

August 10, 1935.

MEMORANDUM

The following memorandum is prepared for the purpose of setting forth the facts in connection with the shooting of John Dillinger on the evening of July 22, 1934, at Chicago, Illinois by Special Agents of the Federal Bureau of Investigation, accompanied by officers of the East Chicago, Indiana Police Department. In view of allegations that instructions were issued by the Director of the Bureau that Dillinger was not under any circumstances to be taken alive and that Dillinger was not armed at the time he was shot, did not reach for his pistol or make any other move which necessitated his shooting, and that he was to be killed rather than apprehended, only those portions of statements obtained from various Agents, which pertain to these specific matters are set forth.

The files of the Federal Bureau of Investigation contain absolutely nothing indicating that any instructions were issued at that time to Agents of the Chicago Office or of any other office of the Bureau that Dillinger was to be "shot on sight" or any similar instructions. It does not appear from the files of the Bureau that any instructions were issued by the Director with reference to the manner in which Dillinger's apprehension was to be effected.

The report of Special Agent V. E. Petersen, dated at Chicago, Illinois, August 4, 1934, outlines previous contacts of the Chicago Office with representatives of the East Chicago, Indiana Police Department and states that on the afternoon of July 21, 1934, Sergeant Martin Karkovich and Captain Timothy O'Hail of the East Chicago, Indiana Police Department contacted the then Special Agent in Charge E. H. Purvis and Inspector E. P. Cowley and advised that a confidential informant had in the recent past been attending theatres in Chicago, accompanied by the informant's girl friend and John Herbert Dillinger. The informant stated that her girl friend was "keeping company" with Dillinger and that Dillinger was in the habit of attending the Martro Theatre in Chicago.

The report states that about 5:30 P.M. on July 22, 1934 the informant advised the Chicago Office that she had received word from her girl friend that Dillinger, the girl friend and informant would attend either the Martro or Biograph Theatre in Chicago on the evening of July 22, 1934, the party proceeding to the theatre about 8:00 P.M. Agents of the Chicago Bureau Office were called to the office where former Inspector Cowley, and former Agent in Charge Purvis outlined the plans for effecting the apprehension of Dillinger at the theatre on that evening, it being unknown at the time the plans were made which theatre Dillinger would attend. At approximately 7:30 P.M. on the night of July 22, 1934, Mr. Purvis and Special Agent E. D. Brown proceeded to a point near the Biograph Theatre and Sergeant Karkovich of the East Chicago, Indiana Police Department and Special Agent

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S. E. Winstead proceeded to a point near the Marbro Theatre. The balance of the Agents assigned to this investigation remained at the Chicago Office, awaiting advice as to the identity of the theatre which Billinger would actually enter. At 8:30 P.M. Billinger and two male companions were observed entering the Biograph Theatre, 3117 Lincoln Avenue, Chicago, Illinois, by Mr. Purvis and Special Agent Brown. This information was immediately telegraphed to the Agents of the Chicago Office, who proceeded to the vicinity of the Biograph Theatre. It should be noted that both theatres had been visited earlier in the evening and detailed information obtained concerning the various exits and possible groups of escape. Agent Peterson's report states that Special Agents E. G. Hurt and E. H. Mallis were assigned, together with Agents Soppis and Stretch of the East Chicago, Indiana Police Department, to seize Billinger as he was leaving the theatre. The report then names other Special Agents who were "to close in towards Billinger from the north", while other specifically named Agents were "to close in towards Billinger from the south". Special Agents were stationed on the opposite side of the street from the theatre, in addition to those immediately surrounding the theatre. Special Agent E. H. Brown remained in a car near the theatre at a point close to that where Mr. Purvis was stationed. In the meanwhile Special Agent Winstead and Sergeant Markovich, who had proceeded to the Marbro Theatre, were notified by telephone that Billinger had entered the Biograph Theatre, and proceeded immediately to that point. Captain Timothy S'Neil and Sergeant Conroy of the East Chicago, Indiana Police Department, were also at the Biograph Theatre, while Inspector Souley of the Federal Bureau of Investigation maintained a roving position about the theatre, keeping in touch with all Agents, to assure proper functioning at all exits.

Agent Peterson's report states "About 10:30 o'clock on the night of July 22, 1934, Billinger, accompanied by two women companions, was observed emerging from the Biograph Theatre. They walked south on Lincoln Avenue from the theatre. Special Agent in Charge E. H. Purvis gave the pre-arranged signal of lighting a cigar. Agents immediately began to close in slowly towards Billinger from all sides. Billinger apparently became apprehensive. He glanced over his shoulder at Agents and started to run, grabbing for his gun simultaneously. As Billinger grabbed for his gun, five shots were fired by three Agents, one Agent firing three shots and two Agents firing one shot each. Billinger fell face downward near an alley, a .380 calibre automatic pistol was in his hand when he fell. No shots were fired from Billinger's pistol. An extra clip for his pistol was found in his pocket."

Under date of July 23, 1934, former Special Agent in Charge E. H. Purvis and the late Inspector S. P. Cowley executed an affidavit sworn to before Helen Dunkel, a notary public of Cook County, Illinois, which sets forth the facts surrounding the shooting of Dillinger. The affidavit sets forth the preliminary contacts with representatives of the East Chicago, Indiana Police Department, and the informant, describing the stationing of agents about the theatre, mentioning the fact that Special Agent E. B. Brown accompanied Mr. Purvis to the Biograph Theatre at about 7:37 P.M. on the night of July 22, 1934, states that Mr. Purvis observed John Dillinger and two women enter the theatre and that the Chicago Bureau office and Sergeant Karkovich and Special Agent G. B. Winstead were notified, and that the entire theatre was immediately covered. This affidavit states that the various Agents maintained their positions in as inconspicuous a manner as possible until about 10:40 P.M. on the night of July 22, 1934, at which time John Dillinger and the woman companions left the theatre and proceeded on foot in a south-westerly direction.

The affidavit of Mr. Purvis and Mr. Cowley then states upon identifying Dillinger, affiant Purvis gave the pre-arranged signal for the men to close in. Special Agent E. H. Mallis, Charles Winstead, Clarence Hurt, E. B. Brown and affiant Purvis immediately surrounded John Dillinger, all being stationed on the south-east side of the Biograph Theatre. Officers Sopsie and Stretch of the East Chicago, Indiana Police Department had assumed a position at a point in a north-westerly direction from the theatre, and at the time the signal was given Sergeant Karkovich, who had been stationed at a point diagonally across the street from the Biograph Theatre, ran across the street and notified Officers Sopsie and Stretch, who had not seen the signal. Captain O'Reilly, Officer Seagrave of Captain O'Reilly's squad, had assumed roving positions during the entire covering of this matter. John Dillinger was seen to draw his gun, which was later found to be a .380 automatic pistol, from his right trousers pocket. He assumed a crouching semi-crouching position and drew his gun from his pocket. At that time he was shot by Special Agent E. H. Mallis, G. C. Hurt and G. B. Winstead, who fired one shot each, except the last named, who fired three shots. Immediately after the shooting, the above mentioned automatic pistol was taken from his hand and an ambulance was called, inasmuch as it appeared he was not dead.

After the shooting of Dillinger, statements were taken in the Chicago Office from all of the Special Agents who participated in any manner in the shooting of Dillinger. Pertinent parts of the statements taken are set out hereinafter.

Special Agent G. B. Winstead, under date of July 23, 1934, submitted a memorandum in which he states Agent stopped in a doorway, where Special Agent Hurt was standing, and it was agreed that when Mr. Purvis gave the signal, that Dillinger was leaving the theatre, if he had gone south, Hurt was to take the right side and this agent the left

*Strat. /
Coroner
investig.
H.E. Cowley
Buller's
testimony
stated in
Comand. in
by the Coroner.*

side, and endeavor to apprehend Dillinger, before he reached an alley about 40 or 50 feet from where we were stationed. When Mr. Purvis gave the signal a few minutes before 11 o'clock, Agent Hart turned to this Agent and stated, "That is Dillinger with the straw hat and the glasses." Special Agent Hart stepped across the sidewalk and Dillinger passed on. Just after he passed where this agent was stationed, Agent stepped from the doorway to the sidewalk, falling behind him and at that point, Dillinger turned his head, looked squarely at agent, and reached for his gun. Agent then pulled the Division .45 automatic, with which he was armed, and shot Dillinger as nearly as he could tell in the right side, from the rear. Just as this shot was fired, Dillinger, who was then beginning to run, struck a woman who was walking in front and a little to his right, with his body and Agent fired two more shots as he turned. He staggered to the mouth of the alley and fell on his face."

Mr. Winstead further sets forth in this statement the fact that a local police officer had begun systematically searching the body of Dillinger. He states: "I requested that they look for a gun, as he had reached for one. Mr. Purvis stated that he had already taken a gun out of his hand, and that it was a .380 calibre Colt automatic."

In a statement executed on July 23, 1934 by the late Special Agent E. E. Hollis, he stated: "About 10:30 P.M., John Dillinger, accompanied by two women, came out of the theatre and walked south on Lincoln Avenue. Mr. Purvis lighted a cigar, which was the signal to all Agents that Dillinger had come out of the theatre. Dillinger, just before passing this Agent, glanced in the direction of Agent, and then took about two more steps, and again glanced at Agent. At this time, this Agent approached Dillinger on his right rear side. Agent observed Dillinger draw from his righthand trousers pocket a pistol and he then made an effort to run. There were three or four shots fired and Dillinger fell."

It may be noted in this regard that Special Agent E. E. Hollis fired one of the shots at Dillinger.

Former Special Agent A. E. Lockman, in a statement executed on July 23, 1934, stated, "Special Agent in Charge Purvis, who was standing just south of the entrance of the theatre, was seen to light his cigar, which was the pre-arranged signal to indicate that Dillinger was coming out of the theatre. Simultaneously with that signal, the writer observed a man who answered the description given of how Dillinger would look and would be dressed who came out of the theatre with two women, answering the description given of the woman who would be with him. It was immediately known to the writer that that party was Dillinger. * * * I observed that as Dillinger passed Special Agent in Charge Purvis, Mr. Purvis started walking in Dillinger's direction. I also observed Special Agents Hollis and Winstead start moving toward Dillinger. At about that time Dillinger and his two companions and two other bystanders were immediately alongside the writer and Special Agent -----, It was observed that

Dillinguer looked around in different directions and seemed to realize that he was being closed in upon, at which time he made a motion with his head, indicating that he was reaching for his gun. It was then observed that Special Agent in Charge E. E. Purvis and Special Agents Hollis, Winstead and Hart had drawn their guns and were approaching right up to Dillinguer. At that time the writer drew his gun. Dillinguer then realized, evidently, that he was trapped and still trying to get his gun, seemed to take two quick steps toward the alley and as he did so, one or two of the Agents making the immediate approach on him, fired three times and as a result of these shots, Dillinguer pitched forward on his face into the alley, at approximately four or five feet from the writer. Not knowing whether or not Dillinguer would attempt to shoot after he hit the ground, the writer along with the other Agents, covered him with guns, but it was observed that after he hit the ground, he did not move again.

Special Agent J. E. Waller, under date of July 23, 1934, submitted a statement, from which the following pertinent statements were taken: "As Dillinguer passed in front of Special Agent in Charge Purvis, Mr. Purvis lighted a cigar, which was the signal that John Dillinguer was approaching. Dillinguer looked towards Special Agent in Charge E. E. Purvis, but did not appear at this time to be suspicious. He did not appear to look at Agent Hollis, as he passed him, but as he passed the car in which Agent Brown was sitting, he looked at Agent Brown. As soon as he had passed Special Agent in Charge E. E. Purvis and Agent Hollis, these two Agents fell in behind him. As he passed Agent Winstead, it appeared as though the shorter of the two agents who were accompanying him, pulled his shirt or gave him some signal and he looked quickly around at Agent Winstead. By this time he was approximately 20 feet from the alley entrance mentioned above. He appeared to realize that he was trapped, there was a very tense look on his face, and he crouched and pulled his gun. At this point, Agent Hart took a step towards him and Dillinguer appeared to be ready to spring into the alley. Agent Lockerman and this Agent had their guns ready, but Dillinguer had only taken about two steps in a crouching position towards the alley, when Agent Winstead fired.

In a signed statement submitted by Special Agent E. S. Brown, he states, "As Dillinguer immediately fell, but just before Special Agent Hollis took his place immediately in front of Dillinguer, I saw Dillinguer reach in his right rear trousers pocket. I did not see him pull a gun out of this pocket as my view was then obstructed, but immediately after that Dillinguer fell to the sidewalk, and I immediately walked to the body and saw in Dillinguer's right hand a .380 calibre automatic pistol."

Special Agent G. O. Hart, under date of July 23, 1934 submitted a statement concerning his participation in this shooting from which the

following statements are taken: " * * * Mr. Purvis gave me the suggested signal and we waited until Dillinger and the two women walked down the street toward us. When they were within about five feet of us, I stepped across in front of them to the parking and Agent Winstead stood where he was. As I did this, Dillinger looked back over his shoulder at Agent Winstead, and gave one of the women a shove, and grabbed his pistol, all about the same time. As he started to run, Agent Winstead fired one shot. Then Agent Winstead and the writer each fired one shot about the same time. Then Agent Winstead fired another shot. By this time Dillinger was falling."

It may be noted that the inventory of the property in the possession of Dillinger at the time he was taken to the County Morgue, included one loaded clip of 4 .380 calibre Remington U.M.C. cartridges. This clip was of the type which would fit the gun which Dillinger had in his hand at the time he was shot.

With reference to the instructions which were issued by Mr. Purvis and Mr. Cowley prior to the shooting of Dillinger, (the instructions were issued at a conference held in the Chicago Bureau Office late on the afternoon of July 22, 1934,) Special Agent U. S. Hart, under date of August 1, 1935, submitted the following signed statement:

"I, U. S. Hart, Special Agent, Federal Bureau of Investigation, U. S. Department of Justice, hereby state that I was present in the offices of the Bureau at Chicago in the early evening of Sunday, July 22, 1934, at which time plans for the capture of John Dillinger were outlined and discussed. Those in charge of the discussion were Inspector Sam P. Cowley and Special Agent in Charge Melvin E. Purvis.

"We were instructed to seize Dillinger bodily and under no circumstances to fire a shot unless compelled to do so in self defense. I was one of those delegated to seize Dillinger when he came out of the Biograph Theatre, but the plans did not work out as contemplated, and it became necessary in self defense to use firearms to subdue Dillinger.

"Our instructions were to fire no shots whatsoever if same could be avoided. These instructions were issued jointly by Mr. Cowley and Mr. Purvis, and they were in accord upon the instructions, and each took an equal part in outlining the plans and issuing the instructions. It was even suggested at one time during the conference that no firearms of any nature should be taken to the scene. This suggestion was not advanced by either Mr. Cowley or Mr. Purvis, and was not adopted."

Special Agent V. W. Peterson, under date of August 1, 1935 submitted the following signed statement:

"I attended the conference which was held in the Chicago Bureau Office on the afternoon of July 22, 1934, at which time all Agents of the Chicago Bureau Office were informed by Mr. Cowley and Mr. Purvis that positive information had been received that John Herbert Dillinger would attend either the Biograph Theatre or the Harto Theatre that night, in company with confidential informant Anna Sage, and another woman companion. The greater part of the conference consisted in explaining the nature of the various assignments to be taken care of by the Agents. At approximately 8:00 o'clock, information was received by telephone from Mr. Purvis and Mr. Brown to the effect that Dillinger had entered the Biograph Theatre. At that time, Agents E. E. Hollis, G. C. Hart, together with two officers of the East Chicago, Indiana Police Department, were instructed to place themselves on both sides of the entrance to the Biograph Theatre for the purpose of effecting the apprehension of John Dillinger as he emerged from the theatre. All Agents present were aware of the dangerous character of Dillinger, and were instructed that no chances should be taken at the time the attempt would be made to effect his apprehension. I do not recall any instructions having been issued to the effect that under no circumstances should Dillinger be taken alive. In view of the desperate character of Dillinger and also because of his past reputation, it was probably the opinion of all Agents present that Dillinger could not be taken alive, but no instructions were issued that he was to be killed, regardless of the fact that he might not offer any resistance."

Special Agent C. E. Winstead, under date of August 1, 1935, submitted the following signed statement as to his present recollection of the instructions issued at the Chicago Office on the afternoon of July 22, 1934:

"On Sunday afternoon, July 22, 1934, the agents were called into the private office of Special Agent in Charge E. E. Purvis in Chicago and present, in addition to the Bureau personnel, were Captain Tim O'Neil and Sergeant Karpovich and, to the best of my recollection, two other members of the East Chicago, Indiana, Police Department. At that time agents were told that John Dillinger was expected to appear at one of the picture shows that evening. A description and the kind of clothes which would be worn by one of his women companions on that evening was furnished to the agents assembled. According to my recollection, Mr. Purvis gave the instructions to the Agents and these instructions were confirmed by Mr. Cowley. The general instructions were as follows:

"Gentlemen, you all know the character of John Dillinger. If he appears at either of the picture shows and we locate him and he effects his escape it will be a disgrace to our Bureau. It may be that Dillinger will be at the picture show with his women companions without arms - yet, he may appear there armed and with other members of his gang. There of course will be an undetermined element of danger in endeavoring to apprehend Dillinger. It is the desire that he be taken alive, if possible, and without injury to any agent of the Bureau; yet, gentlemen, this is the opportunity that

we have all been awaiting and he must be taken. Do not unnecessarily endanger your own lives and if Billinger offers any resistance each one will be for himself and it will be up to each of you to do whatever you think necessary to protect yourselves in taking Billinger."

"After specific instructions were given to the Agents by Mr. Purvis, someone asked "What type of guns shall we take?" and Mr. Purvis stated, "Your pistols, only." No agent had at the scene any other kind of gun.

"The above were the instructions as given by Mr. Purvis as spokesman and concurred in by Mr. Gouley - maybe not verbatim, but to the same intent and purpose as nearly as I can recall at this late date."

Special Agent E. E. Richmond, under date of August 2, 1935, submitted a signed statement outlining his recollection of the incidents surrounding the shooting of Billinger and states with reference to the instructions issued by Mr. Gouley and Mr. Purvis: "At this conference no instructions were given to shoot Billinger, nor were any instructions given that he was to be taken alive. It was the understanding of this Agent that Billinger was not to escape, and that he was to be taken alive, if possible. This understanding was based on the fact that instructions were given that when the signal that Billinger had been spotted was given, the Agents were to close in around Billinger. If it had been the intention to shoot Billinger, the writer does not believe that instructions would have been given to close in around Billinger, inasmuch as the Agents participating in effecting his apprehension would be in the line of fire from the pistols of the other Agents."

Special Agent E. E. Brown, under date of August 2, 1935 submitted a signed statement from which the following excerpt is taken: "The instructions given by Inspector Gouley and Special Agent in Charge Purvis were to the effect that no undue chances should be taken in connection with the apprehension of Billinger. No instructions were given at that time, by anyone during the conference, to the effect that Billinger should not be taken alive under any circumstances. Neither was this mentioned by officers from the East Chicago, Indiana Police Department."

FEDERAL BUREAU OF INVESTIGATION
FROM: DIVISION #1 & DIVISION #2

10-4

1935.

TO: Director
 Mr. Nathan
 Mr. Tolson
 Mr. Edwards
 Mr. Quinn
 Mr. Clegg
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 Division Four
 Division Five
 Files Section
 Identification Division
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 Mechanical Section
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Correct
 Re-write
 Re-date
 See me
 Send file
 Note and Return
 Please call me concerning this
 Search, serialize and route

Please file these in the sub-section of the Dillinger file
with confidential memorandums, affidavits, etc. *with*

in regular file

E. A. Tamm - Room 5107.

JOHN EDGAR HOOVER
DIRECTOR

Federal Bureau of Investigation

U. S. Department of Justice
Washington, D. C.

EAT:TAM

October 1, 1935

MEMORANDUM FOR THE DIRECTOR

I am attaching hereto the following original documents from the Bureau file in the Dillinger case:

- Joint affidavit executed by M. H. Purvis and S. P. Cowley, sworn to on July 28, 1934.
- Teletype message received in the Bureau from Mr. Cowley on July 22, 1934
- Personal and Confidential letter addressed to the Bureau under date of July 29, 1935 by Melvin Purvis, together with file carbon copy of the Bureau's response to Mr. Purvis' letter.

Respectfully,

E. A. Tamm

Mr. Nathan	.....
Mr. Tolson	.....
Mr. Baughman	.....
Chief Clerk	.....
Mr. Clegg	.....
Mr. Coffey	.....
Mr. Edwards	.....
Mr. Egan	.....
Mr. Foxworth	.....
Mr. Ladd	.....
Mr. Joseph	.....
Mr. Keith	.....
Mr. Lester	.....
Mr. Quinn	.....
Mr. Schell
Mr. Tamm
Mr. Tracy
Miss Gandy

*John Dillinger
Confidential Informant*

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&
INDEXED

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FEDERAL BUREAU OF INVESTIGATION	
OCT 15 1935 P.M.	
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Send

Division of Investigation

U. S. Department of Justice

1900 Bankers Building

Chicago, Illinois

AFFIDAVIT OF SPECIAL AGENT IN CHARGE M. H. PURVIS AND S. P. COWLEY

The following affidavit is hereby made by M. H. Purvis and S. P. Cowley of the Division of Investigation, United States Department of Justice, Chicago, Illinois:

On Saturday, July 21st, 1934, at about 4:00 o'clock P. M., affiant Purvis received a telephone call from Captain Timothy O'Neill of the East Chicago, Indiana Police Department, at which time he stated that he had information concerning the possible location of John Dillinger. They stated that they desired to confer with the Chicago Office of the Division of Investigation as early as possible and requested that affiant Purvis meet them at a hotel in a room. Affiant Cowley was with affiant Purvis at the time this call was received and arrangements were made for both affiants to meet Captain Timothy O'Neill and Sergeant Martin Zarkovich in Room 712 of the Great Northern Hotel, which is the room which was being occupied by affiant Cowley.

Arrangements were made for the two above-mentioned officers to proceed to Chicago as quickly as possible and at about 6:00 P. M. on the same date they were met at the above-mentioned hotel room, at which time they informed affiants that they had information which they believed to be reliable, to the effect that John Dillinger had been to the Marbro Theatre, which is located at 4124 West Madison Street, Chicago.

These two officers of the East Chicago, Indiana Police Department stated that an informant by the name of Anna Sage, personally known to Sergeant Zarkovich, had stated to them that John Dillinger and another woman by the name of Polly Hamilton Keele had recently called at her home for the purpose of having her accompany them to the Marbro Theatre. They stated that they desired to furnish this information to the Division of Investigation inasmuch as they were positive that the Division of Investigation of the United States Department of Justice operates more secretly than any other organization and they felt that by so doing there would be no possibility of any information as to any proposed plan for the apprehension of John Dillinger becoming known publicly, which might thwart any plans made. It was agreed by and among the affiants and Sergeant Zarkovich and Captain O'Neill that Sergeant Zarkovich and affiant Purvis would proceed to a point diagonally across the street from the Children's Memorial Hospital located at 707 West Fullerton Street, Chicago. Therefore, affiant Purvis and Sergeant Zarkovich proceeded to this point in order to reach same by 9:00 o'clock P. M. on Saturday, July 21st, 1934, and were followed by affiant Cowley and Captain Timothy O'Neill.

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