

THE FEDERAL GOVERNMENT'S WAR ON "PUBLIC ENEMIES"

Shortly after the First World War many Americans came to believe that rampant crime was a defining element of their society. Attention soon centered on the gangster, the paragon of modern criminality and eventually the subject of innumerable newspaper and magazine articles, scores of novels and plays, and more than a hundred Hollywood movies. The media gangster was an invention, much less an accurate reflection of reality than a projection created from various Americans' beliefs, concerns and ideas about what would sell. . . .

The rhetoric of crime gained a resonant new term in April 1930 when the Chicago Crime Commission released a list of the city's twenty-eight most dangerous "public enemies." Journalists across the country published the list, adopted the term, and dubbed the notorious Al Capone "Public Enemy Number One."¹

On April 27, 1926, Illinois Assistant State's Attorney William H. McSwiggin was in a Cicero saloon drinking beer with five other men—a former police officer and four gangsters, one of them a man he had unsuccessfully prosecuted for murder a few months earlier. As McSwiggin and the others walked out of the bar, Al Capone and his men opened up with machine guns. Several members of the group jumped to safety behind an automobile but three men, including McSwiggin, were hit. As Capone and his henchmen roared away, the survivors placed the wounded men in an automobile and drove off; later in the evening, McSwiggin's body was dumped along a road outside of town.²

The murder and the suspicious associations of the assistant state's attorney created a sensation in the press. While state attorney Robert Crowe and other officials promised a relentless search for the killers, the *Chicago Tribune* concluded that the perpetrators of McSwiggin's murder would never be identified, citing a "conspiracy of silence among gangsters and

intimidation of other witnesses after a murder has been committed.” Concerning the latter factor, the paper claimed, “anyone who does aid the public officials by giving facts is very likely to be ‘taken for a ride.’”³

In response to the *Tribune* story, Crowe announced that his office had established that Al Capone was not only responsible for the slaying of McSwiggin but had been behind the machine gun used in the assault. Capone and the survivors of the incident had disappeared, but Crowe ordered raids on Capone’s speakeasies, clubs, and brothels. Gambling equipment and large quantities of liquor were destroyed, some prostitutes were arrested, and several ledgers were confiscated. Capone was charged with the murder, but when he appeared in court, an assistant state’s attorney withdrew the charge due to lack of evidence. The judge then dismissed the case and Capone strolled out of the courtroom. Despite the impaneling of six grand juries, no other arrests were ever made and the case focused public attention on the inability of local or even state government to prevent, control, or punish criminal wrongdoing.⁴

Chicago in 1926 was in the midst of what has been called “the lawless decade.” The great national experiment, Prohibition, had given rise to the bootlegging business, creating an environment in which organized crime could thrive. Rival gangs ran prostitution, gambling, and extortion rackets along with their illegal liquor sales. These enterprises generated vast sums of money, and the gangs battled for control of distribution networks and territory.

At the same time, local government and law enforcement agencies were rife with corruption. Criminal entrepreneurs, emboldened by the presence of police officers, judges, and politicians on their payrolls, made little attempt to hide their activities, and violence spilled over into the streets for all to see. Gangs would abduct victims on the street and take them “for a ride” or drive past targets in their homes or businesses or while they were walking on the street, guns blazing from several cars.

Gang warfare in Chicago had been heightened by the arrival of Capone, a New York thug who took over the leadership of the Johnny Torrio organization and worked to expand its influence. Between 1922 and the end of 1925, gangsters killed 215 other gangsters in Chicago, and police killed 160. In the first ten months of 1926, 96 gangsters died in gang conflicts in and around Chicago, and police killed 60 more. Between 1927 and 1930 more gangsters died, “many of them on city streets.”⁵

The public was alarmed by the rise in violence, and aware of widespread official corruption. However, as long as Chicago's gang members were gunning down mostly their own kind, public reaction remained muted.

The significance of the McSwiggin case was that it revealed a link between organized crime and law enforcement at the highest level in the state of Illinois. The public knew that Chicago mayor "Big Bill" Thompson was Al Capone's candidate, but corruption at the state level was more difficult to countenance. And Capone's seeming immunity made the public realize that both local and state government were powerless to prevent, control, or punish criminal wrongdoing.

McSwiggin's murder case represented a turning point in the fight against organized crime. It set into motion a series of events that would involve the federal government much more deeply in the anticrime effort and ultimately lead to the opening of the federal prison on Alcatraz island as a place to securely incarcerate the country's most dangerous felons.

Lawlessness, law enforcement's impotence, and the danger to public safety posed by gangsters and outlaws—both real and perceived—had to worsen, however, before the federal government began to respond with special measures.

AL CAPONE AND MOB VIOLENCE IN CHICAGO

During the remainder of 1926, gun battles between the Capone mob and Hymie Weiss and Bugs Moran continued. In August two incidents occurred in broad daylight on the crowded streets of downtown Chicago. In both cases, Capone mobsters fired at Weiss from speeding automobiles, smashing windows, and forcing passersby to run for cover. Incidents such as these prompted Charles "Lucky" Luciano, a dominant figure in organized crime in New York City, to remark after a visit to Chicago, "A real goddamn crazy place . . . nobody's safe in the streets."⁶

In 1927 Big Bill Thompson ran again for mayor despite condemnation of his candidacy in the press. One newspaper editorial claimed, "Thompson is a buffoon in a Tommyrot factory, but when his crowd gets loose in City Hall, Chicago has more need of Marines than any Nicaraguan town." The Capone organization worked hard for Thompson's election, contributing \$260,000 and using every technique to assure a Thompson victory. (It was during this campaign that Capone was said to have advised the citizens of Chicago to "Vote early and vote often.")⁷ When Thompson won the election, the last hope civic leaders had for controlling organized crime in the city vanished. Adding to the despair,

the ability of gangsters to literally get away with murder was dramatically illustrated again a year later by one of the most notorious episodes of criminal violence in American history.

On February 14, 1929, seven men who worked for Bugs Moran were in a warehouse on North Clark Street in Chicago, waiting for some empty trucks to take to Detroit, where they were planning to pick up smuggled Canadian whiskey. A Cadillac touring car of the type used by detectives pulled up in front of the warehouse. Five men, three in police uniforms, got out and entered the warehouse with drawn guns. The seven occupants were told to line up facing a wall. When they complied they were cut down by machine gun fire. Neighbors, hearing what sounded like pneumatic drills, saw several men come out of the warehouse with their arms raised, followed by men in police uniforms holding guns on those in front of them. The “police” and their captives climbed into the automobile and drove off.

Inside the warehouse a dog owned by one of the victims began to howl. As the howling went on and on, one resident walked over to the warehouse to investigate. He looked inside and began yelling that everyone inside the garage was dead. He was not quite correct; Frank Gusenberg, who had been hit by fourteen machine gun bullets, was miraculously still alive. Rushed to a hospital, he was questioned by a detective with whom he had gone to school. “Frank, in God’s name what happened? Who shot you?” “Nobody shot me,” Gusenberg replied. The detective told him that his brother Pete was dead, that he was dying, and asked him to reveal the names of the killers. Gusenberg refused, uttering as his last words, “I ain’t no copper.”⁸

Chicagoans were horrified by the slaughter on North Clark Street. Headlines declared that the incident indicated a “Return to Frontier Lawlessness” and a “Complete Breakdown of Law and Order.” One headline stated, “Police Unable to Cope with Mass Daylight Murder” and another asked, “Are We Under Gang Rule?”⁹ The public was fascinated by the incident, which went down in American history as the St. Valentine’s Day massacre. Newspapers printed close-ups of the corpses upside down “so that readers would not have to turn the page around to identify the victims.”¹⁰ The warehouse where the murders took place became a tourist attraction.

There was endless speculation about who was responsible for the killings. Rival gangster Bugs Moran commented, “Only Capone kills like that.” The public and the press, who regarded the Chicago police as cor-

rupt, did not seriously question the report that policemen had been involved. Frederick D. Silloway, the local Prohibition administrator, made this announcement:

The murderers were not gangsters. They were Chicago policemen. I believe the killing was the aftermath to the hijacking of 500 cases of whiskey belonging to the Moran gang by five policemen six weeks ago. . . . I expect to have the names of these five policemen in a short time. It is my theory that in trying to recover the liquor the Moran gang threatened to expose the policemen and the massacre was to prevent the exposure.¹¹

Al Capone had an unbeatable alibi as to his own direct involvement in the massacre—he was being questioned by agents of the Bureau of Internal Revenue's Intelligence Unit at the time of the killings. But Moran was out for revenge. To take the heat off, Capone arranged to have himself arrested in Philadelphia by a detective friend on a charge of carrying a concealed weapon. Taken before a judge with the understanding that if he pleaded guilty he would receive only three months in jail, Capone was surprised to get a sentence of one year and to be taken promptly to Philadelphia's Holmesburg County Prison. Three months later he was transferred to Eastern Penitentiary, where he received what is called "preferential treatment":

Warden Herbert B. Smith made him more comfortable, giving him a cell to himself and letting him furnish it with rugs, pictures, a chest of drawers, desk, bookshelf, lamps and a \$500 radio console. As his work assignment, he drew the untiring one of library file clerk. For ordinary inmates visiting hours were limited to Sundays, but Capone's friends and family could come any day. From the warden's office he was allowed to telephone whomever he chose, and he spoke often to his lawyers, his underworld colleagues and various politicians. . . .

The reporters Capone was willing to talk to had little difficulty getting to him either and they filled column after column with the minutiae of his daily existence. CAPONE GAINS ELEVEN POUNDS . . . CAPONE DOESN'T GO TO CHURCH ON SUNDAYS . . . CAPONE PICKS CUBS TO WIN 1930 FLAG. . . . He bought \$1,000 worth of arts and crafts produced by his fellow prisoners and mailed them to friends as Christmas gifts. He donated \$1,200 to a foundering Philadelphia orphanage. Such Samaritan deeds, described at length by the press, aroused a good deal of sympathy for Capone. A civil engineer from Chicago, a total stranger to him, coming to Philadelphia on business, obtained permission to visit him, clasped his hand and told him, "Al, we're with you."¹²

—Changed "1" to "1" in dollar amounts here —and here. Ok? SMH/ICS

Capone's outstanding behavior allowed the jailers to reduce his sentence by two months and on March 17, 1930, he was smuggled past reporters in the warden's car and driven to a nearby town where his own men picked him up and drove him back to Chicago.

HELP FROM THE FEDERAL GOVERNMENT

Capone's ability to evade arrest, let alone conviction, for any of the crimes he was believed to have committed; his control of police officials, prosecutors, and city, county, and state judges was growing along with his status as a benefactor of the poor. Thus community leaders began to look to the federal government for help in regaining control over their city. In 1929 Robert McCormick, publisher of the *Chicago Tribune* went to Washington, D.C., to urge President Herbert Hoover to have Prohibition agents stop "victimizing ordinary drinkers and instead concentrate on the principal bootleggers who were the source of corruption in Chicago. For instance . . . Al Capone." McCormick was surprised that Hoover replied, "Who is Al Capone?" But after being briefed by McCormick and advised that Chicago police and courts had failed to bring Capone to justice, Hoover began asking his secretary of the treasury, "Have you got this fellow Capone yet. . . . I want that man in jail."¹³ The *Chicago Daily News* publisher also led a delegation of civic leaders to Washington, D.C., to ask President Herbert Hoover to intervene. What the delegation wanted was an efficient, incorruptible criminal justice apparatus that would take over—and win—the battle against gangland in the nation's second largest city.

In spring 1930 Frank Loesch, the head of the Chicago Crime Commission, announced the establishment of a "public enemies" list:

[It ranked] outstanding hoodlums, known murderers, murderers which you and I know but can't prove . . . and there were about 100 of them, and out of that list I selected 28 men. . . . I put Al Capone at the head . . . the purpose is to keep the light of publicity shining on Chicago's most prominent . . . and notorious gangsters to the end that they may be under constant observation by the law enforcing authorities and law-abiding citizens.

This list, as noted by Capone biographer Lawrence Bergreen, had significance "far beyond Chicago . . . it was reproduced in newspapers across the country . . . and continues to this day."¹⁴ Becoming Public Enemy no. 1 made Al Capone the most notorious gangster in American history

and brought to the nation's attention dozens of other hoodlums and outlaws who seemed to operate successfully outside the law.

The trips to the nation's capitol by the newspaper publishers and other influential citizens of Chicago produced two federal initiatives. One, mounted by Eliot Ness and his Prohibition agents, was intended to break up Al Capone's bootlegging business under the provisions of the Volstead Act. The second involved an effort by Frank Wilson and Internal Revenue Service agents to charge and convict Capone—who had never filed an income tax return—of tax evasion.¹⁵ It was the second strategy that finally brought him down.

IRS agents, operating under the assumption that they must produce evidence of income from illegal activities, had been unsuccessful in finding witnesses who were willing to testify against Capone before a grand jury. The break the government needed came when Agent Frank Wilson, working alone one evening, happened to open the drawer of an old file cabinet in a storeroom near the offices he and his men were using; inside he discovered a package wrapped in brown paper containing the three bound ledgers that had been picked up during the raid on one of Capone's establishments after the murder of McSwiggin. The books had not been examined at that time; they had been turned over to the IRS for safekeeping, placed in the file cabinet, and forgotten. As he examined the ledgers, Wilson realized that they constituted the financial record of an enormous gambling operation, along with many notations of payments to "Al." The IRS investigators immediately launched a search for the bookkeeper and by matching handwriting samples from bank deposit slips, voting registers, police records, and bail bond certificates to the penmanship in the ledgers they were able to identify the writer as one Leslie A. Shumway.

Shumway was located at one of Capone's businesses where he worked as a bookkeeper. Warned that failure to cooperate would force the investigators to send out word that he was being sought to testify, with the likely result that Capone would have him "bumped off," Shumway agreed to help the government in return for being hidden in California until the trial. With a key witness now able to link Capone to a source of income on which taxes had not been paid, the United States attorney, George E. Johnson, quickly assembled a grand jury and Capone was indicted for failing to pay \$32,488.81 in taxes on an income of \$123,102.89 in 1924. Twenty-two additional counts were then added, based on IRS calculations that Capone made at least \$1,038,655.84 during the years 1925–1929 and should have paid \$219,260.12 in taxes. The charges carried a sentence of up to thirty-four years in prison.¹⁶

To establish evidence of illegal income, the prosecution presented a parade of witnesses who described purchases Capone had made from them. The final witness, Fred Reis, a cashier in one of Capone's gambling houses, provided a critically important piece of evidence—a check endorsed by Capone. This check was the only piece of paper that government investigators had been able to find that bore the defendant's signature. In its closing argument the prosecution described Capone's lavish lifestyle, saying that he lived "like a bejeweled prince in a palatial home," bought "expensive motor cars" and "jewelry in vast amounts." "Does anybody think that this man did not have a huge income?" asked the prosecutor. "He had an income that called for his paying to the government a substantial income tax."¹⁷

Despite defense attempts to portray their client as a generous man who would not cheat on his income tax—"A tinhorn or a piker might try to defraud the government, but not Alphonse Capone"¹⁸—the jury returned a guilty verdict after less than a full day of deliberations. One week later, on October 24, 1931, Alphonse Gabriel Capone, alias Alphonse Brown, alias Al Brown, alias Scarface Brown, alias Scarface Capone, alias A. Costa, alias Scarface Al, returned to the courthouse for sentencing. Judge James Wilkerson imposed two consecutive five-year terms in federal prison, to be followed by one year in the county jail, fines amounting to \$50,000, and \$7,692.29 in court costs.

Capone was housed in Chicago's Cook County Jail, where his presence soon produced problems for federal authorities. Reports reached Judge Wilkerson that Capone was receiving special privileges and conducting business from the jail. The *Chicago Herald and Examiner* reported, "Capone Runs Underworld from Cell, U.S. Reveals: Al Living in Luxury." Capone, the newspaper contended, was living not in a cell but in a dormitory, "where he has the use of a comfortable hospital cot, a soft mattress, clean linen and a private shower."¹⁹ There were allegations that alcohol was consumed in the jail, that a woman put on an "obscene" performance, and that his hoodlum pals were given free access to the jail after regular visiting hours. Despite an investigation that disputed most of these claims, the public again got the message that Capone's influence and money allowed him to receive special treatment.²⁰

On May 2, 1932 the United States Supreme Court rejected an appeal of Capone's conviction and two days later he was hustled into a U.S. marshal's vehicle and, accompanied by fifteen police cars, driven to a railway station to board the Dixie Flyer to the federal penitentiary at Atlanta, Georgia. Bureau of Prisons officials had decided that Leavenworth

Penitentiary, closer by, was not a good choice for Capone's confinement because a number of his associates were already in that prison.²¹

Once Capone was in a federal prison many miles away from Chicago, the assumption was that his power and money would no longer bring him special privileges. But Atlanta's warden, the Bureau of Prisons, and the Justice Department soon faced the problem of conveying the right image about the consequences of criminal wrongdoing for the country's master criminal, even in one of the government's highest-security penitentiaries.

A WAVE OF CRIME ACROSS THE COUNTRY'S MIDSECTION

While Chicagoans were preoccupied during the 1920s and early 1930s with the activities and antics of Al Capone and other Chicago-area gangsters, law enforcement agencies across the Midwest and the Southwest experienced a troubling wave of bank robberies, ransom kidnappings, and jail escapes. The exploits of John Dillinger, Pretty Boy Floyd, Clyde Barrow and Bonnie Parker, Baby Face Nelson, Machine Gun Kelly, Alvin Karpis, and Ma Barker and her sons Dock and Fred captured the attention of newspaper reporters and their readers across the country and supplied the basis for gangster legends and Hollywood movies for decades to come. And to a public increasingly concerned that crime in America was getting out of hand, these outlaws also provided compelling evidence of an extraordinary threat.²² Criminals of this new class who used fast cars, carefully planned their crimes, and moved quickly and safely across state boundaries were not only difficult to capture but very likely to escape once in custody.

Robbery was the crime of choice for most of these outlaws—robbery of banks, trains, post offices, stores—whatever was nearby that held money. Pretty Boy Floyd and a number of different partners robbed numerous banks in small towns such as Paden, Castle, Sallisaw, and Henryetta in Oklahoma and the Citizens State Bank in Tupelo, Mississippi. Alvin Karpis, Fred and Dock Barker, accompanied on various jobs by Frank Nash, Harvey Bailey, Tom Holden, and others, robbed larger banks in Fort Scott and Concordia, Kansas and in Minneapolis. The Barker-Karpis mob robbed the Swift Company payroll in St. Paul, Minnesota, a Federal Reserve mail truck in Chicago, the payroll at the Youngstown, Ohio Sheet and Tube Company, and a mail train in Warren, Ohio. Clyde Barrow, Bonnie Parker, and their friends and relatives robbed banks, gas

stations, and a food store in various Texas towns, and a bank in Orenogo, Missouri. John Dillinger and his confederates, including Baby Face Nelson, robbed banks in New Carlisle and Daleville and South Bend and Indianapolis and Greencastle, Indiana, in St. Mary's and Bluffton, Ohio, and in Racine, Wisconsin, Sioux Falls, South Dakota, and Mason City, Iowa. The Dillinger gang also broke into the police armory at Peru, Indiana and stole machine guns and other weapons. While most of the bank robberies occurred in the Midwest and the Southwest, there were occasional forays into other parts of the country, such as the robbery of \$100,000 from a U.S. mail train in Charlotte, North Carolina by Basil "the Owl" Banghart, William Costner, and Dutch Louie Schmidt.²³

In the course of committing these crimes, in the ensuing shoot-outs, and sometimes during attempts to break out of jail afterward many of these outlaws ended up killing or wounding police officers, sheriff's deputies, or other law enforcement officers. Pretty Boy Floyd kidnapped a sheriff, killed a police officer, an Oklahoma state investigator, and a Prohibition agent while robbing more than a dozen small banks.²⁴ In separate incidents, Bonnie Parker and Clyde Barrow gunned down a sheriff, a deputy sheriff, a town marshal, and a state police officer. John Dillinger killed a sheriff while escaping from jail in Lima, Ohio. Dock and Fred Barker and three associates killed a police officer in the course of robbing a Federal Reserve bank truck in Chicago. During a raid by federal agents on his hideout in Little Bohemia, Wisconsin, Baby Face Nelson killed an FBI agent. Some months after robbing banks in South Dakota and Iowa, Nelson, his wife, and a close associate, California bootlegger John Paul Chase, engaged FBI agents in a gun battle at a Dillinger hideout in Wisconsin. Fleeing the scene, Nelson and Chase became involved in a shoot-out that left two agents dead. Shortly thereafter, Nelson was located in Illinois and, after a high-speed chase and gun battle with federal agents, he was killed; his body was dumped on a highway by his wife and Chase.²⁵ After robbing a bank in Minneapolis, Alvin Karpis and Dock Barker shot and killed a police officer who was pursuing their getaway car.

A KIDNAPPING "EPIDEMIC" AND THE FEDERAL RESPONSE

While the high-profile robbers were busy, some began to engage in a different form of criminal enterprise—kidnapping the rich and holding them for ransom. Despite his success in removing large sums of money from

financial institutions, Alvin Karpis complained that his chosen line of work was "becoming overcrowded":

It seemed that every two-bit unemployed bum in the United States with the cash to dig himself up a pistol was taking a crack at the robbery business. . . . Crime was the last profession in America in the 1930s that still attracted crowds of applicants.²⁶

(Alvin Karpis, Dock Barker, and Machine Gun Kelly too would jump on the kidnapping bandwagon in the early 1930s.)

The first ransom kidnapping cases occurred during the 1920s and involved children. The most notorious was the taking of fourteen-year-old Bobby Franks, who was subsequently murdered by Richard Loeb and Nathan Leopold. The sons of millionaires, Leopold and Loeb were defended in court by Clarence Darrow and received life sentences. Other cases followed, including the abduction, for \$1,500, of twelve-year-old Marian Parker, the daughter of a Los Angeles banker. Seeing his daughter apparently asleep in a car, the father paid off the kidnapper, who left the victim wrapped in a blanket a short distance away. When the father lifted the blanket that covered the girl, he found she was dead. The chief suspect, a clerk in the father's bank, subsequently confessed. He was found guilty despite a plea that he was insane and, ten months after the crime, he was hanged at the California State Prison, San Quentin.²⁷

The Midwest bank robbers considering kidnap prospects got the message—don't kidnap children. Businessmen seemed the ideal alternative target.²⁸ In December 1930 Nell Donnelly, a wealthy Kansas City clothing firm owner, was abducted with her chauffeur. Despite a threat to blind her with acid and kill the chauffeur, the \$75,000 ransom was not paid and the victims were released unharmed thirty-four hours later. Earlier that year Charles Pershall, a Granite City, Illinois banker, had been kidnapped, a \$40,000 ransom was paid, and the kidnappers were never caught. Four months later a Monroe, Wisconsin brewery owner, Fred Blumer, was taken and a large ransom paid, and his kidnappers were never found. In January 1932 a Colorado baking company executive, Benjamin Bower, was released after a \$50,000 ransom was turned over to kidnappers, who also were never identified.

As other abductions were reported in Minnesota, Missouri, Colorado, Indiana, Arizona, and Illinois, prominent businessmen across the Midwest concluded that because of the repeal of Prohibition and the absence of jobs during the Depression, robbers who had learned to live off crime would be grabbing more of them as a source of income. What they wanted

was federal legislation, law enforcement, and prosecution—and a federal death penalty. As the effort to lobby Congress was mounted, a survey by the police chief of St. Louis was released, reporting that 279 persons had been kidnapped in twenty-eight states during 1931.²⁹

Congressional committees were arguing about the death penalty as a feature of the proposed legislation, and the expense of enforcing the new law, when on March 1, 1932, one of the great crimes of the twentieth century occurred—the abduction of twenty-month-old Charles A. Lindbergh, Jr. The shocked reaction of the nation was matched by that of President Herbert Hoover, who met immediately with William Mitchell, his attorney general. Mitchell announced on March 2 that every federal law enforcement agency, as well as the U.S. Coast Guard, the customs and immigration services, and the Washington, D.C., police would aid New Jersey authorities even though no specific federal law was known to have been violated.

Out of respect for Colonel Lindbergh, who was concerned that a law providing for the death penalty might prompt rash action by his son's kidnapper, the federal kidnapping bill did not move forward until his child's body was discovered on May 11.

When the bill passed and was signed into law by President Hoover on June 22, 1932, it required that the victim would have to be taken across state lines and did not provide for the death penalty as punishment. Its effect did not seem to deter kidnapping—a week later the twenty-two-year-old son of St. Paul executive Haskell Bohn was abducted; he was released unharmed after a payment of a \$12,000. No arrests were made in this case, nor was there evidence that it was an interstate crime.³⁰

Ransom kidnapping continued. Then on February 12, 1933 came the first case involving federal authorities under the new law. The wealthy broker Charles Boettcher II was abducted at gunpoint by two armed men as he and his wife got out of their automobile in the driveway of their home in Denver, Colorado. He was forced into the rear seat of the kidnappers' vehicle and his eyes bound shut with tape. Verne Sankey and Gordon Alcorn drove the victim to a ranch owned by Sankey's wife, near Kimball, South Dakota. The kidnappers demanded \$60,000 for Boettcher's safe release. While Sankey conducted negotiations, Alcorn and a third confederate, Arthur Youngberg, guarded the victim.

Based on a tip from an informant, Sankey and Youngberg were arrested by federal agents and indicted on March 29 on kidnapping charges. Alcorn was able to avoid capture until he was arrested in Chicago

a year later. He pleaded guilty to "conspiracy to kidnap" charges in federal court in South Dakota on February 8, a week after his arrest, and was promptly sentenced to a life term; two days later, Alcorn was in a cell at Leavenworth. His co-defendant, Sankey, who confessed that he was involved in the Bohn case, hanged himself in his cell while being held for trial.³¹

In May 1933 a group of kidnapers led by Walter McGee abducted Mary McElroy, the twenty-five-year-old daughter of the city manager of Kansas City, Missouri, and demanded a \$60,000 ransom. The kidnapers accepted \$30,000 and released the young woman, whom they had held in Kansas. Since state lines had been crossed, the FBI entered the case. When the kidnapers were caught, however, they were prosecuted in state court because Missouri had the death penalty. His associates received long prison terms, but McGee was given the death penalty even though the victim had been freed unharmed. Subsequently the victim asked that her abductor's life be spared; McGee's sentence was commuted to life in prison, where Mary McElroy visited him regularly.³²

During the summer months and the remainder of 1933, a series of very high-profile kidnappings brought notoriety to Alvin Karpis, Dock Barker, and George Kelly, as well as fame to J. Edgar Hoover, the director of the newly reorganized Federal Bureau of Investigation. As a result of these cases, the press proclaimed that the nation was in the grip of a kidnapping "epidemic":

Within a five-week period . . . six ransom kidnappings were reported, along with less publicized extortions and attempts. The impression was growing that state and federal legislative actions were not having the deterrent effect intended by their sponsors. The 1932 federal laws had enabled the Department of Justice enforcement and prosecuting forces to make significant contributions . . . but new cases kept occurring. The nationally publicized capital prosecution in Missouri, as a result of the McElroy kidnapping, likewise was perceived as exercising little deterrent effect.³³

During the noon hour on June 15, 1933 William Hamm, president of the Hamm Brewery in St. Paul, Minnesota, left his office for his usual walk home for lunch. At an intersection a half block away, he encountered two men, one of whom asked, "You are Mr. Hamm, aren't you?" and extended his hand. Hamm replied "Yes" and took the man's hand. The second man quickly moved to the other side of Hamm, and the two of them, each firmly holding an arm, pushed Hamm toward the curb where a car had drawn up. They thrust him into the car and down to the floor of the vehicle be-

hind the driver's seat and pulled a white sack over his head. The car drove off, and when it stopped some time later Hamm heard voices, and the sack was lifted. The kidnappers put four pieces of paper into his left hand and a fountain pen in his right, and one said, "I guess you know what this is all about." Hamm replied "Yes," and was told, "Well, then just sign these four slips of paper," which he did. The kidnappers pulled the hood back over his head and the vehicle drove off. Some time later, with the hood replaced by goggles, Hamm was able to glimpse a sign that said "Janesville and Beloit." Shortly thereafter the vehicle stopped and the men led Hamm into a house and to an upstairs room. They allowed him to sit down and gave him a pork sandwich, a glass of milk, and some water. Three days later, after a \$100,000 ransom was paid, the kidnappers brought Hamm back to Minnesota and released him.³⁴

While the search went on for Hamm's abductors, other prominent citizens fell victim: an Atlanta banker was taken in an unsuccessful effort to get \$40,000 in ransom; John J. O'Connell, Jr., the twenty-four-year-old son and nephew of several New York politicians, was kidnapped and \$250,000 demanded for his return; August Luer, an Alton, Illinois banker, was abducted and then released without the \$100,000 being paid. In response to the Luer kidnapping and others, forty Chicago millionaires were placed under twenty-four-hour police protection to prevent them from becoming kidnap victims as well.³⁵

The fifth ransom kidnapping during this five-week period in the summer of 1933 attracted the attention of the entire nation and catapulted Machine Gun Kelly to a place in American popular culture. It also helped to establish the image of FBI agents as relentless, efficient, incorruptible gang busters—"G-men"—who would save the country from the outlaws, bank robbers, and ransom kidnappers who were outwitting, outgunning, outrunning and corrupting local police and county sheriffs.

On a Saturday evening in July Charles F. Urschel, a wealthy oilman, was playing bridge with his wife and their friends, Mr. and Mrs. W. R. Jarrett, on the screened porch at the back of their home in Oklahoma City. At about 11:15 P.M., a Chevrolet sedan pulled into the driveway, and two men, one with a pistol, the other with a machine gun, got out and quickly stepped through the porch door demanding to know which man was Urschel. When no one responded one of the men said, "Well, we'll take them both." Urschel and Jarrett were forced out of the house at gunpoint and into the back seat of the sedan, which then sped away. Within five minutes Mrs. Urschel, recalling the instructions of J. Edgar

Hoover in a *Time* magazine article concerning the wave of kidnappings across the country, called the director's office to notify the bureau of the abduction of her husband and Jarrett.

With this latest in a string of ransom kidnappings, the pressure was on the FBI to demonstrate that it could bring the perpetrators to justice—not just for reasons of punishment and deterrence but also to showcase the effectiveness of the Department of Justice's campaign to subdue the "criminal element." In addition, Charles Urschel was not just a prominent citizen of Oklahoma City, he was a personal friend of President Franklin Delano Roosevelt. The special agents in charge of FBI offices in San Antonio and Dallas, additional agents from Dallas and El Paso, and all but one agent in the Oklahoma City office were ordered to work on the case.

On Wednesday July 26 an oilman and close friend of Urschel, E. E. Kirkpatrick, received a package from a Western Union messenger containing a letter written by Urschel asking that he act as intermediary with the kidnapers. The Urschel family paid a ransom of \$200,000—a huge sum during the Depression—and at 10:30 P.M. on July 31 Charles Urschel walked in the door to his home, having taken a taxi from Norman, Oklahoma where his captors had released him. He was interviewed briefly by federal agents and allowed to rest; the following day he made a detailed statement that provided many clues about the kidnapers and the places in which he had been kept during the nine days of his captivity.³⁶

The investigation that followed brought two Fort Worth detectives to the home of Kathryn Kelly, an attractive woman known to consort with gangsters. They noticed in the yard a Cadillac was registered to Kelly's mother, Ora Shannon, who lived on a farm in nearby Paradise, Texas. The detectives were well acquainted with Kathryn, who had a record of arrests for robbery, had been the chief suspect in the murder of her first husband, and had been linked to an ex-Leavenworth prisoner named George Kelly. The detectives notified federal agents that Kathryn and George should be considered suspects in the Urschel case and that Urschel may have been held captive at the Shannon farm. The FBI immediately put the farm under surveillance.

At 6 A.M., ten days after the victim had been released, fourteen men—four federal agents, four Dallas detectives, four Ft. Worth detectives, a deputy sheriff from Oklahoma City, and Charles Urschel himself—surrounded the farm of Ora Shannon and her husband, R. G. "Boss." One of the men called out Kathryn's stepfather's name, and he came out of the house.

FBI Agent Dowd noticed a man sleeping on a bed in the yard and asked Shannon who he was. Shannon replied, "Bailey." Dowd realized that they had happened to come upon Harvey Bailey, one of the nation's most successful bank robbers and an escapee from the Kansas State Penitentiary. According to Dowd's report,

Special Agent in Charge Jones rushed over with a machine gun and put it close to Bailey's head. . . . On the bed along side of Bailey was a fully loaded 331 Winchester Automatic Rifle and a Colts .45 Automatic Pistol. . . . Bailey had been sleeping in his BVDs [underwear] and his pants and shirt were at the foot of the bed. In Bailey's pants were found \$1,200.00 in paper money, \$700.00 of which consisted of \$20.00 bills, being part of the ransom money paid by Charles F. Urschel.³⁷

Bailey, Boss and Ora Shannon, and their son and his wife were taken to the Dallas office of the FBI where all but Bailey and Shannon's daughter-in-law quickly made statements admitting their participation in the detention of Charles Urschel. They placed the responsibility for the whole episode on the shoulders of George Kelly and Albert Bates, another man well known to federal authorities. Harvey Bailey, the elder Shannon claimed, had nothing to do with the kidnapping and had only appeared at his house the previous evening and asked to spend the night. The Shannons and Bailey were lodged in the Dallas County Jail, with Bailey booked in under a false name and placed in the solitary confinement section of the jail to avoid publicity about his arrest. Albert Bates was arrested in Denver a few days later on suspicion of passing stolen checks and was quickly transported to Dallas to stand trial for the kidnapping.

Harvey Bailey had robbed banks for more than a decade. He was movie-star handsome and was reputed to have nerves of steel. He liked robbing banks for the money, but he also enjoyed the sheer excitement of engaging in this highly dangerous activity—a trait he shared with many other bank robbers. He talked about the "kick" that accompanied bank robbery, particularly during the getaways that followed.³⁸ Bailey's careful planning and calm demeanor paid off not only in the money gained from robbing dozens of banks, but in the fact that he had carried on this dangerous trade for twelve years without making a serious mistake. His FBI rap sheet listed an arrest on March 23, 1920, for investigation of hijacking and burglary; the next entry on his arrest record did not

appear until July 7, 1932, when he was finally charged and convicted of bank robbery and received a sentence of ten to fifty years in the Kansas State Penitentiary.

Less than one year later, Bailey had led a sensational escape from the prison, during which the warden and several guards were taken as hostages.³⁹ After the break from the Kansas penitentiary, Bailey had robbed a bank in Kingfisher, Oklahoma and hidden out for several days in the Cookson Hills. He had then driven to the Shannon farm to return a machine gun he had borrowed from George Kelly. At the farm, Boss Shannon handed Bailey an envelope containing \$1,000, which was Kelly's repayment of a loan Bailey had given Kelly two years earlier. Because he was tired from the long drive, Bailey had decided to stay the night at the farm but when he awoke the next morning, three FBI agents were standing over his bed, each with a machine gun pointing at him. The money the agents found in Bailey's possession included the \$1,000 from Kelly, which had been taken from the Urschel ransom money.

"I" to "I"
—here

Boss Shannon's protest that Bailey had nothing to do with the Urschel kidnapping was simply disregarded, since he was seen as a friend and confederate of kidnapers and bank robbers. The Justice Department and Hoover's FBI needed a big arrest since no one had been charged in the Union Station massacre that had occurred a month earlier in which Bailey had been identified as a suspect. In addition, the Urschel case was, up to that point, unsolved. Attorney General Homer S. Cummings sent his chief assistants to Oklahoma to prosecute the case. The problem, as they would discover, was that Bailey did not intend to wait for his trial to take leave of federal authorities.

—and here

Harvey Bailey was held in the Dallas County Jail, where he established extremely cordial relations with several guards and inmate trustees. On September 4, with their assistance, he escaped. The subsequent investigation revealed that a deputy sheriff had paid a jail employee to smuggle hacksaw blades and a gun into Bailey's cell, claiming that "Bailey is one of the finest men I ever met and he is just as innocent as he can be."⁴⁰ Bailey was soon recaptured by a local police chief, but the Department of Justice and FBI Director Hoover were outraged by the manner in which the county jailers had handled the federal government's notorious prisoner.

Once Bailey was back in custody at the Oklahoma County Jail in Oklahoma City, Hoover ordered that special precautions be taken to guard him and Albert Bates, who was already being held there along with the elder Shannons and their son. Since local jailers were regarded as "thoroughly unreliable," Hoover notified Attorney General Cummings that

he had instructed his men to take complete control of the prisoners even though they were held in a county jail, not a federal facility. Hoover ordered that even attorneys were not to be allowed to visit Bailey, Bates, or the Shannons; if a federal court subsequently ordered otherwise, he instructed his agents to search any attorney visiting these prisoners, and their interviews would have to be conducted with an agent present.⁴¹

Bailey and Bates were restrained at all times in special handcuffs; their legs were shackled, and the chains were attached to the floor. They were clothed only in undershorts and were denied reading and writing materials along with physical exercise. An armed FBI agent was stationed in front of their cells twenty-four hours a day. On the lower floor of the two-story jail an FBI agent and a deputy sheriff armed with machine guns guarded the entrance to the jail. Three additional machine guns were strategically placed across the street from the entrance to the jail, and the whole area was lighted by floodlights. No other prisoners were allowed in the jail, and Bailey, Bates, the Shannons, and their cells were searched each day.⁴²

With federal authorities during the 1930s determined to demonstrate to the country that swift and certain punishment was the consequence of serious criminal wrongdoing, the federal criminal justice process moved rapidly. In an era before suspects received Miranda warnings and public defender offices were established, prosecution could be expedited. Nor did thoughts of plea bargaining enter the minds of the 1930s bank robbers and kidnappers after they were apprehended; these men held to the fatalistic view that after committing a long string of robberies and getting away with them, your number just might come up. Thus, being awakened in the early morning hours at the Paradise farm and finding three gun barrels pointed in his direction, Harvey Bailey threw up his hands and said simply, "Boys, you've got me." In contrast to today's criminal subcultures, the Midwest gangsters during the 1930s were prepared to plead guilty to their own complicity in criminal activities, and they were not about to take friends, associates, or even foes down with them. The tradition of never cooperating with the police and never betraying any associates, manifest in the example of Frank Gusenberg's refusal, while he lay dying, to name his own killers, was firmly fixed in the tenets of the outlaw or convict code. And in this era of criminal justice, federal prosecutors and FBI investigators had not become sophisticated in the use of charge and sentence reductions or promises of concurrent rather than consecutive sentences, let alone witness protection, to break down the prohibition against informing that was deeply rooted in men like Harvey Bailey.

The most dramatic contrast to contemporary criminal justice processes was the speed with which events moved when federal agents wanted to prove how quickly they could catch, convict, and send crooks and desperadoes to prison. A little more than a week after the arrests of the Shannons, Bailey, and Bates, a federal grand jury in Oklahoma City returned kidnapping indictments against the four. Also indicted, although not yet apprehended, were George and Kathryn Kelly and seven underworld figures accused of laundering part of the ransom money. Three weeks later, while the search for the Kellys went on, the trial of the other principals began in Oklahoma City before Federal District Judge Edgar S. Vaught.

The kidnapping of Charles Urschel, the capture of Bailey and Bates, Bailey's escape from the Dallas County Jail, and the nationwide search under way for Machine Gun Kelly and his wife, Kathryn, had all attracted national attention. Newsmen poured into Oklahoma City from all over the country to cover the trial. Heavy security surrounded not only the defendants, but the jury, the judge, Assistant Attorney General Joseph Keenan (who had been sent out by Attorney General Cummings to manage the prosecution's case), and the local U.S. attorney. Bailey's reputation as an accomplished jailbreaker and Bates's record of escape from prison added an element of suspense that was enhanced by rumors that associates of both men had arrived in Oklahoma City with plans to liberate them.

George Kelly's true name was George Barnes. He was born in Chicago on July 17, 1895 to parents considered to be upstanding citizens; his father worked as an insurance agent. He attended the University of Mississippi, where he studied engineering and agriculture for three years. Despite a university education Kelly claimed that he never held a "legitimate" job in his entire life, although he operated cabarets for a number of years and had an interest in a cabaret in Chicago. Shortly after he met Kathryn Thorne, he was convicted of violating federal liquor laws and, on February 11, 1928, he was sent to Leavenworth Penitentiary to serve a three-year sentence. On his release from Leavenworth on July 3, 1930, Kelly traveled to Minnesota, sent word to Kathryn asking her to join him; they were married in Minneapolis but returned to Ft. Worth to live in Kathryn's house. From 1931 to 1933 Kelly, in the company of Albert Bates, Edward Bentz, and other gangsters, built his reputation by robbing banks in a number of localities, from Tupelo, Mississippi and Colfax, Washington to Blue Ridge and Sherman, Texas.⁴³

While the government was prosecuting Bailey, Bates, and the Shannons in Oklahoma City, George and Kathryn Kelly had been moving rap-

idly from state to state, from city to city, changing cars, hotels, and the color of their hair. Finally, acting on a tip, FBI agents and local police raided a house in Memphis, Tennessee and apprehended the Kellys.⁴⁴

On October 7, 1933, a week after the Kellys had been brought to Oklahoma City for trial, U.S. District Court Judge Edgar Vaught sentenced Bailey, Bates, and Ora and Boss Shannon to life terms in prison; Shannon's son, who had cooperated with federal authorities, was given a ten-year sentence that was then suspended.⁴⁵ Two Minneapolis businessmen who had fenced the ransom money received five-year prison terms. With the nation's press already gathered in town for the trial of Bailey, Bates, and the Shannons, the Justice Department wasted no time putting the Kellys on trial. George refused to testify but after listening to the damaging testimony, Kathryn took the stand to tell her side of the story. The jury, however, had no difficulty finding the Kellys guilty, and on October 12, only two weeks after their arrest, Judge Vaught sentenced them to life imprisonment.

After the trial, the FBI's public relations campaign moved into high gear. The account of the capture of Machine Gun Kelly was embellished by the allegation that when he saw armed federal agents in the hallway of the house in Memphis, Kelly shouted, "Don't shoot, G-men." Yet not one report by the arresting agents to FBI headquarters, not one newspaper account at the time of Kelly's arrest, and not even the highly sensationalized account based on interviews with the special-agent-in-charge that was released through the magazine *Startling Detective Adventures* included this statement.⁴⁶

The special security measures taken to guard Bailey, Bates, and Kelly reflected a lack of confidence by the Department of Justice and the FBI in the ability of any county jail or state prison to contain and control lawbreakers with such outstanding records of escape and risk taking. Furthermore these prisoners were just beginning life sentences and had plenty of gangland friends inside and outside of jails and prisons ready to help them obtain earlier releases than the law allowed. Homer Cummings, appointed attorney general by Franklin Roosevelt in 1932, and the new director of the FBI, J. Edgar Hoover, were determined that high-profile felons who survived gun battles with federal agents and received long sentences after highly publicized trials would not escape from the federal government's penitentiaries. But the matter of providing security confinement for Kelly, Bates, and Bailey in McNeil Island, Atlanta, and Leavenworth—the existing federal prisons—was complicated by an embarrassing history of escapes from these institutions in the late 1920s and early 1930s.

ESCAPES AND CONCERN ABOUT SECURITY IN FEDERAL PRISONS

Prison escapes had become common by the late 1920s. Baby Face Nelson had escaped from the Illinois State Prison at Joliet; Harvey Bailey, James Clark, and three other prisoners had forced their way out of the Kansas State Penitentiary; and ten Dillinger gang members had broken out of the state prison at Michigan City, Indiana. The federal prisons at Atlanta, Leavenworth, and McNeil Island were supposed to be more secure, but even they proved incapable of holding the more daring and ingenious inmates.

On January 25, 1927 an Illinois gangster, Basil "the Owl" Banghart, and two other prisoners removed bolts from an interior ventilator window at the Atlanta Penitentiary, cut a bar in an outside window, climbed through an opening, and jumped to the ground ten feet below. A guard spotted the escapees as they ran from the building; he opened fire but failed to stop the three men, who disappeared into the nearby woods. Prisoner Joseph Urbaytis and another convict were found at the window ready to join the others but had been deterred by the sounds of gunfire. The five prisoners had been released from their cells by an inmate turnkey. Banghart remained free for almost a year and a half before he was apprehended by Bureau of Investigation agents (later Federal Bureau of Investigation).⁴⁷

In July of the same year Atlanta prisoners Roy Gardner, Joe Urbaytis, and John Boyd succeeded in getting two pistols, one hundred cartridges, and a quantity of nitroglycerin smuggled into the prison. After determining that they could not blow a hole in the prison wall, the inmates built a ladder, took the captain and two guards as hostages, and went to the yard, where they tried to convince a tower guard to throw down his gun and allow them to climb up the ladder and escape over the wall. The tower guard refused to cooperate. Although the plot failed, it revealed serious flaws in the security: the success of convicts in obtaining weapons and smuggling explosives in from outside the prison represented the greatest breach of security in any penitentiary.⁴⁸

The July escape attempt was only the latest by Roy Gardner, who had gained fame in California for escaping twice from U.S. marshals en route to federal prison. After he had been recaptured and federal authorities finally succeeded in placing him in McNeil Island Penitentiary, Gardner told the warden that he "would not be staying long." Five months later he escaped. Until he was recaptured two months later while robbing a train in Arizona, Gardner's ability to get away from government agents

was a source of acute embarrassment, as one marshal complained in a letter to the attorney general:

It seems to me that the government should exert every effort to recapture Roy Gardner, who escaped from McNeil Island Penitentiary on the fifth. The fact that he has escaped from federal officers so often had created a great deal of sympathy for him, generally the comment being that he was "so clever getting away that they ought to let him go," and talk along those lines; this from good citizens. On the other hand the fact that he is still at large gives considerable satisfaction to the criminally inclined.⁴⁹

Like Atlanta and McNeil Island, the federal government's maximum-security penitentiary at Leavenworth, Kansas experienced a series of embarrassing escapes in the early 1930s. At about ten o'clock on the morning of February 28, 1930, Thomas Holden and Francis Keating, serving twenty-five-year sentences for mail robbery with firearms, appeared at the south gate of the penitentiary carrying counterfeit trusty gate passes. They were stopped by guard Charles Miller, who allowed them to walk through the gate when they showed their passes, containing their physical descriptions and names and photos. Their escape was not discovered until three o'clock in the afternoon, when a guard noticed that Keating was absent from his job in the kitchen. At first the searchers assumed that the two men were hiding within the walls, but then the passes and prisoners' clothing were discovered outside the prison near an intersection, where the escapees had presumably been picked up by prior arrangement.

Subsequent investigation revealed that the trusty passes were relatively easy to obtain and had been produced in the prison print shop. In the months that followed, the identity of an inmate in the print shop who helped produce the bogus passes was rumored among the convict population to be George Kelly.⁵⁰

Several months later, another well-known offender left Leavenworth Penitentiary before his official release date. Frank Nash had been in and out of prison since 1913 for crimes that included murder and burglary with explosives. He had been sent to Leavenworth to serve a twenty-five-year federal sentence for assaulting a mail custodian. After serving six years, he had been appointed trusty in the deputy warden's residence. On October 19, 1930 he simply walked away from the prison. At the time of his escape, Nash was a well-known outlaw who had formerly been connected with the Al Spencer gang, and he was known to have many contacts in the underworld.⁵¹ His name, however, would go down in the annals of crime when in June 1933 he was killed during an effort

to liberate him from federal authorities that came to be called the Union Station massacre.

While on escape status, Nash met up with Holden and Keating and the three were implicated in a number of bank robberies in the Midwest, as well as several murders. Among these was the October 1931 Kraft State Bank robbery at Menominee, Wisconsin in which \$10,000 in cash and \$140,000 in securities were stolen; the vice president of the bank was shot and killed when he resisted the robbers.

Even though on the run, Frank Nash and a recent Leavenworth releasee, Harold Fontaine, carried out a plan to help some friends they had left behind the prison walls. According to Charles Berta, one of the participants in this plot, Nash had given six Leavenworth inmates—Stanley Brown, George Curtis, Will Green, Thomas Underwood, Grover Durrill, and Earl Thayer—an escape plan before he walked away from the warden's house. The plan involved knowledge Nash had gleaned working outside the prison as a cook for the warden: fifty-two-gallon barrels of glue used in the prison shoe factory were left overnight on a loading dock at the railroad station in Leavenworth.

Nash and Fontaine, possibly with the financial assistance of Thomas Holden and Francis Keating, obtained a barrel similar to those used to transport glue. Inside the barrel they placed a formidable arsenal—a rifle, a sawed-off shotgun, five pistols, ammunition, and fifteen sticks of dynamite with caps and fuses. The weapons and dynamite were sealed inside cut-up rubber inner tubes used in tires and the rest of the barrel was filled with glue.

Knowing that the prison sent a truck to the railroad loading dock to pick up the glue barrels in the middle of the night, Nash and Fontaine added their barrel to the others. A note was sent to one of the prisoners to alert the group of the shipment: "Aunt Emma very ill, leaving St. Louis tonight." The barrel was trucked inside the prison and left in the shoe factory freight room where it was identified by the plotters.

Two weeks later, on December 11, 1931, five of the convicts used fake passes to make their way to the front entrance. There, they produced the weapons they had removed from the barrel and ordered the guard to open the gate. Guard Dempsey refused to follow the prisoners' demand, telling them that he was an old man and to go ahead and shoot. Meanwhile, the other two prisoners arrived at the front gate with Warden T. B. White and his office staff, who they had taken as hostages. The prisoners threatened to light a stick of dynamite and kill everyone. Warden White ordered the gate to be opened.

The prisoners, however, were without transportation. They had planned on securing Warden White's car but, as Charlie Berta related later, "T. B. White outfoxed us. He had the car key in his desk. When we came in he dumped it in the waste basket." The escapees, guns trained on their hostages, exited the front door of the prison as White told the tower guard not to shoot. The group made its way up the road to an intersection, where they stopped an approaching automobile. The vehicle contained five soldiers from Fort Leavenworth army base who were going rabbit hunting. The prisoners took possession of the vehicle and the soldiers' guns and piled into the car with the warden as a hostage. Berta drove down the country road and then onto a dirt road that was muddy after heavy rain the previous night. The car became stuck and the escapees split up. Berta, Brown, and Underwood left the other four men with Warden White. After the prisoners told him they were going to kill him, White tried to grab the gun away from Will Green, but one of the other prisoners hit him on the head and Green shot him. Leaving the warden for dead, the four convicts ran to a nearby farmhouse, which was soon surrounded by soldiers sent from Fort Leavenworth. Earl Thayer, dressed as a farmer, walked out the back door of the farmhouse and got away.⁵²

What happened next is an example of convict thinking in the early 1930s. According to Berta the three men in the house took "'the Dutch route' [because] when you go out of the institution with firearms and anytime you take an official, like a Warden or Deputy Warden, out of an institution don't ever come back because if you do you are going to have a hard, hard time." Following this credo, one of the prisoners shot and killed the other two and then shot himself. Berta along with Brown and Underwood, soon surrounded by soldiers, made their own attempt at suicide:

Brownie had six sticks of dynamite, he tried to set them off, but he couldn't light the fuse. If he had set it off that would have been it. But the funny part is that when we got back to the institution they never laid a hand on us. Warden White was a hell of a man, he left strict orders, "No hands on these people, leave them alone. Treat them just like the rest of the prisoners." All we got was Isolation. Otherwise we'd have got our heads broken in. We got a light sentence for escaping—five years. Of course, I lost good time on the 25 [his original sentence] I'd have to do 25 flat and five on top of that. We were lucky. They had just organized the BOP and they didn't want no publicity. We went to court and pled guilty because they wanted to get it over quick.⁵³

In the subsequent investigation by federal agents, three guards were identified as having assisted the prisoners: two committed suicide before they could be prosecuted and the third was tried and convicted. Although J. Edgar Hoover and Bureau of Prisons Director Sanford Bates defended White's handling of the escape attempt, Attorney General Mitchell was critical of White's leadership:

The general tenor of the reports would suggest that he has been deficient in executive ability in the administration of the prison by the lack of training of his subordinates and failure to establish discipline and proper methods to detect and avoid trouble of this kind.⁵⁴

After Warden White recovered from his injuries, Bates transferred him to a new federal penal farm and appointed a warden at Leavenworth who was to implement new training procedures.

The plan to aid their inmate associates having failed, Nash, Holden, and Keating were busy trying to elude federal agents. Through confidential sources in St. Paul, Minnesota, the FBI learned that Thomas Holden had been living with a paramour in a nearby suburb, and that he and the other escapees, Francis Keating and Frank Nash, frequented certain nightclubs and restaurants in St. Paul, sometimes with other Leavenworth convicts, including George Kelly. Nash was identified by a waitress, who reported that he appeared to be wearing a wig. Holden, Keating, and Harvey Bailey were said to have played golf frequently on a course in St. Paul.

This affinity for golf had prompted the FBI to begin watching golf courses throughout the Midwest and it was on the Old Mission Golf Course in Kansas City that Holden and Keating, unarmed and accompanied by another man and three women, were arrested; their male companion was subsequently identified as Harvey Bailey. Holden and Keating were taken back to Leavenworth on July 8, 1932; Bailey was sent back to the Kansas State Penitentiary (from which he would escape eleven months later).

The search for Nash focused on St. Paul, where he had been seen in the St. Paul Hotel and at the home of Harry Sawyer, a local racketeer well known in gangster circles and reputed to represent Capone interests in the Minneapolis-St. Paul area. In early June 1933 the FBI received a report from a confidential informant that Nash had been seen in Hot Springs, Arkansas, another hideout location favored by gangsters. On June 13, FBI agents Lackey and Smith, along with the chief of police from McAlester, Oklahoma, Otto Reed, went to a store identified by the informant, arrested Nash, and immediately left town.⁵⁵

When the agents and their prisoner arrived in Fort Smith, Arkansas, Nash was locked up in the county jail while the agents asked for instructions from a supervisor. They were told to purchase tickets for a train to Kansas City, Missouri, where they would be met by other agents with a car; the group would then proceed directly to Leavenworth.

On Saturday morning June 17, 1933, Frank Nash and agents Lackey and Smith were met at the Union Station by agents Caffrey and Vetterli, along with Kansas City detectives Hermanson and Grooms. The group walked out of the station to enter Agent Caffrey's car. Nash was placed in the middle of the front seat to allow three officers to watch him from behind. As Lackey was about to get in to the driver's seat he noticed two men, one with a machine gun and the other with a rifle or shotgun. The man with the machine gun pointed at Caffrey was alleged to have said, "Up, up, up!" or "Stick 'em up!" Realizing they were friends of Nash's, Lackey said, "Here they are." At that instant one of the men said, "Let them have it" and proceeded to fire on the officers and the car. Lackey reported that his gun was jammed, that Nash ducked, held up his handcuffed hands, and yelled, "My god, don't shoot me," but was shot almost immediately after the firing began. Agent Smith leaned over between the two front seats and crouched down while Lackey crouched down behind the driver's seat.

After Agent Lackey was hit by three bullets, he realized the persons who were shooting were very close to the car, so he lay perfectly still. When the shooting stopped, one of the gunmen approached the car, looked in the window, and said, "He is dead. They are all dead in here." After the gunmen left, police officers arrived to find agents Smith and Lackey still alive in the car. But both Reed and Nash were dead, and detectives Grooms and Hermanson were lying dead near the car. Caffrey, who had been shot through the head, died en route to the hospital.

In the weeks that followed the Union Station massacre, the FBI received many conflicting statements from witnesses as to the identity of the shooters. Some bystanders said they saw notorious gunmen Verne Miller and Wilber Underhill; others identified Pretty Boy Floyd and Harvey Bailey. In addition, Alvin Karpis and the Barker brothers were reputed to have wanted Nash killed after he refused to kill his own wife because she knew too much about their activities and could not be trusted. The search for the shooters never produced clear evidence of the actual identities of the gunmen, but it did result in a wide variety of theories.⁵⁶

The investigation of the events at the Union Station resulted in charges being brought against several individuals who were not present at the

Union Station gun battle but were alleged to be friends of Verne Miller or Harvey Bailey or Frank Nash and were said to be responsible for trying to arrange Nash's liberation. Frank Mulloy, Richard Gallatas, and Herbert Farmer received two-year sentences. Despite their short terms they would end up at Alcatraz, "as a matter of public policy."⁵⁷

Regardless of who was responsible for the massacre, the incident brought to national attention the consequences of inmates escaping from federal prisons. Once free, they could not only continue their criminal careers but also mount efforts to free friends and partners from jails, state prisons, and federal penitentiaries, causing death and mayhem in the process. As a result, Department of Justice officials became even more apprehensive about the safekeeping of high-profile federal offenders.

This general apprehension had a specific focus in the cases of George Kelly, Albert Bates, and Harvey Bailey, the principals in the Urschel kidnapping. After the three received life sentences, the problem that confronted Attorney General Cummings and FBI Director Hoover was how to make certain that Kelly, Bates, and Bailey—with their underworld connections, still hidden ransom money, and ability to ingratiate themselves with local law enforcement officers, county jail deputies, and prison guards—were actually delivered to federal penitentiaries and kept there. Hoover was not convinced that even the high-security prisons at Leavenworth and Atlanta could contain such desperadoes. He warned the Bureau of Prisons not to compromise the new image of federal criminal justice invincibility by letting any of the celebrity criminals captured by his agents escape from custody. He reminded Director Bates that Harvey Bailey and Albert Bates were "desperate and dangerous criminals" and that their associates Holden, Keating, and Nash had managed to escape from Leavenworth. Hoover identified members of "the Bailey gang" as among those responsible for the Union Station massacre and claimed that Kelly had "boasted that he could not be held in a penitentiary and that he will escape."

After they were sentenced, Bailey and Bates, surrounded by ten armed agents, were flown from the Oklahoma City jail to the military airfield at Fort Leavenworth, Kansas. They were loaded into an armored car and transported to the Fort Leavenworth Annex, a former U.S. Army disciplinary barracks adjacent to the federal penitentiary. Each man was placed in a solitary confinement cell to prevent any contact with other inmates. The importance of keeping the nation's most highly publicized kidnapers securely locked up was emphasized in a personal letter sent directly from the attorney general to Warden Robert Hudspeth at the Annex:

Because of the especially fine work of the Federal officers in capturing and prosecuting Harvey Bailey and [Albert] Bates, and the notoriety given to the case . . . I consider that it would be a shock to the country should either of these men escape. I shall expect, therefore, that you give personal attention to these men. I am informed that you have ample means to keep them in confinement. I shall hold you personally responsible for their safe-keeping.⁵⁸

George Kelly was transported separately. Handcuffed and placed in leg irons, he was placed aboard a special railroad car fortified with bars and special bulletproof armor plating. Inside the car, eight agents armed with machine guns kept watch. When the train arrived at the Leavenworth station, Kelly was transported to the federal penitentiary, where he was said to have told a guard “I’ll be out of here by Christmas,” prompting the guard to retort, “What Christmas are you talking about, Kelly—1960?”⁵⁹ Director Bates clearly outlined to Warden Fred G. Zerbst the conditions under which Kelly was to be kept:

[He] should be held incommunicado and no messages or letters should be delivered to or from him. He should be permitted no visits, not even from lawyers, except with the special permission of the Attorney General. He may be seen by the Doctor or by the Chaplain if in your judgment that is wise and safe. I suggest that he be placed in one of the cells in the segregation building; that he be permitted under no circumstances to communicate with other prisoners or to mingle in the yard. He will, of course, be given exercise but in the small exercise yard connected with the segregation unit. He will have regular food, tobacco, books, and newspapers but no other privileges.⁶⁰

The same rules applied to Bates and Bailey, except Bates’s privileges were even more restricted due to his refusal to discuss the whereabouts of his share of the ransom money—he was not permitted access to the daily newspapers given to Bailey and Kelly.

Despite these extraordinary measures, J. Edgar Hoover reported to the Bureau of Prisons that his agents, after a visit to the Annex, were not particularly impressed with the security arrangements. Bates and Bailey had both been allowed to go to the hospital on the same date for the purpose of being fitted for eyeglasses, leading the director to comment, “I believe they were there for the sole purpose of looking over the situation and getting the lay of the ground. . . . I also ascertained that both Bailey and Bates, while confined in small cells in the prison, are given the opportunity to wander around the cell block.” This interference by the

FBI in Bureau of Prisons matters prompted Sanford Bates to note on Hoover's memo, "These two men were in the hospital under three guards having their pictures taken and giving them routine prison exams like any other prisoners. Who's running this prison anyway?"⁶¹

On January 7, 1934 Albert Bates began a hunger strike to protest what he considered the brutal and unjust treatment he was receiving, which included being deprived of mail, visits, and other privileges ordinarily granted newly arrived prisoners.⁶² A week after Bates began his protest, Harvey Bailey also refused to eat. Bailey said his intention was "to end his life by starvation," and that he was protesting for the same reasons as Bates, except that he also claimed he was innocent of any involvement in the Urschel kidnapping. When informed that the two prisoners were starving themselves to death over the restrictions of their confinement, Assistant Attorney General Keenan advised Director Sanford Bates that Albert Bates "should be kept in solitary until the ransom money is turned over to its rightful owner." Finally a U.S. Public Health Service physician at the Annex decided that Bates would have to be force-fed. A single bed was placed in the corridor outside his cell; the doctor requested that Bates come out for the purpose of being fed; he refused, and two guards were ordered to go into his cell and carry him out: "He made little resistance, quietly submitted to being placed on the bed and strapped down after which food was given him by nasal feeding . . . which consisted of eggs with milk." Another forced feeding was administered later in the day. The following day Bates experienced severe hunger pains when he was given no food and agreed to call off his protest. Bailey, when advised that Bates had stopped his hunger strike, also resumed eating.⁶³

For more than a year Bailey, Kelly, and Bates remained isolated from each other and from other inmates in the two prisons at Leavenworth. They would next meet again on a prison train bound for Alcatraz.

CORRUPTION AND SCANDAL IN FEDERAL PRISONS

Preventing high-profile federal inmates such as Bates, Bailey, and Kelly from escaping was not the only concern of the Bureau of Prisons, the Department of Justice, and FBI Director Hoover. There was also the problem of notorious and influential inmates carrying on their lives in federal

prisons much as they had outside its walls—receiving special privileges and wielding considerable power in the convict social hierarchy. Press reports of inmates' special treatment and revelations of alcohol and drug smuggling and bribes were bad publicity for a federal justice system trying to portray an image of competence and invincibility. Moreover, inmates' ability to communicate easily with associates in the outside world and with other inmates, to obtain smuggled contraband, and to influence prison staff raised anxiety about security.

The root causes of these problems were lax management and a system that tolerated—even encouraged—influence peddling, the buying of favors, and other improper relations among prisoners and guards. The potential for corruption and mismanagement in the federal prison system had been recognized for some time. During the late 1920s, the Bureau of Investigation sent undercover agents posing as inmates into all three federal prisons. Wardens were not informed of these agents' presence; they reported only to their own headquarters and were expected to spy on prison staff as well as prisoners. Warden Finch Archer at McNeil Island (already unhappy at what he saw as unwarranted meddling in his affairs by bureaucrats located thousands of miles away in Washington, D.C.) was furious when informed that the FBI had sent an agent disguised as an inmate to work undercover without his knowledge. It didn't help that the agent had discovered that the warden's trusted male secretary was the leader of a group of employees who, for payoffs, dealt drugs to and mailed letters for inmates and did other favors. Warden Archer was also criticized for some of his management techniques, such as administering physical beatings to inmates and handcuffing prisoners to the bars of their cells and then forcing castor oil down their throats.⁶⁴

A series of articles in the *New York Times* in March 1929 exposed the undercover operation, called "Snoopervision." The publicity produced angry reactions from the three wardens and from new Bureau of Prisons Director Sanford Bates, who learned only through the *Times* series that the information gleaned by the agents had not been forwarded to his office. In the decades to come, the relationship between the FBI and the Bureau of Prisons (BOP) would be continually strained by similar FBI practices. FBI agents, investigating law violations on the grounds of federal prisons, would also collect information about management practices (which, in the agents' opinions, contributed to killings, riots and escapes) and forward this information directly to J. Edgar Hoover, who referred

it to various attorneys general without the knowledge of BOP administrators. Bates and his successors learned of these reports only in instances in which the attorney general's office asked for their response to criticisms of prison policies, practices, and personnel.

During the early 1930s, events occurred that highlighted staff corruption and incompetence at all three federal prisons. Allegations that employee collusion with certain prisoners was rampant at the Atlanta Penitentiary prompted Director Bates to send Assistant Director James Bennett, this time accompanied by an FBI agent, to the prison in June 1931 to conduct an investigation. Bennett reported "incontrovertable [*sic*] evidence that some of the inmates have been shaken down for as much as \$300 or \$400" for favors "such as assignments to preferred jobs, transfers to prison camps and assignment to cells with friends."⁶⁵ For example, an attorney who represented a former warden, and later a guard accused of rape, was permitted to take two federal law violators out to the prison after they were sentenced but before they were committed, to demonstrate his cordial relations with the captain and other employees. Impressed, each of the men gave the attorney \$500 to use his influence to assure them of favorable job assignments. When they did not like the first jobs they were given, they complained to the attorney and the next day were moved to new work assignments. Bennett's investigation further revealed that the wife of one of these influential inmates stayed at the home of a guard when she came to Atlanta to visit her husband.⁶⁶

Bennett reported that he personally compelled another guard to resign in the light of testimony that the guard had offered to do favors for influential inmates. He also suggested that when the Bureau of Investigation completed its investigation it should send a copy to the warden with a demand that he explain how these problems developed under his administration. Bennett concluded his report by noting the problems posed by high staff turnover and the use of inmates rather than civilians as secretaries, clerks, hospital attendants, and even as mail censors. He offered this explanation of the reasons for Atlanta's problems:

An inmate who has always had to buy off some District Attorney, Prohibition Agent or other Government official is indeed surprised when he gets to the penitentiary and finds that there is at least one branch of the Government which is trying to be honestly run. It is no small wonder that he will think that it is necessary for him to depend upon the almighty dollar to ease the period of his confinement.⁶⁷

A week after this report was submitted to Director Bates, another problem at the federal penitentiary in Atlanta became a headline in the *New York Daily News*: “Rich U.S. Convicts Buy Vacations; Probe Bares New Scandal in Prisons.” The article included photographs of Leavenworth and Atlanta under the heading, “Prisons? Naw, Just Winter Quarters,” and went on to describe the situation as “a federal prison scandal of national importance.” The reporter explained how wealthy New York convicts, mainly “racketeers and bootleggers,” paid bribes ranging from \$800 to \$1,000 to staff in exchange for summer transfers from “hot Atlanta and Leavenworth cells for more pleasant confinement in Army detention camps.” Three Manhattan jewel thieves, he wrote, “were discovered enjoying the summer breezes of the harbor [at Fort Wadsworth on Staten Island] . . . when the federal prosecutor believed they were safe in Atlanta—to which he had heard them sentenced only a few weeks earlier.” These illegal transactions, the paper claimed, had been traced to the deputy wardens, a prison chaplain, and other “minor prison officials who are considered merely the collectors for more important figures in the prison administration.”⁶⁸

The problems of special treatment and influence peddling were particularly troubling in the case of Al Capone, who had been sent to the federal penitentiary in Atlanta in May 1932. During these early days of the newly organized Bureau of Prisons, most of the Atlanta guards—working-class men of limited education hired at low wages—were accustomed to doing favors for convicts they liked and certainly for those who could pay. It should not have been a surprise to Bureau headquarters that many Atlanta employees were genuinely impressed by Capone’s celebrity status. Their prisoner had been described in the press as a folk hero, a Robin Hood who donated money to soup kitchens and arranged jobs for the down-and-out. No less an authority than Damon Runyon had written, “It is impossible to talk to Capone without conceding that he has that intangible attribute known as personality, or, as we say in the world of sport, ‘color.’”⁶⁹ Students at Chicago’s Medill School of Journalism included Capone when asked to list the ten “outstanding personages of the world . . . the characters that actually made history.” (The other finalists were Benito Mussolini, Charles A. Lindbergh, Admiral Richard E. Byrd, George Bernard Shaw, golfer Bobby Jones, President Herbert Hoover, Mahatma Gandhi, Albert Einstein, and Henry Ford.)⁷⁰

Ordinary citizens tended not to pass moral judgment on Capone’s activities. According to biographer John Kobler, they generally accepted

his own claim that he was a "public benefactor" providing a service that had merely been labeled illegal:

You can't cure thirst by law. They call Capone a bootlegger. Yes. It's bootleg while it's on the trucks, but when your host at the club, in the locker room or on the Gold Coast hands it to you on a silver platter, it's hospitality. What's Al done, then? He's supplied a legitimate demand. Some call it bootlegging. Some call it racketeering. I call it a business. They say I violate the prohibition law. Who doesn't?

At the Charleston, Indiana, racetrack thousands stood and cheered Capone when he appeared with his bodyguards, waving his clasped hands above his head like a prizefighter entering the ring. U.S. Attorney Johnston was appalled during the American Derby at Washington Park to hear the band strike up "This Is a Lonesome Town When You're Not Around" as Capone, a sunburst in yellow suit and tie, took his seat and to see droves of race fans rush forward, eager to shake his hand.⁷¹

Between 1929 and 1931, seven books about Capone were published, a magazine titled *The Inside Story of Chicago's Master Criminal* sold 750,000 copies, and Howard Hughes began work on a movie about the life of Capone. The script called for the film to depict fifteen killings, including the St. Valentine's Day massacre.⁷² The movie encouraged the press and the public's thirst for knowledge of how the "Big Boy" was doing as a prisoner—a thirst that proved to be too powerful for Atlanta officials to satisfy with terse, formal statements.

Eight months after his arrival at Atlanta, newspapers across the country carried an International News Service series authored by "Ex-Convict no. 35503," a man prepared to reveal all about Capone's life in the Atlanta penitentiary. The *Baltimore News* headline for January 23, 1933 read, "Capone Leads Soft Life in Atlanta" and the *Philadelphia Evening Bulletin* caption for the story was, "Capone Coddled in Atlanta Prison." According to the ex-convict writer, who claimed that he had worked with Capone in the Atlanta shoe shop, "the big shot" was able to get just about anything he wanted, had plenty of money, and wore silk underwear, suits tailored for him in the prison tailor shop and special shoes. His work assignment in the shoe shop was described as "a joke," since it was limited to an hour or two in the morning, after which he left the industries area for visits, treatments in the hospital for his ailments, or to play tennis. The ex-prisoner reported that Capone spent many nights in the prison hospital where the beds were softer than the cell bunks and was allowed to purchase food from the commissary that was far better than the regular fare; in the prison hos-

pital he was addressed as “Mr. Capone.” As the series continued, it alleged that Capone was allowed a cell with a number of other “big shots,” and that he was receiving abundant legal advice not only from his own lawyers but also from a cellmate who was a former judge serving federal time for using the mails to defraud.

Despite Capone’s near-folk-hero status, the special treatment he was reported to be receiving at Atlanta did not reflect well on the federal prison system. Warden A. C. Aderhold tried to refute the charges; in a letter to Director Bates he denied that Capone was allowed to leave the prison at night (he had been out of the prison twice for daytime appearances in the U.S. district court), that he had special hours on the tennis court (he was allowed thirty minutes per day, the same as other inmates) and that Capone spent excessive time in the hospital (he had been hospitalized on only two occasions on doctor’s orders), and he had not been issued silk underwear, tailor-made suits, or special shoes.⁷³

Later in 1933 the *Washington D.C. Times* published an article under the headline, “Capone Becomes Fine Tennis Player,” which reported that Public Enemy no. 1 was playing tennis for one and a half hours on weekdays and all afternoon on Saturdays and Sundays. FBI Director Hoover noted on a copy of this story, “This kind gets more recreation than we do. No wonder prison ‘walls’ fail to instill fear.”⁷⁴

The desire of the press for information about Capone led a deputy U.S. marshal to allow a newspaper reporter to pose as another deputy and accompany him while delivering prisoners to the penitentiary. Since U.S. marshals often asked for and received a tour when they delivered prisoners, the bogus deputy marshal was allowed to look around the prison and to ask questions about Capone. A guard, assuming he was chatting with a fellow employee of the Justice Department, commented to the reporter, “We would need to put Capone in a cage in front of the prison if we satisfied the curious visitors. . . . Three thousand persons asked to see him each week. Other prisoners still glare at him. Each new prisoner asks to be put near Capone.”⁷⁵ Several weeks later a United Press news release described Capone’s life in Atlanta, characterizing his eating habits as those of “a starved lion.”

Bureau headquarters, worried about these claims of preferential treatment, sent Assistant Director Austin MacCormick to Atlanta to investigate Capone’s living conditions. Without prior notice to the warden, MacCormick arrived at the prison during the noon meal and asked to be taken immediately to Capone’s cell. In a 1979 interview, MacCormick described this visit:

[Capone] succeeded in getting into one of those eight-man cells with a bunch of big shots of the underworld. . . . [At that time] an inmate could order food from downtown and it would come into [the prison] in brown paper bags. . . . A guard told me that the inmates had been getting rotten food at the noon meal and night meal. He said it looked like a dog threw up . . . and so these eight big shots with money could order [food] . . . into their cell. . . . I saw a big chicken and pie on the table.⁷⁶

Capone's conduct at the Atlanta Penitentiary inevitably became the subject of FBI investigations. In September 1934 a Federal Bureau of Investigation agent reported that an inmate at Atlanta had informed him that Capone was the head of an organization that smuggled drugs into the penitentiary through a member of the medical staff. That same month Warden Aderhold notified BOP headquarters that a particular guard was the subject of persistent rumors that he smuggled letters out of the prison for Capone. Three months later the guard was confronted with evidence that he was "living beyond his means," and his resignation was accepted "with prejudice."⁷⁷

In late January 1933 Warden Aderhold wrote again to Bureau headquarters denying a newspaper story titled, "Santa Claus Capone," based on the report of an ex-Atlanta felon that on Christmas Day Al had donned whiskers and distributed boxes filled with candy, cake, and tobacco to his fellow convicts. The most that could have happened, said the warden, was for Capone to share some of the Christmas gift boxes that he, like all other inmates, was allowed to receive. A few days later, however, Aderhold received an angry letter from Director Bates, disputing his claim that Capone was being treated like all other prisoners:

I recently wrote you sending a newspaper clipping with reference to Al Capone being Santa Claus and you replied giving your explanation of the matter. I am now informed that at the time of the visit of Mr. Finch, our inspector, there was a large table in the cell piled high with boxes of candy, nuts and fruits; that the walls of the cell in which Capone lived were decorated with pictures and that he had monopolized the whole cell to the exclusion of the other inmates; that there were several padlocked boxes in the cell; and that it was quite obvious that special privileges had been granted in the matter of furnishing Capone's cell allowing him to keep goods which would be perhaps contraband with anyone else and also permitting him to lock boxes containing property. Mr. Finch did tell me that you knew nothing about this matter. It seems strange after the number of letters which we have written about his man. I don't know what more we can say to impress upon you the importance of this matter and the wishes

of the Department. Certainly somebody in the institution must have known when this tremendous quantity of Christmas packages came in and must have realized that one man could not use them all. Please advise me whether or not you are prepared to give your personal and continuous attention to this matter from now on.⁷⁸

Warden Aderhold responded that the best solution would be to put Capone in a single cell.

The experience of trying to manage Public Enemy no. 1 provided an important lesson for Sanford Bates and his associates at BOP headquarters. Sending celebrity criminals to the big penitentiaries at Atlanta and Leavenworth would inevitably afford opportunities for inmates and unsophisticated employees to do favors for these celebrities, whether it was for the sake of associating with notorious offenders, making a profit, or simply experiencing the excitement of conveying information to eager reporters. Even though most of the stories about Capone's soft life at Atlanta were not entirely accurate and many were misconstrued, his image as a big shot receiving preferential treatment, conducting business from behind prison walls, and manipulating gullible prison staff was not the picture of incorruptible federal justice that Homer Cummings and J. Edgar Hoover were trying to establish.

Federal officials had tried to reform the existing federal prisons, but all the attempts to establish higher standards of employee conduct, hold wardens more accountable, enforce rules uniformly, and restrict press access to certain prisoners had met with only limited success, especially when it came to high-profile prisoners such as Capone, Bailey, and Kelly. In 1933 J. Edgar Hoover and officials in the attorney general's office came to the conclusion that the only way to effectively control and punish the nation's "public enemies" would be to establish a new federal prison where influence peddling, special privileges, and opportunities for escape would no longer be possible.