempt is made to contact the injured party and the prosecuting witness, would indicate that there was some deep-seated reason.

It may be that this reason was because Retha and Ralph had given the investigative officers to understand that they would not discuss any aspect of the case. It is the only reason I can imagine.

June 30th, 1960

It appears in the transcript that one of the officers was asked on cross-examination if he hadn't made the statement that he had talked with Retha McCawley half a dozen times and that every time he talked with her he had received a different story. He didn't answer that question directly, but stated that every time he talked with her she had been positive of her identification. Reading the transcript, I rather gathered that the officer might well have made this statement that he had received a different story every time he'd talked with her.

It may be that because of certain conflicts existing in the records of the FBI on the one hand, and the transcript on the other, the Bureau felt that it would be valueless to try to interview Retha McCawley again. I just don't know and am, of course, in no position to find out.

However, in view of the importance that this case has assumed from an over-all picture of law enforcement, I would like very much indeed to find out what actually did happen. It may be that at this late date, and in view of the fact that Retha McCawley is now happily married, she might clarify some of the apparent conflicts in her testimony.

The fact remains that we have a story which simply doesn't make sense and we have a most interesting situation in connection with the polygraph. As Gregory, who is quite an outdoor man, has pointed out in his records to me, when he is in the forest he follows his compass and has learned to rely upon it and has saved himself from becoming lost by following the compass, even when his reason told him that the compass was in error. He states that over a period of years he has learned to place reliance on the polygraph just as on the compass.

There are, of course, certain things, such as the proximity of a deposit of iron which can make the compass unreliable. If there should be anything which has a similar effect on the polygraph, I would like very much to find it out. And, of course, you would too. Here we have a case which presents a challenge and a remarkable opportunity.

I am going to write Bowen a letter, and perhaps a series of letters, and if he is willing to consent to hypnosis, I would like very much to see it tried in his case, but would, of course, want to have your reaction before suggesting it.

I'm sorry this has become a rather lengthy letter, but it is one of the most interesting and challenging cases I've encountered, and I certainly want to find out more about it.

All the best in the world.

Yours,

ERLE STANLEY GARDNER

*Dr. Snyder*

**MARION ISOM BOWLING**

**#63951-L**

**P. O. Box 1200, Leavenworth, Kansas**

**1959 Warden: John C. Taylor**  
**Former Warden: Chesley H.**  
**Looney**

**Date of Crime: April 27-28, 1946**  
**Date of Sentence: March 14, 1947**

**ALLEN, Z. D., ESQ.**

**Allen, Locke & Kouri, Attorneys at Law,**  
**Suite 500-04, Staley Building, Wichita**  
**Falls, Texas (Attorney for Bowling -**  
**first case in Federal court)**

**ANDERSON, JR., HENRY J.**

**City National Bank Building, Wichita Falls,**  
**Texas (Former partner of John Davenport)**

*wire*

**BENNETT, HON. JAMES V.**

**Director, Bureau of Prisons, United States**  
**Department of Justice, Washington 25, D. C.**

**BLOODWORTH, RALPH**

**With Retha McCawley on night of crime.**  
**Now married to her.**

**BOND, CHARLIE**

*Private Investigator*

**BOWEN, FOSTER LOUIS**

**#63980-L, Fort Leavenworth, Kansas**  
**Co-defendant. Pled guilty to charge.**

**BOWLING, MRS. MARION I.**

**Wife. 1305-35th Street, Wichita Falls,**  
**Texas.**

**CATES, BOB**

**Former Sheriff of Duncan, Oklahoma**

*wire*

**COZART, HON. REED**

**Pardon Attorney, Department of Justice,**  
**Office of the Pardon Attorney, Washington,**  
**D. C.**

DAVENPORT, JOHN

Law Offices, Davenport and Anderson,  
336-39 Nacol Building, Wichita Falls, Texas

DIFFENDAFFER, CHARLIE

Court reporter at Ada trial

*will* FAVROT, HON. J. ST. CLAIR

201 Court House, Baton Rouge, Louisiana  
Office: DI 4-1556 Home: Walnut 1-8496  
BO 3 6 R - Di 3-1095

FENDER, HARRY G.

Assistant United States Attorney, 333  
Federal Building, P. O. Box 1400,  
Muskogee, Oklahoma (Attorney for Plaintiff  
with McSherry)

GREER, KEN

United States Marshal

HARRINGTON, SYBIL

Identified Bowen and Bowling as being at  
County Line Dance Hall

HARVEY, HON. KENNETH V.

Acting Pardon Attorney, Department of  
Justice, Washington, D. C.

HAWKS, REX

1510 Republic Building, Oklahoma City,  
Oklahoma (Private investigator employed  
by ESG)

HOHMAN, JOHN

Associated with Park Street

*will* HOOVER, HON. J. EDGAR

Director, Federal Bureau of Investigation,  
United States Department of Justice,  
Washington 25, D. C.

IKARD, HON. FRANK

Congressman in Texas district in 1955

JAMES, THOMAS F.

Police officer who checked Bowling's license  
at Vernon, Texas. P. O. Box 342, Pantex,  
Texas Ph: Amarillo DRake 40174

JAMISON, J. L.

Sheriff, Montague, Texas (Arrested Bowen in Ringgold)

JOHNSON, HON. LYNDON B.

Senator. United States Senate, Office of the Democratic Leader, Washington, D. C.

KIZZIRE, RANDOLPH

United States Court Clerk, Federal Bldg., Muskogee, Oklahoma (in 1959)

LAW, KIRT

Special Agent of FBI out of Los Angeles office. (Accompanied Inspector Malone to ranch)

LESTER, CHARLIE

Also known as Hawk or Halk. Said to be the man with Bowen, and not Bowling.

*Malone, J.F. (F.B.I.)*

*3000 1/2 miles in Oklahoma, etc.*

McCawley, RETHA JUANITA  
(Ruth)

Waitress. Kidnapped and raped. (Spelled McCauley also but believe McCawley is correct)

*wire* McSHERRY, HON. FRANK D.

United States Attorney, 333 Federal Bldg., P. O. Box 1400, Muskogee, Oklahoma (Dear Colonel McSherry)

MALONE, JOHN

Inspector in charge of the FBI and close to Director Hoover (Interviewed ESG & Marsh Houts at the ranch)

MARTIN, JOHN BARTLOW

185 Maple Avenue, Highland Park, Illinois (Keeping him posted on developments in case)

MURPHEE, W. S.

Holliday, Archer County, Texas. Affidavit that he saw Bowling at filling station.

NELSON, HON. WALTER

Presiding Judge, habeas corpus hearing,  
Wichita Falls, Texas.

PARISH, ELMER

District Attorney, habeas corpus hearing,  
Wichita Falls, Texas

PATTERSON, S. B.

Police officer with Thomas F. James, who  
checked Bowling's driving license at Vernon

PRUITT, OMA

Identified Bowen and Bowling as being at  
County Line Dance Hall.

PUGH, JOHN H.

Clerk, United States District Court, Office  
of the Clerk, Eastern District of Oklahoma,  
Muskogee, Oklahoma (in 1957)

RICE, HON. EUGENE

Federal Judge

*wire*  
SCANLAND, HON. GRANVILLE

Attorney at Law, 916 City National Building,  
Oklahoma City, Oklahoma (Dear Professor)

*wire*  
SILVER, HON. EDWARD S.

District Attorney of Kings County, Municipal  
Building, Brooklyn, New York

SIZEMORE, CHARLIE

Local FBI agent in Oklahoma

SULLIVAN, JEROME

Duncan, Oklahoma. Represented Bowling  
at preliminary hearing at Stephens County,  
Oklahoma.

SUMMERS, CLEON A.

District Attorney at Muskogee, Oklahoma.  
(Refused to recommend clemency)

*Taylor John G.*  
TEAGUE, MRS. VERA

*see for Sumnerville 1957*  
2501 West College, Midland, Texas -  
daughter's residence, whose name is Atkin.  
(Presently working at Jumbo Inn, Midland,  
Texas.)

WALKER, EDNA

Identified Bowen and Bowling as being at  
County Line Dance Hall.

WALLACE, HON. W. R.

Judge, United States District Court for the  
Eastern, Northern and Western Districts of  
Oklahoma, Oklahoma City 1, Oklahoma

wire WHEELER, HON. CHAL

Norman & Wheeler, Attorneys at Law,  
Fourth & Boston, Muskogee, Oklahoma  
Murray 7-4496 - Murray 7-4497

WILCOXEN, ANDREW

Attorney at Law, 404 Wall Street, Muskogee,  
Oklahoma MU 3-1112 (Attorney associ-  
ated with Chal Wheeler at Okla. trial)

ADA, OKLAHOMA  
ADDINGTON  
COUNTY LINE, OKLAHOMA  
DUNCAN, OKLAHOMA  
FAITH CAFE  
RINGGOLD, TEXAS  
STEPHENS COUNTY, OKLAHOMA  
VERNON, TEXAS  
WICHITA FALLS, TEXAS

*Dr. Snyder*

**MARION ISOM BOWLING**

#63951-L

P. O. Box 1200, Leavenworth, Kansas

1959 Warden: John C. Taylor  
Former Warden: Chesley H.  
Looney

Date of Crime: April 27-28, 1946  
Date of Sentence: March 14, 1947

**ALLEN, Z. D., ESQ.**

Allen, Locke & Kouri, Attorneys at Law,  
Suite 500-04, Staley Building, Wichita  
Falls, Texas (Attorney for Bowling -  
first case in Federal court)

**ANDERSON, JR., HENRY J.**

City National Bank Building, Wichita Falls,  
Texas (Former partner of John Davenport)

*wire*

**BENNETT, HON. JAMES V.**

Director, Bureau of Prisons, United States  
Department of Justice, Washington 25, D. C.

**BLOODWORTH, RALPH**

With Retha McCawley on night of crime.  
Now married to her.

**BOND, CHARLIE**

*Private Investigator*

**BOWEN, FOSTER LOUIS**

#63980-L, Fort Leavenworth, Kansas  
Co-defendant. Pled guilty to charge.

**BOWLING, MRS. MARION I.**

Wife. 1305-35th Street, Wichita Falls,  
Texas.

**CATES, BOB**

Former Sheriff of Duncan, Oklahoma

*wire*

**COZART, HON. REED**

Pardon Attorney, Department of Justice,  
Office of the Pardon Attorney, Washington,  
D. C.

DAVENPORT, JOHN

Law Offices, Davenport and Anderson,  
336-39 Nacol Building, Wichita Falls, Texas

DIFFENDAFFER, CHARLIE

Court reporter at Ada trial

wire FAVROT, HON. J. ST. CLAIR

201 Court House, Baton Rouge, Louisiana  
Office: DI 4-1556 Home: Walnut 1-8496

BO 3 68 - Dec 3 - 1955

FENDER, HARRY G.

Assistant United States Attorney, 333  
Federal Building, P. O. Box 1400,  
Muskogee, Oklahoma (Attorney for Plaintiff  
with McSherry)

GREER, KEN

United States Marshal

HARRINGTON, SYBIL

Identified Bowen and Bowling as being at  
County Line Dance Hall

HARVEY, HON. KENNETH V.

Acting Pardon Attorney, Department of  
Justice, Washington, D. C.

HAWKS, REX

1510 Republic Building, Oklahoma City,  
Oklahoma (Private investigator employed  
by ESG)

HOHMAN, JOHN

Associated with Park Street

wire HOOVER, HON. J. EDGAR

Director, Federal Bureau of Investigation,  
United States Department of Justice,  
Washington 25, D. C.

IKARD, HON. FRANK

Congressman in Texas district in 1955

JAMES, THOMAS F.

Police officer who checked Bowling's license  
at Vernon, Texas. P. O. Box 342, Pantex,  
Texas Ph: Amarillo DRake 40174

JAMISON, J. L.

Sheriff, Montague, Texas (Arrested Bowen in Ringgold)

JOHNSON, HON. LYNDON B.

Senator. United States Senate, Office of the Democratic Leader, Washington, D. C.

KIZZIRE, RANDOLPH

United States Court Clerk, Federal Bldg., Muskogee, Oklahoma (in 1959)

LAW, KIRT

Special Agent of FBI out of Los Angeles office. (Accompanied Inspector Malone to ranch)

LESTER, CHARLIE

Also known as Hawk or Halk. Said to be the man with Bowen, and not Bowling.

*Malone, J.F. (F.B.I.)*

*3951 Myrtle - Alexandria, Va*

McCAWLEY, RETHA JUANITA  
(Ruth)

Waitress. Kidnapped and raped. (Spelled McCauley also but believe McCawley is correct)

wire McSHERRY, HON. FRANK D.

United States Attorney, 333 Federal Bldg., P. O. Box 1400, Muskogee, Oklahoma (Dear Colonel McSherry)

MALONE, JOHN

Inspector in charge of the FBI and close to Director Hoover (Interviewed ESG & Marsh Houts at the ranch)

MARTIN, JOHN BARTLOW

185 Maple Avenue, Highland Park, Illinois (Keeping him posted on developments in case)

MURPHEE, W. S.

Holliday, Archer County, Texas. Affidavit that he saw Bowling at filling station.

NELSON, HON. WALTER	Presiding Judge, habeas corpus hearing, Wichita Falls, Texas.
PARISH, ELMER	District Attorney, habeas corpus hearing, Wichita Falls, Texas
PATTERSON, S. B.	Police officer with Thomas F. James, who checked Bowling's driving license at Vernon
PRUITT, OMA	Identified Bowen and Bowling as being at County Line Dance Hall.
PUGH, JOHN H.	Clerk, United States District Court, Office of the Clerk, Eastern District of Oklahoma, Muskogee, Oklahoma (in 1957)
RICE, HON. EUGENE	Federal Judge
<i>wire</i> SCANLAND, HON. GRANVILLE	Attorney at Law, 916 City National Building, Oklahoma City, Oklahoma (Dear Professor)
<i>wire</i> SILVER, HON. EDWARD S.	District Attorney of Kings County, Municipal Building, Brooklyn, New York
SIZEMORE, CHARLIE	Local FBI agent in Oklahoma
SULLIVAN, JEROME	Duncan, Oklahoma. Represented Bowling at preliminary hearing at Stephens County, Oklahoma.
SUMMERS, CLEON A. <i>Taylor, John G.</i>	District Attorney at Muskogee, Oklahoma. (Refused to recommend clemency) <i>was in prison 1957</i>
TEAGUE, MRS. VERA	2501 West College, Midland, Texas - daughter's residence, whose name is Atkin. (Presently working at Jumbo Inn, Midland, Texas.)

WALKER, EDNA

Identified Bowen and Bowling as being at  
County Line Dance Hall.

WALLACE, HON. W. R.

Judge, United States District Court for the  
Eastern, Northern and Western Districts of  
Oklahoma, Oklahoma City 1, Oklahoma

wire WHEELER, HON. CHAL

Norman & Wheeler, Attorneys at Law,  
Fourth & Boston, Muskogee, Oklahoma  
MUrray 7-4496 - MUrray 7-4497

WILCOXEN, ANDREW

Attorney at Law, 404 Wall Street, Muskogee,  
Oklahoma MU 3-1112 (Attorney associ-  
ated with Chal Wheeler at Okla. trial)

ADA, OKLAHOMA  
ADDINGTON  
COUNTY LINE, OKLAHOMA  
DUNCAN, OKLAHOMA  
FAITH CAFE  
RINGGOLD, TEXAS  
STEPHENS COUNTY, OKLAHOMA  
VERNON, TEXAS  
WICHITA FALLS, TEXAS

November 3, 1960

In re: FOSTER L. BOWEN

MEMO TO: All Member of the Court of Last Resort

Park Street and I went to Wichita Falls Monday, October 31st and interviewed Wayne Somerville, the attorney who represented Foster L. Bowen.

Somerville gave us quite a bit of time and searched his recollection to try and recall just what had happened. There were some things about which he could not be certain but there were some points on which he felt quite certain.

We suggested that he make an affidavit upon the points concerning which he felt certain and he did so. A copy of that affidavit is enclosed.

After we had the affidavit Park Street and I went to Fort Leavenworth and interviewed Foster Bowen in the penitentiary.

Despite the affidavit Bowen would not change his story in any way but insisted he had been drugged and could remember nothing about the events of the evening past a certain point which occurred prior to the time he is alleged to have met Retha McCauley.

He continued to deny that he had her ring in his possession.

ERLE STANLEY GARDNER

C  
O  
P  
Y

ESG:hs  
Enc.

THE STATE OF TEXAS  
COUNTY OF WICHITA

BEFORE ME, the undersigned authority, a Notary Public in and for Wichita County, Texas, on this day personally appeared Wayne Somerville, who first being duly sworn on oath deposes and states:

My name is Wayne Somerville; I am a practicing attorney having practiced law in Wichita County, Texas, since 1915. A few years ago I was employed to represent Foster L. Bowen in the trial of a case wherein he was charged with rape and kidnapping in the Federal Court at Ada, Oklahoma. Since the trial of this cause and the conviction of Mr. Bowen therein he has given me full authority to state all confidential communications between him and myself which took place both before, during and after said trial. I believe I have some notes in my files concerning this trial but at the present time I am positive as to the following facts and may be able to enlarge upon these after searching my files:

Foster L. Bowen stated to me that at the time he and his companion drove up to the automobile wherein Retha McCauley and her companion were located that she and her companion were on the back seat of said automobile and were engaged in acts of sexual intercourse. That after Retha's companion left the car Bowen and Retha occupied the back seat of the car belonging to Bowen's companion; that they had some liquor and drove away from the locality where Bowen had picked Retha up and spent several hours that night, in fact, until early in the morning, in said automobile drinking, loving and having sexual intercourse. That at no time did Retha McCauley, during the time they were in said automobile, offer any resistance to any of the advances or acts on the part of Foster L. Bowen. That some time during the night she gave Foster L. Bowen her class ring voluntarily. That on one occasion during the night the car occupied by Foster L. Bowen and Retha McCauley stopped on the public highway in the neighborhood of a farm house and close enough to the farm house to disturb the dogs and set them to barking. That neither at that time when

parked near this farm house, or at any other time during the night while this party was going on, did Regha McCauley make any effort to get out of said automobile and run away, or create any noise, scream and/or make any effort to escape from the company of Foster L. Bowen.

WITNESS MY HAND, this the 31st day of October, A. D.

1960,

Wayne Bonerville

SUBSCRIBED AND SWORN TO BEFORE ME, this the 31st day of October, A. D. 1960.

Notary Public, Wichita  
County, Texas (Grace Cobb)