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all, has been put in on these last named cases. Most of the persons who  
have interviewed in this case had left Pawhuska when we were assigned to  
the case, over two years after the murder had been committed, and it  
has taken a lot of our time locating them, which we have done. The  
county authorities did nothing of any effect in this case, and have no  
inclination to do anything. Our plan is to wait till we can concentrate  
our efforts on this investigation, though we will work on it as oppor-  
tunity affords in conjunction with the others.

UNDEVELOPED LEADS:

All the persons named, as well as a list of others we have secured  
and noted, are still to be questioned exhaustively, though we have ques-  
tioned some of them in a tentative way, already.

PENDING.

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Oklahoma City

AUG. 14, 24 Aug. 9, 1924

J. H. Burger.

W. E. SMITH, et als.

Osage County,  
Okla.

: Murders of Osage Indians

SYNOPSIS OF FACTS:

(O. C. #7060.)

Digest of facts and evidence re. murder of Anna Brown, full blood Osage Indian woman, Osage County, Okla., May 22, 1921. This report joint report of Agents J. H. Burger and T. F. Weiss.

SPECIAL REPORT.

DETAILS:

at Kansas City, Mo.

MRS. ANNA EYRE BROWN was a full blood Osage Indian woman who at the time of her murder, May 22, 1921 was about 35 years of age and the divorced wife of one ODE BROWN, a white man and ex-cowboy now living at Ponca City, Okla.

She had no children and died intestate, leaving as her surviving heirs her mother known as "LIZZIE Q", her sisters, MRS. MOLLIE BURKHART (wife of HERBERT BURKHART), MRS. NITA SMITH (wife of W. E. SMITH) and a half sister, MRS. GRACE BURKHART. W. E. SMITH was a white man, and HERBERT BURKHART is also a white man, being a brother to BRYAN, DUFF and GRACE BURKHART, and the nephew of MR. K. H. HALE, known generally as "BILL" HALE, who is a wealthy, influential and unprincipled stockman living at Fairfax, Okla., Osage County.

3 Washington; 4 file;  
Commissioner of Indian  
Affairs.

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7  
8 ANNA BROWN left an estate valued at approximately \$100,000.00,  
9 half of which, by the Oklahoma law, descended at her death to her  
10 mother, "LIEZIE Q". Said mother at that time was aged, feeble and ill  
11 and expected to die at any time. She was living then with her daughter  
12 and son-in-law, MOLLIE and ERNEST BURKHART at Crah Horse, near Fairfax,  
13 and had a will leaving the great bulk of her said mother's estate to  
14 ERNEST BURKHART's wife and children. LIEZIE Q'S estate at that time  
15 was worth approximately \$200,000.00. By ANNA BROWN'S death occur-  
16 ing before said mother's death, her estate would be worth approximately  
17 \$50,000.00 more, which thus increased the estate to be ultimately the  
18 property of the ERNEST BURKHART family that much. LIEZIE Q did in fact  
19 die about sixty days after ANNA BROWN'S murder, and died at the home  
20 of ERNEST BURKHART.  
21

22  
23 ANNA BROWN had no serious enemies; was well liked generally but  
24 of a dissolute and immoral character being drunk frequently and going  
25 out on drinking parties a number of times mostly with white men whom  
26 she preferred. She had her own home where she lived in Fairfax, Okla.  
27

28 May 31, 1921 she was called to the home of ERNEST BURKHART to see  
29 her mother, who was very ill. This was in the morning.

30  
31 May 27, 1921 some men out hunting found her badly decomposed and  
32 swollen corpse in a ravine about three miles northeast of Fairfax with  
33 a .32 calibre bullet hole in the back of her head that would have  
34 caused instant death.  
35

36  
37 A crude and hasty autopsy was performed where she was found, but  
38 the bullet was apparently never found. No examination was made as to  
39 other possible wounds, owing perhaps to the terrible state of the body  
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which was rotten and swollen almost to bursting. The body was hastily buried in the Indian cemetery at Grayhorse, near Fairfax.

Investigation of her murder was at once started by some of her relatives, of whom her brother-in-law, W. B. SMITH, was most active. J. A. GUSTAFSON, a private detective, was employed and kept his operatives on the case for two years. JOHN MORAN was also employed and worked on the case for about two years, MORAN being also a private detective. All that GUSTAFSON and his operatives learned was conveyed in some way to the chief suspects, W. K. HALE and the BURNHART. Apparently, however, these detectives never got very far into the facts.

About Sept. 25, 1923, two years and four months after the murder, Agent T. F. Weiss of this Bureau was assigned to the case and on Dec. 15, 1923 Agent J. R. Burger was assigned to work with Agent Weiss. These Agents working on this case along with five other Osage Indian murders that they were working at the same time when not absent as Government witnesses in Federal court.

March 10, 1923 at 2:30 A. M. the home of said W. B. SMITH was totally demolished at Fairfax by a large charge of nitroglycerine placed in the basement of said house. SMITH had been very active in pushing the ANNA BROOK murder investigation and had stated openly and often that he was convinced that BILL HALE and the BURNHARTS had murdered her for her property. SMITH'S wife, NITA, was a full sister to ANNA BROOK. Said wife and their hired girl, NETTIE BROOKSHIRE, were blown to bits by the explosion and died instantly. SMITH lingered a few days and died in a hospital at Fairfax. The house caught fire and was destroyed.

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SUSPECTS AND POSSIBLE MOTIVES OR EXPLANATION RE. ANNA BROWN MURDER

These Agents have fully followed out every lead and without going into details will state that the evidence we have secured convinces us that ANNA BROWN was murdered by BRYAN BURKHART about 4 A. M. May 22, 1921 in pursuance of a pre-arranged plan between him and ERNEST BURKHART and their uncle W. K. HALE (who raised them) and possibly J. W. BRIDGES; also the uncle of the BURKHARTS. We have not found any creditable evidence contrary to this. The motive being mainly to insure ANNA BROWN'S death before that of her mother, LIZZIE Q. in order of have ERNEST BURKHART'S family inherit the bulk of ANNA BROWN'S estate, amounting to about \$100,000.00.

D I G E S T   O F   E V I D E N C E.

Proof of death and its cause; Identification of body.

ANDY SMITH, all of Fairfax, Okla., can testify that while hunting on May 27, 1921 they found the badly decomposed body of an Indian woman lying in a ravine about three miles northeast of Fairfax, Okla.; that they at once notified Mr. --- Turdin, an undertaker at Fairfax, who came out and took charge of said body.

MR. ----- TURDIN, undertaker at Fairfax, can testify that he was thus called; that he went out, could not identify the body; notified Dr. J. G. Shoun of Fairfax and others; that Dr. J. G. Shoun, Mrs. Anna Bitterly and Mrs. Mollie Burkhart and Mrs. Rita Smith all of Fairfax, subsequently identified the body as that of Anna Brown; that he prepared the body for burial by freezing it where found, attended to the funeral arrangements and was paid out of the Anna Brown estate; that Drs. J. G. Shoun and D. A. Shoun, brothers, performed a sort of autopsy by bisecting the cranium, from front to rear, and searching in the decayed brain mass for the bullet, which they stated was not found; that this autopsy was performed where the body lay, a few feet from where it was found; that more thorough autopsy was not made due to the terrible condition and odor of the body; that the body had apparently been dead five or six days; that in preparing the body the scalp slipped from the skull and he discovered a bullet hole in the back of the head slightly to the left of the middle and going completely through the skull bone from the back but that no hole of egress was found; that he, Turdin, still has this left side of the skull in

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5  
6 his possession, showing said bullet hole. (Agent Weiss examined said  
7 left half of skull carefully and ascertained that the bullet was of a  
8 .32 calibre, traveling in a direction slightly downward from the plane  
9 of the head and slightly from the left toward the right side, and that  
10 no hole of egress existed.)

11  
12 MRS. ANNA SITTERLY, all of Fairfax, can testify positively that they  
13 MRS. MOLLIE BURKHART, viewed said body and that it was the body of  
14 DR. J. G. SHOWN, and ANNA BROWN. (Mrs. Rita Smith has since been  
15 SCOTT MATHIS, murdered).

16  
17 DR. J. G. SHOWN can also testify that said body had apparently been  
18 dead about five or six days and that the bullet  
19 would found would have caused instant death and that the autopsy was  
20 hurried, incomplete and made as described by Mr. Turdin and that he and  
21 and his brother may very probably have lost the bullet while searching  
22 for it, under the circumstances. (This established the corpus delicti)

23  
24  
25 PROOF AS TO WHEN, WHERE AND BY WHOM MURDER WAS COMMITTED.

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27  
28 H. E. WILSON, Justice of the Peace, Fairfax, can testify that he  
29 presided over the coroner's inquest that inquired into the death of  
30 ANNA BROWN: that this inquest was continued over several months; that  
31 BRYAN BURKHART was called, sworn and testified under oath that he was  
32 at his brother's home (ERNEST BURKHART) at Grayhorse most of the day of  
33 May 21, 1921 with the exception of the time he was at the horse races  
34 near Fairfax that afternoon; that LIZZIE Q was also living at ERNEST'S  
35 at that time and was very ill; that ANNA BROWN came to ERNEST'S  
36 home that morning to see her sick mother, LIZZIE Q, and remained there  
37 until about 4 PM; that he, BRYAN, went to the horse races near Fairfax  
38 about 2 P. M. that day but returned to Ernest's home about 6 P. M. and  
39 took ANNA BROWN home in a car, leaving ANNA at her home in  
40 Fairfax about 4:30 PM; that he never saw ANNA again while she  
41 was alive.

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44 H. E. WILSON can testify further that notes of this testimony  
45 were taken by WALTER GRAY, a young attorney, and transcribed and  
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6 furnished MR. WILSON and he can produce these notes, and that said GRAY  
7  
8 can also testify to BRYAN BURKHART'S testimony, as above, as well as  
9  
10 others WILSON can name.  
11

12  
13 WALTER GRAY, attorney, Fairfax, can testify to BRYAN BURKHART'S  
14  
15 testimony as stated above by E. W. WILSON and can give names of other  
16  
17 witnesses who heard BRYAN testify.  
18

19 MRS. MARTHA UPRIGHT DOTY, living five miles west of Yale, Okla.,  
20  
21 can testify that she began working for ERNEST BURKHART family about May  
22  
23 17, 1921; that the family then consisted of ERNEST BURKHART, his wife,  
24  
25 MOLLIE, their two children; LUCIE Q. MOLLIE'S old mother, BRYAN BURKHART  
26  
27 and DUES BURKHART, brothers to ERNEST BURKHART; that on May 21,  
28  
29 1921 a MRS. J. L. BRIDGES, an aunt to the BURKHARTS and the sister of  
30  
31 BILL HALE, was visiting ERNEST; that on that day, May 21, 1921, Satur-  
32  
33 day, ANNA BROEN came from Fairfax with BOB CARTER'S jitney in the  
34  
35 morning to visit her sick mother at ERNEST'S; that ANNA was drink-  
36  
37 ing and quarreled with MOLLIE, her mother and BRYAN; that BRYAN told her  
38  
39 MRS. DOTY, that ANNA had threatened to kill him, but he was going  
40  
41 to beat her to it, or words to that effect; that ANNA told MR.  
42  
43 DOTY she, ANNA, was jealous of BRYAN and would kill any woman who  
44  
45 flirted with him; that ANNA sulked most of the day in the summer  
46  
47 house outside; that all the BURKHART men left with the children to go  
48  
49 to the races at Fairfax right after dinner and none of them returned  
50  
51 till they all returned shortly before suppertime, about 5:30 or 6 PM;  
52  
53 that MRS. BRIDGES was making very uncomplimentary remarks about Indians  
54  
55 that day and left the place before the men returned and before supper;  
56  
57 that supper was ready about six or six thirty and all the BURKHART men  
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6 mentioned were present but ANNA refused to come into the house and  
7 sat with them, but remained in the summer house; that after supper,  
8  
9 about 7 P. M. all the BURKHART men including BRYAN, left and took ANNA  
10 BROWN with them; that they left in two cars, a Buick touring car of  
11 ERNEST'S and a Ford touring car; that she, MRS. DOTY, did not notice  
12 what car each one left in but is positive that ANNA BROWN was at  
13 ERNEST'S up to that time and left with ERNEST, BRYAN and the others in  
14 the two cars, and that it was just about sundown; and that ANNA BROWN  
15 had been at ERNEST'S home that day continuously from the time she ar-  
16 rived in the morning till she left with them about sundown. (MRS. DOTY  
17 stated that he left the BURKHART'S employ that same night because she  
18 was "afraid" but she evaded telling the cause of her fears.) MRS. DOTY  
19 can testify further that one MRS. BORA BEEBE, who lived a few miles from  
20 Grayhorse at that time called on her in company with LUELLA HALETT about  
21 4 P. M. that day and that MRS. BEEBE talked to ANNA BROWN in the  
22 summer house; that LUELLA HALETT also talked to ANNA BROWN in the  
23 summer house at ERNEST BURKHART'S place about 4 or 5 P. M. that day and  
24 that none of the BURKHART men had returned from the races at that time.

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44 MRS. LUELLA HALETT, Foraker, Okla., can testify that she knew  
45 ANNA BROWN pretty well; that on Saturday, at about 4 to 5 P. M. she,  
46 LUELLA HALETT, drove with MRS. BORA BEEBE to ERNEST BURKHART'S home to  
47 see if MARTIN DOTY wanted to go with them to a dance that night; that  
48 she, LUELLA, went to the summer house there and talked fifteen to twenty  
49 minutes to ANNA BROWN; that ANNA BROWN asked her to come and  
50 keep her house at Fairfax and she, LUELLA, agreed to do so; that ANNA  
51 said she would come or send a car for LUELLA the next morning and bring  
52 LUELLA from where she was staying at MRS. BEEBE'S to Fairfax, which was  
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6  
7 agreed to; that ANNA was drinking; that this was at least 4:30 or  
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9 P. M. when she and MRS. BENNE left ERNEST BURKHART'S home that day  
10  
11 and none of the BURKHART men were there, but ANNA was still there  
12  
13 when she and MRS. BENNE left; that the next afternoon DUKE BURKHART  
14  
15 to see her at MRS. BENNE'S and asked her to come with him to go to work  
16  
17 for MRS. ERNEST BURKHART, as MARTHA had left; that she told DUKE about  
18  
19 her promise to go to work for ANNA BROWN and DUKE told her, "that  
20  
21 is all right, ANNA has gone away", but did not say where ANNA  
22  
23 had gone; that she, LUNELIA, did then go with DUKE and work for some  
24  
25 time at ERNEST BURKHART'S.

26  
27 I. E. HEDGERS, Ralston, Okla., ED HAINES, Ralston, and JOE McGUIRE  
28  
29 PAUL Pawluska, can all and each testify that after sundown, but before  
30  
31 dark about 8:15 P. M. Saturday, May 21, 1921 they were all in a group  
32  
33 talking in front of JONES Hotel at Ralston about nine miles south from  
34  
35 Fairfax and Grayhorse when a Buick touring car drove up from the east,  
36  
37 direction of Fairfax and Grayhorse road; that the car drove up to the  
38  
39 curb within a few feet, three or four, of where they were standing and  
40  
41 that BRYAN BURKHART and ANNA BROWN were sitting in the front seat  
42  
43 and no one else in the car; that ANNA spoke to JOE McGUIRE, calling  
44  
45 him by name and he spoke to her that she said she was hungry, and  
46  
47 asked where they could get something to eat, or some sandwiches; that  
48  
49 McGUIRE pointed to McSpadden's Restaurant, about a block away, and told  
50  
51 her to go there; that she answered McGUIRE and the car then drove to  
52  
53 McSpadden's, turned in at the curb, and BRYAN BURKHART got out, went  
54  
55 into the restaurant and came out shortly with something in a paper in  
56  
57 his hands; got into the car, and drove on west out of town. Each of  
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6  
7 these men can testify that they had known BRYAN BRIDGES and ANNA  
8 BROWN personally and well for years and are positive it was they in  
9 that Buick touring, which had no curtains up, that evening.

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12  
13 SHERRY WETLER, Ralston, can testify that he went to the car at  
14 Ralston and went to a whiskey joint west of Ralston with BRYAN and  
15 ANNA that night so they could get some whiskey.

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18  
19 GEORGE JAMES, Fairfax, can testify that he and EDITH DAVIS and J.  
20 L. BRIDGES (and probably BILL HALE) met BRYAN and ANNA at said whis-  
21 key joint west of Ralston that night, May 21, 1921; that there they had  
22 a party stayed till about 10 P. M. drinking at which time BRYAN and  
23 BRIDGES got into ERNEST'S Buick and drove off north while ANNA BROWN  
24 EDITH DAVIS, GEORGE JAMES and BILL HALE drove in another direction.

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31 with the agreement that the party would meet again that night at PAUL  
32 JOHN'S roadhouse, three miles northeast of Burbank; that JAMES and the  
33 two women did arrive at PAUL JOHN'S about 11 P. M. HALE leaving them  
34 somewhere in the meantime; that about 11:30 P. M. BRIDGES and BRYAN  
35 arrived at PAUL JOHN'S, where the party reunited and stayed till after  
36 midnight drinking; that about 12:30 A. M. the party left JOHN'S place.

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43 BRYAN and BRIDGES and ANNA BROWN in ERNEST'S Buick and JAMES and  
44 EDITH DAVIS in the Ford touring car; that they drove about a mile toward  
45 Fairfax, the Buick in the lead to SHERRY MORGAN'S whiskey joint, two  
46 miles east of Burbank; that here they stopped and SHERRY MORGAN sold  
47 them all some whiskey in pop bottles; that they did not get out of their  
48 cars at MORGAN'S, but drove on in the same way towards Fairfax; that  
49 about a mile northeast of Fairfax, where the road forks, JAMES turned  
50 east with EDITH DAVIS and away from Fairfax, and BRYAN and ANNA and  
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7 BRIDGE turned west toward Fairfax; that this was just about 2 A. M.  
8  
9 Sunday May 22, 1921; (JAMES can tell what he and ERNEST DAVIS did and  
10  
11 where they went after this.

12  
13 PAUL JOHNS, fugitive, can testify that these persons were at his  
14  
15 place at the time shown and that they arrived and departed in the man-  
16  
17 ner shown, and that his "wife" can testify to the same effect as he, and  
18  
19 that he remarked to R. M. PIKE afterward that he, JOHNS, knew  
20  
21 well that BRYAN BURKHART killed ANNA BROWN but that BRYAN made one  
22  
23 big mistake when he let several persons see him, BRYAN, with ANNA,  
24  
25 and taking her away in his car that night.

26  
27 SHORTY MORGAN, fugitive, can testify that these persons named were  
28  
29 at his place, bought whiskey from him and arrived and departed in the  
30  
31 time and manner related.

32  
33 E. M. PIKE, 4311 Troost, Kansas City, Mo., can testify that BRYAN  
34  
35 and ERNEST BURKHART employed him about the last of June, 1921, as de-  
36  
37 tective to cover up BRYAN'S part in the ANNA BROWN murder; that  
38  
39 BRYAN personally took him, PIKE, to GEORGE JAMES and JAMES told him  
40  
41 PIKE what he, JAMES, knew, as shown above, but that JAMES stated he  
42  
43 would never admit it in court as he, JAMES, has such a fine wife and  
44  
45 grown girls, and it would disgrace them and cause a lot of trouble be-  
46  
47 tween JAMES and his wife if this truth were to become known. PIKE can  
48  
49 also testify that JAMES also took him personally to ERNEST DAVIS, and  
50  
51 she related the movements of the party that night as shown above; that  
52  
53 he saw ERNEST DAVIS at 40 N. Yorktown, Tulsa last November (1923) and at  
54  
55 first she pretended to not know him, but soon admitted the facts, but  
56  
57 would not discuss them again; that SHORTY MORGAN and PAUL JOHNS also  
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7 told him the fact related above, and BRYAN BURKHART told him, PIER,  
8 that these people were all that knew it, except LEE HINKEH, who saw him  
9 BRYAN, getting in home after daylight that Sunday morning, in HENRY'S  
10 Buick but that he, BRYAN, had HINKEH fixed; it being PIER'S business to  
11 fix the others to not talk; that BRYAN explained to him, PIER, that he  
12 BRYAN had sworn at the inquest that he had delivered ANNA BROWN  
13 home at 4:30 P. M. Saturday and then learned that MRS. GEORGE JAMES had  
14 recognized him and ANNA at ANNA'S home about 3 A. M. the next  
15 morning so that he, BRYAN, had to cover up some way to get around MRS.  
16 JAMES' testimony. PIER can also testify that he learned that BILL EASE  
17 furnished BRYAN the .32 gun to kill ANNA with, as BRYAN had a .44,  
18 but it was well known, and a big gun, and would throw suspicion on  
19 BRYAN; that all the details of killing ANNA were worked out at the  
20 whiskey joint west of Winston that Saturday night, between LEE,  
21 BRIDGES and BRYAN.

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MRS. GEORGE JAMES, Fairfax, can testify that Sunday morning, about  
3 A. M. she was awake, waiting for her husband, who had not yet come  
home; that at that time she heard voices talking in the road just south  
of her house, and went out to listen and saw the lights and outline of  
a big car in the road; that she could distinguish a man's and a woman's  
voice; the woman's voice being a little maudlin; that she heard the  
man say, "For God's sake, Annie, stop your foolishness and come and  
get into the car", or words to that effect; that in a few minutes the  
car drove on west about a block and she stood and watched it while it  
drove north two blocks then east a block then turned south, it then  
being just a block due south of where she was standing on her front

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 8 porch watching it; that it stopped at the curb directly in front of  
 9 ANNA BROWN'S house, which is not quite a block south of MRS. JAMES'  
 10 home; that the porch light was on at ANNA BROWN'S house, and the  
 11 man and woman who got out of the car walked up onto ANNA'S porch  
 12 and then she could see quite plainly by the porchlight that it was  
 13 ANNA BROWN and BRYAN BURKHART; that they stood there talking, and she  
 14 MRS. JAMES, went back into her own house and did not wait to see whether  
 15 ANNA and BRYAN went into the house or back to the car and did not hear  
 16 or know when the car left; that her husband, GEORGE JAMES, had not  
 17 gotten home at that time.

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THE NINKLES, Grayhorse, can testify that just after daylight, Sun-  
 day, May 22, 1921 he saw BRYAN BURKHART driving east into Grayhorse in  
 ERNEST BURKHART'S Buick car and stopped and spoke to BRYAN and that  
 BRYAN had asked him to not tell this to anyone.

ERNEST BURKHART and MR. and MRS. J. L. BRIDGES, who now live at  
 Campbell, Tex., have all repeatedly stated that BRYAN took ANNA  
 home that Saturday about 4 or 5 P. M., returned to ERNEST'S and all  
 went to the show after supper together meeting BILL BALE and his daugh-  
 ter enroute about 9 P. M. and that BRYAN went home to ERNEST'S with them  
 after the show that night and was not out of the house until  
 next morning.

A. E. CANTON, Pashuska, stated that MOLLIE WOODRICK, George woman,  
 Fairfax, told him that MARY BROWN BIRD and ANNY C. REMOND, George woman,  
 Fairfax, were near ANNA BROWN when she was killed and heard the  
 shots and knew that BRYAN BURKHART killed ANNA. (But these two In-  
 dian women will not admit this. Practically every George Indian is

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6 afraid he will be killed if he tells anything, and denies things we  
7 know these Indians know. They are a very cowardly lot as a whole,  
8 both men and women.

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11 J. W. CARTER, employee Armour & Co., Kansas City, Kans., told FBI  
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The above and foregoing is not a full digest of all the evidence secured, but just mainly the high points. Connecting and corroborating evidence to an equal amount or more has been omitted for the sake of brevity.

We are convinced that it would be very detrimental to the best interests of this investigation, and the allied ones of SMITH, RILEY, et al., to even temporarily discontinue the investigations at this time and that they all should be kept going continuously until as complete as possible without a grand jury, which will almost certainly have to be called as the first step.

NOTE: We are convinced that it would be futile to start any step in the prosecution of this case, or allied ones, unless the State Attorney general first takes complete charge of the county court machinery and appoints special attorneys to handle the cases and special officers to do the Sheriff work and call a special Grand Jury under a special judge. The Government should also have an able and fearless U. S. Attorney to assist, and sufficient special agents, to watch the grand jurors and the witnesses. No steps toward prosecution should be taken

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in this case until the W. E. SMITH, et alia, and the HENRY ROAD murder investigations are as complete as possible. The conditions that exist in this section by reason of fear, indifference, self-interest, cupidly and lack of confidence in the local authorities cannot be appreciated by a stranger to the facts.

## UNREVEALED LEADS:

MOLLIE BURKHART is kept very close by her husband. Things should be managed so that she may be interviewed fully and exhaustively by these agents, away from her husband, and in company with her Indian relatives who are friendly to our investigation.

SHORTY WHELAN will have to be located. Ernest Burkhardt is said to have paid him to leave, and BILL HALE to have "squared" the dope charge against him at Pawhuska.

SHORTY MORGAN will have to be located and arrested. He is a fugitive under Federal liquor charge in Osage County, a felony.

J. W. CARTER will have to be located, and confronted with Morrison. Carter jumped his job within a few days after we interviewed him.

E. A. PIKE will have to be located and apprehended. He changed his Kansas City address soon after it became known that we were working on him. We feel sure he has been paid to skip.

MANDY CLAREMORE, MARY BLACKBIRD, and MOLLIE MERCER. Another attempt should be made to force these three Osage women, who are rather dissolute, to tell what they know, and if that fails, they should be called before the Grand Jury and grilled in a further attempt. It is more than probable that the Claremore and Blackbird women were actually out on a drinking and jassing party at the place Anna Brown was later found dead, at the time the shot or shots were fired that killed her. We have information from three sources that this is so, or at least reported to be so.

PENDING.

Oklahoma City Aug. 14, 24 Aug. 9, 24 J. R. Burger

W. E. SMITH, et alia. Osage County, Oklahoma : Murders of Osage Indians.

SYNOPSIS OF FACTS: (O. C. #7068.)

Digest of facts and evidence re. murder of W. E. (Bill) Smith, Mrs. Rita Smith (his wife) and Nettie Brookshire (servant) at Fairfax, Osage County, Okla., March 10, 1923.

DETAILS:

On March 10, 1923 about 2:30 A. M. at Fairfax, Okla. the home of W. E. SMITH, hereinafter called BILL SMITH, was destroyed by a terrific explosion. In the home at the time were BILL SMITH, his wife, Rita SMITH and their white servant girl about seventeen years old named NETTIE BROOKSHIRE. BILL SMITH was a white man. RITA SMITH, his wife, was a full blood Osage Indian woman. They had no living children.

The explosion killed the two women instantly. BILL SMITH was rescued from the debris alive but died as a result of the explosion in DR. D. A. SHOWN'S hospital at Fairfax about four days later. So far as we have been able to learn BILL SMITH regained consciousness, but made no statement before he died as to who committed the deed. The house was apparently first soaked on one or more sides with coal oil.

3 Washington; 4 file; 1 Commissioner of Indian Affairs.

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4 Aug. 1, 1924.

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8 gasoline or similar substance, as it was seen to blaze up once or twice  
9 just a second or two before the explosion, caught fire immediately af-  
10 terward on the north outside, and was almost totally consumed by the  
11 flames.  
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15 The house had a basement garage, which garage had a six-inch con-  
16 crete floor. In the middle of this floor the explosion tore a hole a-  
17 bout six feet in diameter and three feet deep, blowing the six-inch  
18 concrete to bits and cracking it for several feet outward from the rim  
19 of this six-foot hole.  
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25 From a careful and thorough investigation there is no doubt that  
26 this explosion was caused by a carefully and deliberately planned pur-  
27 pose to kill all the inmates, which it did, and that nitro-glycerine or  
28 possibly some similar explosive was used.  
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33 The time of the deed was also deliberate, as it was done at a time  
34 when SAM TULK, BOB PARKER and JEFF HUTCHINS, officers, were all away,  
35 and at Okla. City, attending court, leaving the town of Fairfax with  
36 no officer present.  
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41 Investigation of the case was begun by relatives of MR. and MRS.  
42 W. E. SMITH at once employing J. A. GUSTAFSON, a private detective,  
43 and his operatives, BILL WRIGHT, JOHN MORAN, MITCHELL and others.  
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7 it till about August last or at the first of September, 1923, when he  
8 was called back to Ohio on Federal court cases. About Sept. 26, 1923,  
9 Agent T. F. Weiss of Okla. City was assigned to the case to investigate  
10 17, and three other Osage Indian murders at the same time. Dec. 15,  
11 1923, Agent J. R. Burger of Kansas City was assigned to work with Agt.  
12 Weiss. Weiss and Burger have worked on these cases (six murders) from  
13 the time of their assignments to same to date, with the exception of  
14 about three and one-half months of that time that Agent Weiss has been  
15 in Federal Court for the Government and about six weeks that Agent  
16 Burger has been in Federal Court for the Government.

17 Suspicion was almost unanimous at Fairfax that W. E. (BILL) HALE  
18 was responsible for these SMITH and ANNA BROWN murders, and feeling ran  
19 also high that a party was formed to mob and hang him, but cooler heads  
20 prevailed.

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35 MOTIVES and SUSPECTS.

36 Agents T. F. Weiss and Burger secured practically all the evidence  
37 and information that the other above named investigators had obtained,  
38 and investigated impartially and exhaustively all other ascertainable  
39 leads and angles, with the result that, to put it shortly, nothing has  
40 ever been discovered that shows any person to have had sufficient ill-  
41 will or motive to have done or caused to be done these murders of W.  
42 E. SMITH, his wife, and BETTIE BURNHART, other than W. E. HALE, and  
43 his nephews ERNEST, ELMER, JOHN and HERACE BURNHART, who were raised  
44 and dominated by HALE, being the sons of his, HALE'S, sister.

45 The motives on the part of these HALE-BURNHARTS are shown by the  
46 following facts: ANNA BROWN, full blood, wealthy, unmarried Osage  
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calculated to have enriched WYNN'S wife, POLINE, about \$50,000.00 by inheritance as SMITH and wife had no living children but SMITH and wife, it later developed, had made a will that circumvented this.

D I G E S T     o f     E V I D E N C E.

Proof of death and its cause. Identification of bodies.

JOHN MOLMAN,

Insurance Agent for the Capitol Life Insurance Co. formerly of Tulsa, Okla., but later of Los Angeles, can testify that about 3 A. M. Mar. 10, 1923 he was occupying a room at the Smith-Williams Hotel, Fairfax, Okla.; that at that time he had arisen and looking out of his bedroom window which faced south, he noticed a bright flame that flared up and died out rapidly for two or three times; that this flame was located about two blocks southwest, almost south of where he was standing; that by its light he could see the next gable of the north end of the house from which the flame appeared to be flaring; that the flame rose as high as this gable; that almost immediately the flame went out and a terrific explosion occurred which threw him back on his bed and broke the glass in his window; that he later went out and found that the explosion was at Bill Smith's home; that the home was demolished and in flames.

M. C. MORROW,

Santa Fe Ry. Agent, Fairfax, Okla., can testify that on March 10th, 1923 at 2:50 A. M. he was up with a sick member of his family when a terrific explosion occurred that shook and damaged his home, located two doors south of the then W. E. Smith home in Fairfax, Okla.; that he went out to investigate and found the Smith home demolished by the explosions and in flames; and saw the mangled corpses of Mrs. Hite Smith and Nettie Brookshire recovered from the burning ruins and the still living body of W. E. Smith rescued from the debris. Mr. Morrow can also furnish the names of other neighbors who can testify to substantially the same effect.

DR. J. G. SHOWN and

DR. D. A. SECUN,

Fairfax, can testify that W. E. Smith was taken from the ruins of said demolished home at that time to their hospital at Fairfax, where he died four days later as a result of the injuries sustained in said explosion.

C. T. MORRILL,

Professor of Chemistry, A. & M. College, Stillwater, Okla., can testify that he was called and examined the ruins of said home a few days later and that his opinion is firmly that said explosion was caused by a large charge of D. N. T., nitro-glycerine or similar high explosive and could not have been caused by gas or gasoline, and can testify as to the physical results of said explosion on the concrete basement in said house, and the walls and other parts of the house.

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5 J. R. Burger.

Aug. 9, 1924.

7 JOHN MURAN and  
8 W. B. BROCKETT.

Tulsa, Okla., and others, can testify that they examined said ruins carefully and noted that the siding of said house had been charred on the outside indicating that it had been soaked with kerosene or gasoline and fired at or just prior to the time of the explosion with the apparent object of assuring that the house would burn after being demolished. They also testify to the six-foot hole blown out of the six-inch concrete basement floor, the damage done to the stone foundation, and other parts of the house, etc.

10 J. H. WARD.  
11 W. E. GOSBLAND,  
12 W. H. CRANDALL,  
13 E. C. LYNN,  
14 I. D. MCCLEMAN and  
15 F. C. BOFFER

each can testify that they sat as the coroner's jury to inquire into the death of Mrs. Rita Smith, Nettie Brookshire and F. E. Smith, viewed the bodies and premises and found that said three named persons came to their deaths as the result of some high explosive, deliberately and designed set off at the time and place shown above, and with the object and purpose of causing the immediate death of said three named persons. (This establishes cause of death and corpus delicti.)

27 EVIDENCE AS TO WHERE, WHEN and BY WHOM MURDERS WERE COMMITTED:

29 IRVIN, alias fugitive, can testify that in the summer of 1920  
30 "BLACKIE" THOMPSON, Ernest Burkhart proposed several times to Blackie  
31 and to one Arthur, alias Curley Johnson that they  
32 should go to Bill Smith's home where Smith was then living on a farm  
33 near Grayhorse southeast of Fairfax and kill Smith and his wife, Rita,  
34 and the boy that was then employed at the Smith home; that Ernest said  
35 that Smith always carried a roll of \$300.00 or \$400.00 on his person,  
36 and that Smith and his wife had some very valuable diamonds, all of  
37 which Thompson and Johnson should take; that after getting these valu-  
38 ables they were to kill Smith and his wife and the boy; that in addition  
39 Ernest would give them his Buick car and \$1000.00; that Bill Gale would  
40 furnish the \$1000.00. Ernest told Thompson and Johnson to see Bill Smith  
41 about the money but Thompson stated he never did mention this to Bill  
42 Gale; that Ernest made this proposition to them in each other's presence  
43 several times in 1920 in the summer and urged haste, stating that Lizzie  
44 Q. Rita Smith's mother was old and ill and feeble and liable to die at  
45 any time and Mrs. Ernest Burkhart would get a lot of property at Lizzie  
46 Q's death, including that Lizzie Q would inherit if the Smiths died  
47 before Lizzie Q died; that he, Thompson, evaded giving Ernest a definite  
48 refusal as they were "pulling jobs" with him from time to time and later  
49 Thompson ran Ernest's Buick off with Ernest's consent so that Ernest was  
50 to claim the car was stolen, and collect the insurance, which was more  
51 than the car was worth, and would soon have had to be renewed; that he  
52 was caught with Ernest's car but did not squeal as Ernest promised to  
53 take care of him; that he, Thompson, was sent to McAlester, Okla. Prison  
54 for car theft in November, 1920 and released on parole Mar. 7, 1922, his  
55 sentence being five years; that he then returned to Fairfax and vicinity  
56 "pulled off some jobs with Ernest Burkhart" and for him, including  
57 robbing Fred McCoy and wife of some diamonds and taking them to Bill  
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5 J. R. Burger.

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7 HALE: That HALE however wanted them too cheaply and did not get them;  
8 that after his return to Fairfax Ernest again several times propositioned  
9 him and Curley Johnson to kill W. E. Smith, suggesting that  
10 Smith's home be blown up with nitro-glycerine and suggesting how easy  
11 it would be to steal the glycerine from one of the several oil companies  
12 magazines in that section; that Ernest stated that of course Thompson  
13 son should be sure that Smith and his wife were in the house and should  
14 trail them to be sure and then explode the nitro-glycerine in the basement.  
15 Thompson states further that he evaded giving Ernest a direct  
16 answer and that a few days before Smith's home was in fact blown up,  
17 Ernest came to him and told him he, Ernest, had arranged to have this  
18 job done by someone else and he, Thompson, need not bother; that he,  
19 Thompson, was later told by Ernest that he, Ernest, had had Curley  
20 Johnson, Charles Quiox and Jim Bothwell. Thompson however stated that  
21 he had never mentioned this job to Johnson, Bothwell or Quiox and had  
22 never heard of them telling anyone anything about it but promised to  
23 associate again with them and get all the details from them and the  
24 rest of the underworld and let us have it for an agreed consideration  
25 that his understanding of the reason of Ernest Burkhardt telling him to  
26 forgo and of having secured others to do the Smith job was that he,  
27 Thompson, could be away from Fairfax when it was pulled off, and have  
28 his alibi proof, as he would surely be suspected and that he was at  
29 Gilton, Okla. when he heard of the blowup and knew in his own mind who  
30 did it, etc.; that Ernest Burkhardt and Bill Hale are regular yaws in  
31 wanting all the best of deals and Ernest is money mad and a miser.

33 S. J. HAWKINS,

Webb City, Okla., can testify that in 1919 he and

34 one Walter Poolen of near Pawnee and Yale, Okla.  
35 were at Bill Hale's ranch house; that Bill Hale at that time suggested  
36 to them that they hire Jack Bill Smith and his wife out of their diamonds,  
37 Hale explaining that Smith always had a roll of \$300.00 or \$400.00 on  
38 him, and that Hawkins and Poolen should catch Smith somewhere "between  
39 the house and the barn", and stating further that they could do some  
40 thing with Smith and his wife after robbing them; that Hale at that  
41 same time told them of some widow who lived with her daughter on a farm  
42 in Osage County telling them that this widow was afraid of g tanks and  
43 kept about \$7,000.00 hidden at the house; that Hale stated he had been  
44 intimate with this widow and had borrowed money from her, but had fallen  
45 out with her because of the daughter; that the widow had then em-  
46 ployed a negro man, a mean one, to stay with her at the farm; that  
47 Hale, suspected this negro was intimate with these women and suggested  
48 that Hawkins and Walter Poolen rob this widow and "kill the nigger";  
49 Hawkins can also testify that Arthur (Curley) Johnson told Hawkins  
50 that he knows who killed the Bill Smith family. (Hawkins added that  
51 he was convinced that Curley Johnson was in on the job). Hawkins is an  
52 old friend of Curley Johnson and at one time stated "Curley knows all  
53 about this and will squeal if the power is put to him".

56 LEE OGG,

present address unknown, can testify that Dick  
57 Gregg told him that Bill Hale propositioned him  
58 to do one of these Fairfax murders but did not specify whether he,

Gregg was approached to kill Bill Smith and wife, or one of the others. Ogg can testify that Gregg did not state whether he did the job or turned it down (but Ogg stated that Al Spencer also told him that Bill Hale had approached him, Spencer, on one of these murders or more and he, Spencer, had flatly declined but that he, Ogg, rather believes Dick Gregg went in on one of them.)

FRANK TERRELL, Chickasha, Okla., can testify that he asked Dick Gregg what he got for the Fairfax job (did not specify which one) and Gregg replied, "We were to get \$1,500.00", and that Dick Gregg told him, Terrell, that Bill Hale had picked Gregg and another man or two up near Wynona in his car and drove them over to his ranch near Fairfax and kept them there till the job was done. (Frank Terrell has the general reputation of being a notorious liar. His statements are extremely unreliable.)

DICK GREGG, Lansing, Kans. prison, can testify that Ernest Burkhardt and Bill Hale propositioned him and Al Spencer to do one or more of these Osage murders at Fairfax; that Marshall Powell of Nowata, Okla., Campbell Keys (half-brother to Al Spencer) and Morris Watkins, Fairfax, know all about the deal; that Max Billings, a notorious crook at Okesa, acted as the go-between for Bill Hale who had "the job" done, and the men who did it for them; that Hale kept these men hidden in his ranch pasture near Fairfax for some weeks before the job was pulled and that they left there shortly after the job was pulled when informed by Fred Rowe, now of Pawhuska, but then of Easton, and a close friend of Bill Hale that "the law had a line on them". (We have to deal with Dick Gregg and his father, John Gregg, both notorious outlaws, chiefly through J. H. Powell, a very reliable man, ex-Sheriff of Egin, Kans. who has a hold on them and their confidence, for the reason we have not yet been able to get Gregg to specify whether he is referring to the Smith, Ross or Anna Brown murder, though he did state that Bill Hale and the Burkhardts were behind all three of these murders, "When I have told all I know and Dad (John Gregg) gets what Max Billings knows, you will have it all in your hands. It will be short work then." Mr. Powell is now working with John Gregg to get the details from Max Billings who does not suspect John Gregg.) Dick Gregg told Mr. Powell that Frank Nash, Grover Durrell, Riley Dixon Al Spencer and a man known as "Curley" did this W. E. Smith job. (But Agents suspect that Gregg falsified as to the names to blind Mr. Powell at least for a while, and Mr. Powell also suspects this. We suspect that Dick Gregg was in on one of the murders and is covering up to a certain extent at this time.) Dick Gregg stated to Agent Burger "Curley Johnson knows all about the Smith blowup and will squeal if made to do so."

JOHN THOMPSON, Pawhuska, Okla., Osage Torpedo Co., can testify that one or two days before the Smith home was blown up, a magazine of said company situated on the Scheidel farm about fifteen miles north of Fairfax in Osage County was broken into by tearing off some boards and ten quarts of nitro-glycerine stolen; that said

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5 J. R. Burgess

Aug. 9, 1924.

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7 stolen nitro-glycerine had never been located or recovered and no clues  
8 found as to who had stolen it; that said magazine is situated in an  
9 isolated section.

10  
11 M. C. McHEW,

12 station Agent, Santa Fe Ry., Fairfax, Okla., can testify  
13 that on March 9, 1923 Lou Oller, intimate friend  
14 and associate of Bill Hale sent from Fairfax, Okla. to W. E. Hale,  
15 Campbell, Tex., a telegram reading, "Deal stands good. I will go in  
16 the morning". (signed) L. L. Oller". M. C. McHew, who lived just two  
17 doors south of the Smith home at the time of the explosion, can testify  
18 also that he was up with a sick member of his family early morning  
19 March 10, 1923 and heard what appeared to be a Ford car which passed his home  
20 going south; that this car stopped at the south end of the block; that  
21 a man got out and walked back north toward the Smith home, a block north  
22 that he paid no attention to this, which was about 2 A. M.; that about  
23 2:55 A. M. that morning he heard a car going south at a high rate of  
24 speed and judging from the sound it was a big car; that at 2:50 A. M.  
25 the Smith home was blown up, the explosion breaking the windows in Mc-  
26 Hew's home and showering pieces of wood on his house and in his yard.

27  
28 CHARLES HEMBREE,

29 Fairfax, Okla. can testify that that night he was  
30 coming home from Halston, south of Fairfax; that  
31 about six miles from Fairfax he heard a heavy explosion in the direction  
32 of Fairfax, about three A. M.; that a minute or two later he saw the  
33 headlights and heard the roar of some big car coming south from Fairfax  
34 at a high speed; that he thought it was some drunken Indian, and turned  
35 off the road and stopped his truck with the headlight thereof pointing  
36 into the road and lit; that the approaching car passed him at high speed  
37 and when it came into the light of his truck headlights he noted that  
38 there were two men in the front seat, and the man driving was a strange-  
39 er to him and had a small face; that the car had the curtains up, both  
40 headlights lit and two "goose egg" side lights, and a light inside the  
41 car in the roof in the car; that the car passed him and he heard its brakes  
42 screeching when it took the turn into Halston a few seconds later.  
43 Chas. Hembree thinks he may recognize the driver if he ever sees him  
44 again, but is doubtful. Hembree states that he knew Kelsey Harrison  
45 well and that it was not Harrison driving the car that night but could  
46 not state whether there were any persons in the back seat of the car or  
47 who they might be. Later Hembree viewed a photo of Gustave Knight and  
48 stated he did not recognize him as one of the men in the car.

49  
50 ROY HOESTERGER,

51 Grayhorse, Okla., can testify that shortly before  
52 the Smith murders he was sitting on the store porch  
53 at Grayhorse, a few miles east of Fairfax, when a car approached; that  
54 Hoesterger remarked to Bryan Parkhart that it was Bill Smith coming; that  
55 that Parkhart got up, put his hand to his hip pocket and said, "Let the  
56 son of a b--- come"; that when the car got close it was seen that only  
57 Mrs. Smith and the girl were in it and Hoesterger told Bryan that "Bill  
58 Smith is not in the car" and Bryan remarked, "It is a d---d good thing  
59 for him."

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5 J. R. Burger.

Aug. 1, 1924.

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7 D. E. JOHNSON,  
8 J. G. SMOON,  
9 HENRY WARD and  
10 W. C. HENSACKER,

all of Fairfax, and A. W. COBBENCE,\* of Fairfax, all can testify that W. E. Smith stated a number of times after the Anna Brown murder that Bryan and Ernest Burkhardt and Bill Hale had killed her and that he, Smith, expected them to blow him up or kill him at any time.

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14 REMARKS.

15 The above and foregoing is a rather summary digest, much con-  
16 sultive and corroborative evidence being omitted. W. E. HALE and the  
17 BURKHARTS, though knowing that people generally are convinced of their  
18 guilty, have at no time proffered any assistance or information that  
19 might assist in the investigation. People generally almost universally  
20 are afraid to tell what they know or have it known that they are even  
21 interested in the investigation. The Indians are especially cowardly  
22 in this respect. No information or evidence of any kind has been for-  
23 nished Agents by the County Attorney's or Sheriff's offices, which  
24 HALE is reliably reported to dominate completely. This case is allied  
25 with the Henry Roan and Anna Brown murders and the notes at the conclu-  
26 sion of the digest of the ANNA BROWN murder, dated Aug. 9, 1924 as to  
27 prosecution, etc., are equally applicable to this case.

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43 UNDEVELOPED LEADS:

44 IRVIN THOMPSON

should be located and further questioned exhaus-  
45 tively.

46  
47 DICK GREGG and  
48 JOHN GREGG

should be given time to produce their promised in-  
49 formation and evidence.

50 THEODORE BISHOP

should be given opportunity to "rope" JACK HARRIS.

51  
52 KELSEY MORRISON

53 promising openings.

is now working in earnest and should be given some  
54 time to get results. He has good opportunity and

55  
56 GRAY DRAKE

should be located and questioned exhaustively.  
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Aug. 9, 1924.

5 J. H. Burger.

9 CURLEY JOHNSON

should be located and questioned exhaustively (at opportune time.

12 J. H. POWELL

should be given time to work on the two Greggs.

14 JAMES ALLEN

should be interviewed again. He is willing.

16 WENDALL POWELL and

should be interviewed discreetly.

17 CAMPBELL KEYS

18 FRANK WASH.

should all be interviewed but as a last resort.

20 RILEY DIXON.

They are each and all at Leavenworth prison under

21 GROVER BIRBY.

25-year sentences, for robbing M. K. & T. mail

23 1923. FRANK WASH

train near Cross, Osage County, Okla. in August.

24 mainly have to be made with them if they will talk at all.

is the best bet. Some concessions will almost cer-

25 At least of all a special Grand Jury should be called, as indicated in

27 the Anna Brown murder digest.

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31 PENDING.

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Department of Justice,

Bureau of Investigation,  
Oklahoma City, Okla.,

August  
fifteenth,  
1924.



Director, Bureau of Investigation,  
Department of Justice,  
Washington, D. C.

RECORDED & INDEXED  
62-5033-105  
BUREAU OF INVESTIGATION  
AUG 29 1924  
AUG 18 1924 A.M.  
DEPARTMENT OF JUSTICE  
HOOVER

RE: W. E. SMITH, et als.  
Murder of Osage Indians.

Dear Sir:

Attached hereto find four separate reports, these being  
briefs of the case investigated by Special Agents T. F.  
Weiss and J. R. Burger.

Heretofore this case has been carried under the caption  
of W. E. Smith, et als., Murder of Osage Indians. I have  
had this case separated as the case involved four separate  
and distinct murders, each of the enclosed briefs being a  
separation of the evidence developed and the undeveloped  
leads in each individual case.

Agents Weiss and Burger have been engaged on this inves-  
tigation several months and apparently the investigation has  
not reached a state where a successful prosecution can be  
started. I am therefore submitting these four briefs, show-  
ing just what has been done and the undeveloped leads, so  
that the Bureau can decide whether this case justified fur-  
ther investigation or whether it should be held in abeyance  
until such time as the Bureau or the Department of Interior  
desires it again taken up.

I am sending three copies of this file to the Bureau,  
and am enclosing an extra copy for submission to the Com-  
missioner of Indian Affairs, and respectfully request that  
this copy be forwarded from your office.

I am holding four copies of this brief in the files of  
this office, so that one of them may be furnished the At-  
torney General for the State of Oklahoma and one furnished  
the United States Attorney, should he so desire it. How-  
ever, in view of the fact that apparently there is an ef-  
fort on the part of some of the state officers and interested

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Director.

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parties to block this investigation and because of their system of securing facts from the State Attorney General, I will deliver his copy to him in person when he is ready for it.

Respectfully,

*W. D. Bolling*

W. D. Bolling,  
Special Agent in Charge.

B-b

*James*

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62-5033-105

RECORDED & INDEXED

August 25, 1924.

Mr. W. D. Bolling,  
P. O. Box 125,  
Oklahoma City, Okla.

Dear Sir:

Receipt is acknowledged of your letter of August 15, 1924, with regard to W. E. SMITH et al -- Murdered Osage Indians.

I desire this investigation continued, and every reasonable assistance given Agent Burger, until you are satisfied that every lead has been exhausted. You are further directed to inform this Bureau of your conclusions relative to the investigation, taking into consideration the time and expense already consumed and the probable further time necessary to complete it, in order that your conclusions may be presented to the Commissioner of Indian Affairs for his consideration.

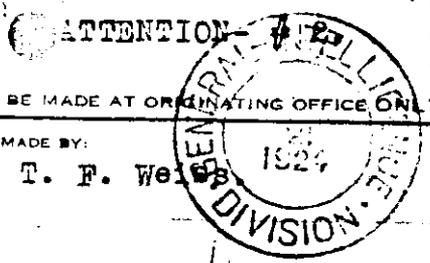
Please see that Agent Veles retains no copies of any reports on this case, and he is to receive no information relative to the investigation subsequent to his retirement therefrom. It is further desired that you guard carefully your reports on this matter, and furnish to the Attorney General of Oklahoma personally the summary mentioned in your letter.

Very truly yours,

Acting Director.

MAILED  
AUG 25 1924

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THIS CASE ORIGINATED AT JOURNAL TO BE MADE AT ORIGINATING OFFICE ONLY

REPORT MADE AT: Oklahoma City DATE WHEN MADE: Aug. 16, 24 PERIOD FOR WHICH MADE: Aug. 1 to 15th REPORT MADE BY: T. F. Weis

TITLE AND CHARACTER OF CASE: W. E. SMITH, et als. Osage County, Oklahoma : Murdered Osage Indians (2-5033)

FACTS DEVELOPED: At Perry, Okla. and other points. (O. C. #7060.)

REFERENCE: Entire file, captioned identically.

DETAILS: SYNOPSIS OF FACTS:

Prepared digest on each of the four cases separately. [redacted] B7D Drove about 500 miles. Ascertained name of person who alleges they know all about this deal, and put party to work on them.

DETAILS:

August 1st. Interviewed WM. RICKER, Sheriff at Perry, who stated he had got hold of GRADY DRAKE at Three Sands where DRAKE is said to be working as oil driller; that DRAKE denied any knowledge of these murders and denied ever having claimed any knowledge.

MR. RICKER stated further that he talked to DRAKE on July 31st and told DRAKE to be at Perry the next day and see GEORGE FOSTER, Under-sheriff.

That he, RICKER, called FOSTER on the phone and told FOSTER to interrogate DRAKE fully and to get in touch with Agents and hold DRAKE till we got to Perry.

Aug. 2d. Interviewed GEORGE FOSTER, Undersheriff, Perry, Okla.,

APPROVED AND FORWARDED: W.D. Bolling

SPECIAL AGENT IN CHARGE

62-5033-106

RECORDED AND INDEXED: 62-5033

REFERENCE: COPIES OF THIS REPORT FURNISHED TO: 3 Washington; 4 file; 1 Commissioner of Indian Affairs.

BUREAU OF INVESTIGATION AUG 19 1924 A.M. DEPARTMENT OF JUSTICE

AUG 29 1924

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ROUTED TO: HOOVER

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who stated that he had also questioned GRADY DRAKE discreetly but that DRAKE insisted he had no knowledge or information on the subject of these murders.

MR. FOSTER also stated that he had tried to get Agents by phone when DRAKE was at Perry July 31st at night, but without success. Agents were at Pawhuska at the time, but MR. FOSTER had evidently lost our telephone number.

MR. RICKER and MR. FOSTER promised that some time soon after Aug. 5th (election day) they would get DRAKE into Perry and phone us and hold him, after trying again to get his information.

Aug. 2d conferred with Special Agent in Charge W. D. Bolling and were instructed to have digest prepared of each of these cases separately and submitted on August 11th.

August 3d. Saw WM. RICKER, who renewed his promise to get hold of DRAKE again, etc. Also stopped to see GEORGE JAMES at Fairfax, but found he was out of town.

Also called J. H. POWELL and urged him to push JOHN GREGG'S work as fast as possible.

Also saw D. E. JOHNSON, Fairfax, who stated he had heard of WHITEY TINKER'S statement concerning KELSEY MORRISON being at Fairfax the night the SMITH house was blown up, but that he, JOHNSON, placed no credence in TINKER'S statement, owing to the fact that TINKER is notoriously loose-mouthed and unreliable and the circumstances under which TINKER made his statement.

D. E. JOHNSON states that FRED ROWE, mentioned by DICK GREGG as the man who warned FRANK NASH, et als. that "the law" had a line on

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7 them formerly lived near Ralston, Okla., now lives at or near Paw-  
8 huska and was reputed to be close to BILL HALE.  
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10  
11 Aug. 5th. J. H. POWELL stated that he has had no further word  
12 from the GREGGS but will push them as fast as he can to verify their  
13 statements. We suspect that GREGGS did some lying to MR. POWELL.  
14

15  
16 A. W. CONSTOCK also reports that CATHERINE COLE told him a few  
17 days ago that she knows a lot re. the Fairfax murders, but did not tell  
18 MR. CONSTOCK what she claimed to know. Arranged to have her meet A-  
19 gents as soon as possible, though she was interviewed by Agent Weiss  
20 months ago and disclaimed all knowledge. However, she is the daughter  
21 of MAMIE FLETCHER, who is reliably reported to have been out the night  
22 HENRY ROAN, her cousin, was murdered and to have seen him murdered,  
23 or right afterward, and to know who did it.  
24

25  
26 Aug. 6th. Interviewed NELSEY MORRISON at Sapulpa and brought him  
27 back to Pawhuska, when TOM WALLACE, County Attorney at Sapulpa, re-  
28 leased MORRISON and dismissed the bank robbery charge that he was be-  
29 ing held on, as he was sure MORRISON was not guilty.  
30

31  
32 Aug. 7th at Pawhuska MORRISON, who is now bitter towards BILL  
33 HALE and ERNEST BURKHART, declared he, MORRISON, is now going to get  
34 the evidence against BILL HALE, et als. in these murders. That EDITH  
35 FOX had just told him that BILL HALE was his enemy and her enemy, and  
36 intimate with SOL SMITH'S wife and a God d---d double-crossing s-- of  
37 a b---; that HALE recently tried to sell her two diamond ear-screws,  
38 and two diamond finger rings, but SOL SMITH warned her to not buy  
39 them; that SOL suspects HALE of trifling with SOL'S wife, etc.  
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42 That EDITH FOX also told him, referring to HALE, "I know all  
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7 about the SMITH blow-up. ACE KIRBY set it afire, and was framed"; that  
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9 KELSEY replied, "I know all about it and have saved his d---d neck till  
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11 now", referring to HALE. That EDITH FOX, who is very thick with SOL  
12  
13 SMITH, told K. M. further that SOL would be over this evening and for  
14  
15 K. M. to be sure to come back when SOL was there today.

16  
17 MORRISON states that he gathered that EDITH DAVIS and SOL SMITH  
18  
19 and others are turning against HALE for his ~~money~~, many double-cross-  
20  
21 ings and that EDITH and SOL know ~~how~~ he, K. M.? is ~~very~~ angry and  
22  
23 through with HALE and expect to furnish K. M. the "dope" on these mur-  
24  
25 ders to convict HALE with the idea that he will pass it on to us and  
26  
27 not make them appear. MORRISON said, "And I'll d---d sure do it. By  
28  
29 G-- I'll get it all now".

30  
31 We cautioned MORRISON against telling anything to anyone, and to  
32  
33 look out for double crossing and traps (If he is not bumped off too  
34  
35 soon he can do us a lot of good).

B7D

36  
37 [REDACTED]  
38 give /  
39 [REDACTED]  
40 [REDACTED]  
41 [REDACTED]  
42 [REDACTED]  
43 [REDACTED]  
44 [REDACTED]

45 Drove on in to Okla. City to submit digest, as per instructions.  
46  
47 Drove 200 miles.

48  
49 [REDACTED]  
50 [REDACTED]  
51 [REDACTED]

B7D ALL Deletions

52  
53 August 11th, 12th, 13th and 14th Agent Weiss was at Okla. City  
54  
55 awaiting instructions.

56  
57 August 12th Agent Burger was assigned to another case and left  
58  
59

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3  
4 T. F. Weiss.

Aug. 1 to 1, 1924.

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6  
7 Oklahoma City.

8  
9 Much of Agent's time from August 4th to 8th was occupied in pre-  
10  
11 paring a digest on each of these four cases separately and showing,  
12  
13 among other things, the many undeveloped leads to be followed yet,  
14  
15 and that this investigation should by all means be carried on without  
16  
17 interruption.

18  
19 August 15th, Agent Weiss received notice from Acting Director J.  
20  
21 E. Hoover to apply for leave from Aug. 14th to 30th, inclusive, with  
22  
23 pay, which was done by Agent Weiss.  
24  
25

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27 OPEN.  
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August 21, 1924.

Hon. Charles H. Burke,  
Commissioner of Indian Affairs,  
Department of the Interior,  
Washington, D. C.

My dear Mr. Burke:

Further with regard to the case of W. E. SMITH et al —  
Murdered Osage Indians — I am transmitting herewith, for your  
information, copy of a report dated August 15, 1924, made by  
Agent Wales of our Oklahoma City office.

Very truly yours,

Acting Director.

Enc. 24629

RECORDED & INDEXED

62-5033-108	
BUREAU OF INVESTIGATION	
AUG 23 1924 A.M.	
DEPARTMENT OF JUSTICE	
	FILE

AUG 22 1924

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7 poorest character, were also around said house a lot of the time, [REDACTED]  
8 [REDACTED] DANZEL HUGHES, brother to MINNIE and EVA?  
9 whose maiden names were also HUGHES, lived close by, and were also boot-  
10 legging. One ROY SMITHERMAN, a painter, was an associate of MINNIE  
11 SAVAGE, living in Pawhuska at the time. He and WHITEHORN'S widow, HAT-  
12 TIE, were married at Tulsa a few weeks after WHITEHORN'S murder,  
13 at MINNIE SAVAGE'S suggestion.  
14  
15  
16  
17  
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19  
20

21 On Friday, May 14, 1921 CHAS. WHITEHORN attended a ball game  
22 at Pawhuska and was slightly drunk. He was seen that evening about six  
23 P. M. on the streets of Pawhuska. His wife, HATTIE, declares that he  
24 accompanied her from a doctor's office to the stairs leading up the  
25 hill to their said residence about 9 P. M. that evening; that she went  
26 on up to the house and he went down in the direction of the Post Office,  
27 stating that he was going to Pershing, seven miles away, that night with  
28 some fellows; that this was the last time she ever saw him alive. And  
29 this is the last time that the evidence shows, thus far, that any one  
30 saw him alive.  
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41 On Saturday, May 22, 1921 EARL FOWLER, a pumper at Pawhuska, found  
42 WHITEHORN'S dead body in the thick brush on Dial Hill, on the north-  
43 ern outskirts of Pawhuska, with two bullet holes, small calibre, in his  
44 forehead, between the eyes. The body was badly decomposed, but readily  
45 identified by his widow and others. No powder burns appeared around  
46 the wounds. The bullets were extracted from the brain and preserved  
47 by L. G. JOHNSON, undertaker, who has them in his possession.  
48  
49  
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51  
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54

55 WHITEHORN'S estate, worth about \$80,000.00, was inherited by  
56 said widow, HATTIE, and she a few weeks later married said ROY  
57  
58  
59  
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5  
6  
7 SMITHERMAN and moved to Arkansas City, Kans. where they lived together  
8  
9 for about two years, at which time SMITHERMAN took her high priced car,  
10  
11 \$1,500.00 of her money and other valuables and went to Los Angeles,  
12  
13 Calif. in company with a girl from Arkansas City about nineteen years  
14  
15 old named MAUDINE WILLIAMS, and with whom he lived in California as  
16  
17 man and wife for some months.

18  
19 J. A. GUSTAFSON, JOHN MORAN and other private detectives were em-  
20  
21 ployed soon after the murder by WHITEHORN'S heirs, including HAT-  
22  
23 TIE, the widow, but developed no evidence of value as to who the guilty  
24  
25 persons were.

26  
27 Some investigation of this case was made by C. T. Weakley, who was  
28  
29 assigned this case, along with other Osage murders, in July, 1923. Mr.  
30  
31 Weakley discontinued in September, 1923 and Agent Weiss took the case  
32  
33 up, along with three other Osage murders, at the same time. Agent  
34  
35 Burger joined Agent Weiss on these cases Dec. 16, 1923.

36  
37  
38 D I G E S T   o f   E V I D E N C E.

39 Proof of death and its cause. Identification of Body.

40  
41 EARL FOWLER, can testify that on Saturday, May 21, 1921 he dis-  
42 Pawhuska, Okla. covered the body of Charles Whitehorn lying on the  
43 ground in the brush on Dial Hill, just north of  
44 Pawhuska; that death had occurred some days before, as the body was  
45 swollen and decomposed to a certain extent; that there were two holes,  
46 evidently bullet holes, between the eyes and that death evidently had  
47 occurred and the body fallen where he found it; that he notified the  
48 authorities at Pawhuska at once.

49  
50  
51 L. G. JOHNSON, can testify that he was called, examined the body,  
52 Undertaker, where found and the surrounding ground and prepared  
53 Pawhuska, Okla. the body for burial; that he is convinced that  
54 Whitehorn was shot and killed where the body was  
55 found and not transported there from some other spot as the position of  
56 the body, condition of the clothes and ground all indicated this; that  
57 there were two bullet holes in the forehead, between the eyes, and he  
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5  
6 and the doctors he will name extracted these bullets from the train;  
7 that he has these bullets in his possession and they are of small calibre  
8 about .32 calibre; that no other marks of violence or wounds existed,  
9 and death must have been caused, instantaneously, by these bullet  
10 wounds; that there was no powder or powder burn around said bullet  
11 wounds; that ~~there was no~~ death must have occurred, evidently, about one  
12 week before the body was found. (Mr. Johnson has had wide experience  
13 in cases of this kind.)  
14

15  
16 HATTIE WHITEHORN, can testify that she positively identified said body  
17 now Smitherman, as that of her husband, Chas. Whitehorn, and many  
18 Pawhuska, Okla. others can be named who did this.  
19

20 SUSPECTS, and POSSIBLE MOTIVES OR EXPLANATIONS FOR MURDER.

21  
22 CHARLES WHITEHORN'S had frequently quarreled with him and he has occas-  
23 Widow, Hattie ionally beaten her. She had also threatened on one  
24 or two of these occasions to kill him. By his  
25 death she inherited quite a valuable estate from him. She had no love  
26 for him or apparently any particular man. Her character was extremely  
27 low and degenerate. She is rumored to have told the facts of the mur-  
28 der to a certain attorney. She did marry Leroy Smitherman a few weeks  
29 after Whitehorn's murder ( but the evidence is that she did not know  
30 Smitherman at the time Whitehorn was killed.) Agents have become well  
31 acquainted with her during this investigation and believe her easily  
32 capable of having the murder done if she desired.  
33

34 MINNIE SAVAGE is known to be a shrewd, immoral, capable woman.  
35 She had the widow marry Smitherman, with whom  
36 Minnie Savage was intimate and very friendly at the time of the murder,  
37 a few weeks after the murder. One theory is that Minnie Savage planned  
38 to have Whitehorn murdered then marry Hattie to Smitherman then have  
39 Hattie murdered and marry Smitherman herself, thus getting into poss-  
40 session of the Whitehorn property, which yields the widow about \$500.00  
41 a month, besides some lands.  
42

43 EARL SAVAGE. is known to have been still infatuated with his  
44 divorced wife, Minnie, and is suspected of having  
45 lured Whitehorn to the spot, under pretense of getting whiskey for him,  
46 and there murdered him, at the instigation of Minnie Savage, and poss-  
47 ibly that she assisted in this.  
48

49 BRYAN GRIFFIN, a worthless young man, working for S. J. Hargis as  
50 clerk at the time, but infatuated with Minnie Sav-  
51 age, and bootlegging for her, is suspected of having found her and  
52 Whitehorn at the spot for a clandestine meeting, and to have shot  
53 Whitehorn in a jealous rage, but this is hardly reasonable.  
54

55 Then there is the possibility that Whitehorn was shot in a drunken  
56 quarrel, as he was quarrelsome at times when drunk, but this is also  
57 a remote possibility. It is almost a certainty that Minnie Savage,  
58  
59  
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6  
7 Hattie, the widow, Earl Savage, Eva and Roy Locklin, Danzel Hughes, Le-  
8 roy Smitherman and Bryan Griffin, all or most of them know all about  
9 this.

10  
11 EVIDENCE AS TO WHEN, WHERE AND BY WHOM MURDER WAS COMMITTED.

12  
13 DELILA MASHUNKASHE is reported to have told Mrs. John McKinley and  
14 Hattie Smitherman, some five or six months ago, that  
15 she was talking to Bryan Griffin when he took a pistol out of his pocket  
16 twirled it on his finger, and remarked to her, "This is the gun that  
17 killed Charley Whitehorn."

18  
19 EVA LOCKLIN told A. W. Comstock, soon after the murder that  
20 Earl Savage killed Whitehorn and that her husband,  
21 Roy Locklin, knows all about it and Minnie Savage also knows, but is  
22 protecting Earl Savage. (These persons named afterward denied this.)  
23

24 ROY LOCKLIN told A. G. Matteson that he, Locklin, brought  
25 Whitehorn home from Pershing about 2 A. M. Saturday  
26 May 21, 1921; that Whitehorn was paralyzed drunk and Locklin and Minnie  
27 Savage had carried him into her house between them that morning.  
28 (Locklin afterward denied this to Agents.)  
29

30 CHAS. KEIGLY told Mr. Warren, of the Agency at Pawhuska, that  
31 he, Keigley, heard some of the above named suspected  
32 women talking to an attorney in Pawhuska and telling him about who did  
33 this murder; that suspects and said attorney did not know he, Keigley,  
34 was hearing this.  
35

36 HATTIE SMITHERMAN has always denied to Agents that she had any knowl-  
37 edge of who committed the crime or why, but one  
38 time, off guard, remarked earnestly to Agent Weiss, "I am as smart as  
39 you are. I have been warned about you. He says you are just getting  
40 into my confidence, into my confidence, and if I tell you you will  
41 send me to the electric chair" (She named the man that she claimed  
42 warned her.)  
43

44  
45 R E M A R K S:

46 Agents have not pressed this investigation very far as yet, for  
47  
48 the reason that it is an isolated murder and not a part of the system-  
49 atic series of murders committed at Fairfax, to-wit: W. E. SMITH,  
50 RITA SMITH, ANNA BROWN, HENRY ROAN and NETTIE BROOKSHIRE, all of whom  
51 were murdered apparently with the expectation of benefiting the BILL  
52 HALE and ERNEST BURKHART fortunes. Most of our time, in fact nearly  
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4 J. R. Burger.

Aug. 9, 1924.

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7  
8 all, has been put in on these last named cases. Most of the persons to  
9 be interviewed in this case had left Pawhuska when we were assigned to  
10 the case, over two years after the murder had been committed, and it  
11 has taken a lot of our time locating them, which we have done. The  
12 county authorities did nothing of any effect in this case, and have no  
13 inclination to do anything. Our plan is to wait till we can concentrate  
14 our efforts on this investigation, though we will work on it as oppor-  
15 tunity affords in conjunction with the others.  
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25 UNDEVELOPED LEADS:

26 All the persons named, as well as a list of others we have secured  
27 and noted, are still to be questioned exhaustively, though we have ques-  
28 tioned some of them in a tentative way, already.  
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35 PENDING.  
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THIS CASE ORIGINATED AT JOURNAL TO BE MADE AT ORIGINATING OFFICE ONLY

REPORT MADE AT: Oklahoma City DATE WHEN MADE: Aug. 14, 24 PERIOD FOR WHICH MADE: Aug. 9, 24 REPORT MADE BY: J. R. Burger

TITLE AND CHARACTER OF CASE: W. E. SMITH, et als. Osage County, Oklahoma : Murders of Osage Indians.

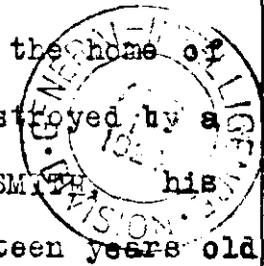
SYNOPSIS OF FACTS: (O. C. #7060.)

Digest of facts and evidence re. murder of W. E. (Bill) Smith, Mrs. Rita Smith (his wife) and Nettie Brookshire (servant) at Fairfax, Osage County, Okla., March 10, 1923. This is joint report of Agents J. R. Burger and T. F. Weiss.

DETAILS: SPECIAL REPORT.

On March 10, 1923 about 2:50 A. M. at Fairfax, Okla. the home of W. E. SMITH, hereinafter called BILL SMITH, was destroyed by a terrific explosion. In the home at the time were BILL SMITH, his wife, Rita SMITH and their white servant girl about seventeen years old named NETTIE BROOKSHIRE. BILL SMITH was a white man. RITA SMITH, his wife, was a full blood Osage Indian woman. They had no living children.

The explosion killed the two women instantly. BILL SMITH was rescued from the debris alive but died as a result of the explosion in DR. D. A. SHOUR'S hospital at Fairfax about four days later. So far as we have been able to learn BILL SMITH regained consciousness, but made no statement before he died as to who committed the deed. The house was apparently first soaked on one or more sides with coal oil,



COPIES OF THIS REPORT FURNISHED TO: 3 Washington; 4 file; 1 Commissioner of Indian Affairs. BUREAU OF INVESTIGATION AUG 14 1924 M. DEPARTMENT OF JUSTICE

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6  
7 gasoline or similar substance, as it was seen to blaze up once or twice  
8 just a second or two before the explosion, caught fire immediately af-  
9 terward on the north outside, and was almost totally consumed by the  
10 flames.  
11  
12  
13

14  
15 The house had a basement garage, which garage had a six-inch con-  
16 crete floor. In the middle of this floor the explosion tore a hole a-  
17 bout six feet in diameter and three feet deep, blowing the six-inch  
18 concrete to bits and cracking it for several feet outward from the rim  
19 of this six-foot hole.  
20  
21  
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24  
25 From a careful and thorough investigation there is no doubt that  
26 this explosion was caused by a carefully and deliberately planned pur-  
27 pose to kill all the inmates, which it did, and that nitro-glycerine or  
28 possibly some similar explosive was used.  
29  
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32

33 The time of the deed was also deliberate, as it was done at a time  
34 when SAM TULK, BOB PARKER and JEFF HUTCHINS, officers, were all away,  
35 and at Okla. City, attending court, leaving the town of Fairfax with  
36 no officer present.  
37  
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39  
40

41 Investigation of the case was begun by relatives of MR. and MRS.  
42 W. E. SMITH at once by employing J. A. GUSTAFSON, a private detective,  
43 and his operatives, BILL BRACKETT, JOHN MORAN, MITCHELL and others.  
44  
45 SAM TULK, Indian Officer, then at Fairfax; BOB PARKER and JEFF HUTCHINS  
46 police of Fairfax; HERMAN FOX DAVIS, investigator for State Attorney  
47 General GEO. SHORT; ED TINKER of Pawhuska and others also joined in the  
48 investigation. In April, 1923 Frank V. Wright, a then Special Agent of  
49 this Bureau, joined in the investigation, and in July, 1923, Calvin T.  
50 Weakley, Agent of this Bureau, was assigned to the case and stayed with  
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4 J. R. Burger.

Aug. 9, 1924.

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6 it till about August last or ~~at~~ the first of September, 1923, when he  
7 was called back to Ohio on Federal court cases. About Sept. 26, 1923,  
8 Agent T. F. Weiss of Okla. City was assigned to the case to investigate  
9 it, and three other Osage Indian murders at the same time. Dec. 16,  
10 1923, Agent J. R. Burger of Kansas City was assigned to work with Agt.  
11 Weiss. Weiss and Burger have worked on these cases (six murders) from  
12 the time of their assignments to same to date, with the exception of  
13 about three and one-half months of that time that Agent Weiss has been  
14 in Federal Court for the Government and about six weeks that Agent  
15 Burger has been in Federal Court for the Government.  
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26  
27 Suspicion was almost unanimous at Fairfax that W. E. (BILL) HALE  
28 was responsible for these SMITH and ANNA BROWN murders, and feeling ran  
29 so high that a party was formed to mob and hang him, but cooler heads  
30 prevailed.  
31  
32  
33

34  
35 M O T I V E S and S U S P E C T S.

36 Agents T. F. Weiss and Burger secured practically all the evidence  
37 and information that the other above named investigators had obtained,  
38 and investigated impartially and exhaustively all other ascertainable  
39 leads and angles, with the result that, to put it shortly, nothing has  
40 ever been discovered that shows any person to have had sufficient ill-  
41 will or motive to have done or caused to be done these murders of W.  
42 E. SMITH, his wife, and NETTIE BROOKSHIRE, other than W. K. HALE, and  
43 his nephews ERNEST, BRYAN, DUKE and HORACE BURKHART, who were raised,  
44 and dominated by HALE, being the sons of his, HALE'S, sister.  
45  
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53 The motives on the part of these HALE-BURKHARTS are shown by the  
54 following facts: ANNA BROWN, full blood, wealthy, unmarried Osage  
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7 Indian woman was a full sister to RITA SMITH and was murdered May 22,  
8  
9 1921 near Fairfax, Okla. ANNA BROWN'S mother, LIZZIE Q., was ex-  
10  
11 pected to die at any time and was living at ERNEST BURKHART'S home at  
12  
13 the time of ANNA BROWN'S murder and did die there, under suspicious cir-  
14  
15 cumstances, July, 1921, leaving the bulk of her estate, worth about  
16  
17 \$200,000.00 to ERNEST BURKHART'S wife, MOLLIE, who was also a full blood  
18  
19 Osage woman and full sister to RITA SMITH and ANNA BROWN. BILL SMITH  
20  
21 openly accused BILL HALE and BRYAN BURKHART of murdering ANNA BROWN for  
22  
23 the purpose of having ERNEST BURKHART'S wife and children inherit about  
24  
25 \$50,000.00 worth of ANNA BROWN'S estate, and BILL SMITH was very active  
26  
27 in pushing the investigation of the ANNA BROWN murder to this end, and  
28  
29 also stated that he would kill BILL HALE on the least provocation.  
30  
31 SMITH was known to be absolutely fearless, and HALE avoided meeting him  
32  
33 whenever possible. BRYAN BURKHART was the person last seen with ANNA  
34  
35 BROWN when she was alive and was arrested for her murder in 1921 but  
36  
37 released without even a preliminary.  
38

39 BILL SMITH had also sued BILL HALE for \$7,000.00 which SMITH  
40  
41 claimed he had loaned HALE but which HALE denied and refused to pay.  
42  
43 This suit was set for trial and pending at the time of BILL SMITH'S  
44  
45 murder. MRS. RITA SMITH had also voiced her opinion that the HALE-  
46  
47 BURKHARTS had murdered ANNA BROWN, her sister, but had not been as open  
48  
49 in her accusations as BILL SMITH.  
50

51 NETTIE BROOKSHIRE was a 17-year-old white servant girl who had been  
52  
53 with BILL SMITH'S family for a long time and suspected of knowing some  
54  
55 of the family knowledge, etc.  
56

57 The death of BILL SMITH and his wife simultaneously was also  
58  
59  
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6 calculated to have enriched BURNHAM'S wife, MOLLY, about \$50,000.00,  
7 by inheritance as SMITH and wife had no living children but SMITH and  
8 wife, it later developed, had made a will that circumvented this.  
9

10  
11  
12 D I G E S T o f E V I D E N C E.  
13

14 Proof of death and its cause. Identification of bodies.  
15

16  
17 JOEN MCLEAN, Insurance Agent for the Capitol Life Insurance Co.,  
18 formerly of Tulsa, Okla., but later of Los Angeles,  
19 can testify that about 3 A. M. Mar. 10, 1923 he was occupying a room  
20 at the Smith-Williams Hotel, Fairfax, Okla.; that at that time he had  
21 arisen and looking out of his bedroom window which faced south, he no-  
22 ticed a bright flame that flared up and died out rapidly for two or  
23 three times; that this flame was located about two blocks southwest,  
24 almost south of where he was standing; that by its light he could see  
25 the ~~next~~ gable of the north end of the house from which the flame ap-  
26 peared to be flaring; that the flame rose as high as this gable; that  
27 almost immediately the flame went out and a terrific explosion occurred  
28 which threw him back on his bed and broke the glass in his window; that  
29 he later went out and found that the explosion was at Bill Smith's home;  
30 that the home was demolished and in flames.  
31

32 M. C. McNEW, Santa Fe Ry. Agent, Fairfax, Okla., can testify that  
33 on March 10th, 1923 at 2:50 AM he was up with a sick  
34 member of his family when a terrific explosion occurred that shook and  
35 damaged his home, located two doors south of the then W. E. Smith home  
36 in Fairfax, Okla.; that he went out to investigate and found the Smith  
37 home demolished by the explosions and in flames; and saw the mangled  
38 corpses of Mrs. Rita Smith and Nettie Brookshire recovered from the  
39 burning ruins and the still living body of W. E. Smith rescued from the  
40 debris. Mr. McNew can also furnish the names of other neighbors who can  
41 testify to substantially the same effect.  
42

43 DR. J. G. SHOUN and Fairfax, can testify that W. E. Smith was taken  
44 DR. D. A. SHOUN, from the ruins of said demolished home at that  
45 time to their hospital at Fairfax, where he died  
46 four days later as a result of the injuries sustained in said explosion.  
47

48 C. T. McDOWELL, Professor of Chemistry, A. & M. College, Stillwater,  
49 Okla., can testify that he was called and examined  
50 the ruins of said home a few days later and that his opinion is firmly  
51 that said explosion was caused by a large charge of T. N. T., nitro-  
52 glycerine or similar high explosive and could not have been caused by  
53 gas or gasoline, and can testify as to the physical results of said ex-  
54 plosion on the concrete basement in said house, and the walls and other  
55 parts of the house.  
56  
57  
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6 JOHN MOHAN and Tulsa, Okla., and others, can testify that they ex-  
7 WM. BRACKETT, amined said ruins carefully and noted that the north  
8 siding of said house had been charred on the outside,  
9 indicating that it had been soaked with kerosene or gasoline and fired  
10 at or just prior to the time of the explosion with the apparent object  
11 of assuring that the house would burn after being demolished. They can  
12 also testify to the six-foot hole blown out of the six-inch concrete  
13 basement floor, the damage done to the stone foundation, and other parts  
14 of the house, etc.  
15

16  
17 J. H. WARD, each can testify that they sat as the coroner's jury  
18 W. E. COPELAND, to inquire into the death of Mrs. Rita Smith, Nettie  
19 E. M. CRANDALL, Brookshire and W. E. Smith, viewed the bodies and  
20 W. G. LYNN, premises and found that said three named persons  
21 A. D. RECKMAN and came to their deaths as the result of some high ex-  
22 F. C. HOEFER plosive, deliberately and designed set off at the  
23 time and place shown above, and with the object and  
24 purpose of causing the immediate death of said three named persons.  
25 (This establishes cause of death and corpus delicti.)  
26

27 EVIDENCE AS TO WHERE, WHEN and BY WHOM MURDERS WERE COMMITTED:  
28

29 IRVIN, alias fugitive, can testify that in the summer of 1920  
30 "BLACKIE" THOMPSON, Ernest Burkhardt proposed several times to Blackie  
31 and to one Arthur, alias Curley Johnson that they  
32 should go to Bill Smith's home where Smith was then living on a farm  
33 near Crayhorse southeast of Fairfax and kill Smith and his wife, Rita,  
34 and the boy that was then employed at the Smith home; that Ernest said  
35 that Smith always carried a roll of \$300.00 or \$400.00 on his person,  
36 and that Smith and his wife had some very valuable diamonds, all of  
37 which Thompson and Johnson should take; that after getting these valu-  
38 ables they were to kill Smith and his wife and the boy; that in addition  
39 Ernest would give them his Buick car and \$1000.00; that Bill Hale would  
40 furnish the \$1000.00. Ernest told Thompson and Johnson to see Bill Smith  
41 about the money but Thompson stated he never did mention this to Bill  
42 Hale; that Ernest made this proposition to them in each other's presence  
43 several times in 1920 in the summer and urged haste, stating that Lizzie  
44 Q, Rita Smith's mother was old and ill and feeble and liable to die at  
45 any time and Mrs. Ernest Burkhardt would get a lot of property at Lizzie  
46 "Q"'s death, including what Lizzie Q would inherit if the Smiths died  
47 before Lizzie Q died; that he, Thompson, evaded giving Ernest a definite  
48 refusal as they were "pulling jobs" with him from time to time and later  
49 Thompson ran Ernest's Buick off with Ernest's consent so that Ernest was  
50 to claim the car was stolen, and collect the insurance, which was more  
51 than the car was worth, and would soon have had to be renewed; that he  
52 was caught with Ernest's car but did not squeal as Ernest promised to  
53 take care of him; that he, Thompson, was sent to McAlester, Okla. prison  
54 for car theft in November, 1920 and released on parole Mar. 7, 1922, his  
55 sentence being five years; that he then returned to Fairfax and vicinity  
56 "pulled off some jobs with Ernest Burkhardt" and for him, including  
57 robbing Fred DeNoya and wife of some diamonds and taking them to Bill  
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HALE; that HALE however wanted them too cheaply and did not get them; that after his return to Fairfax Ernest again several times propositioned him and Curley Johnson to kill W. E. Smith, suggesting that Smith's home be blown up with nitro-glycerine and suggesting how easy it would be to steal the glycerine from one of the several oil companies magazines in that section; that Ernest stated that of course Thompson should be sure that Smith and his wife were in the house and should trail them to be sure and then explode the nitro-glycerine in the basement. Thompson states further that he evaded giving Ernest a direct answer and that a few days before Smith's home was in fact blown up, Ernest came to him and told him he, Ernest, had arranged to have this job done by someone else and he, Thompson, need not bother; that he, Thompson, was later told by Ernest that he, Ernest, had had Curley Johnson, Charles Quick and Jim Bothwell. Thompson however stated that he had never mentioned this job to Johnson, Bothwell or Quick and had never heard of them telling anyone anything about it but promised to associate again with them and get all the details from them and the rest of the underworld and let us have it for an agreed consideration; that his understanding of the reason of Ernest Burkhardt telling him beforehand of having secured others to do the Smith job was that he, Thompson, could be away from Fairfax when it was pulled off, and have his alibi proof, as he would surely be suspected and that he was at Oilton, Okla. when he heard of the blowup and knew in his own mind who did it, etc.; that Ernest Burkhardt and Bill Hale are regular Jews in wanting all the best of deals and Ernest is money mad and a miser.

S. J. HAWKINS, Webb City, Okla., can testify that in 1919 he and one Walter Doolen of near Pawnee and Yale, Okla. were at Bill Hale's ranch house; that Bill Hale at that time suggested to them that they hi jack Bill Smith and his wife out of their diamonds, Hale explaining that Smith always had a roll of \$300.00 or \$400.00 on him, and that Hawkins and Doolen should catch Smith unawares "between the house and the barn", and stating further that they could do something with Smith and his wife after robbing them; that Hale at that same time told them of some widow who lived with her daughter on a farm in Osage County telling them that this widow was afraid of banks and kept about \$7,000.00 hidden at the house; that Hale stated he had been intimate with this widow and had borrowed money from her, but had fallen out with her because of the daughter; that the widow had then employed a negro man, a mean one, to stay with her at the farm; that he, Hale, suspected this negro was intimate with these women and suggested that Hawkins and Walter Doolen rob this widow and "kill the nigger"; Hawkins can also testify that Arthur (Curley) Johnson told Hawkins that he knows who killed the Bill Smith family. (Hawkins added that he was convinced that Curley Johnson was in on the job). Hawkins is an old friend of Curley Johnson and at one time stated "Curley knows all about this and will squeal if the power is put to him".

IKE OGG, present address unknown, can testify that Dick Gregg told him that Bill Hale propositioned him to do one of these Fairfax murders but did not specify whether he,

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8 Gregg was approached to kill Bill Smith and wife, or one of the others.  
9 Ogg can testify that Gregg did not state whether he did the job or turned  
10 it down (but Ogg stated that Al Spencer also told him that Bill Hale  
11 had approached him, Spencer, on one of these murders or more and he,  
12 Spencer, had flatly declined but that he, Ogg, rather believes Dick  
13 Gregg went in on one of them.)

14  
15 FRANK TERRELL, Chickasha, Okla., can testify that he asked Dick  
16 Gregg what he got for the Fairfax job (did not spe-  
17 cify which one) and Gregg replied, "We were to get \$1,500.00", and that  
18 Dick Gregg told him, Terrell, that Bill Hale had picked Gregg and another  
19 man or two up near Wynona in his car and drove them over to his ranch  
20 near Fairfax and kept them there till the job was done. (Frank Terrell  
21 has the general reputation of being a notorious liar. His statements  
22 are extremely unreliable.)

23  
24 DICK GREGG, Lansing, Kans. prison, can testify that Ernest  
25 Burkhardt and Bill Hale propositioned him and Al  
26 Spencer to do one or more of these Osage murders at Fairfax; that  
27 Wendall Powell of Nowata, Okla., Campbell Keys (half-brother to Al  
28 Spencer) and Norris Wadkins, Fairfax, know all about the deal; that Max  
29 Billings, a notorious crook at Okesa, acted as the go-between for Bill  
30 Hale who had "the job" done, and the men who did it for them; that Hale  
31 kept these men hidden in his ranch pasture near Fairfax for some weeks  
32 before the job was pulled and that they left there shortly after the job  
33 was pulled when informed by Fred Rowe, now of Pawhuska, but then of  
34 Ralston, and a close friend of Bill Hale that "the law had a line on  
35 them". (We have to deal with Dick Gregg and his father, John Gregg,  
36 both notorious outlaws, chiefly through J. H. Powell, a very reliable  
37 man, ex-Sheriff of Elgin, Kans. who has a hold on them and their con-  
38 fidence, for the reason we have not yet been able to get Gregg to spe-  
39 cify whether he is referring to the Smith, Roan or Anna Brown murder,  
40 though he did state that Bill Hale and the Burkhardts were behind all  
41 three of these murders, "When I have told all I know and Dad (John  
42 Gregg) gets what Max Billings knows, you will have it all in your hands.  
43 It will be short work then." Mr. Powell is now working with John Gregg  
44 to get the details from Max Billings who does not suspect John Gregg.)  
45 Dick Gregg told Mr. Powell that Frank Nash, Grover Durrell, Riley Dixon  
46 Al Spencer and a man known as "Curley" did this W. E. Smith job. (But  
47 Agents suspect that Gregg falsified as to the names to blind Mr. Powell  
48 at least for a while, and Mr. Powell also suspects this. We suspect  
49 that Dick Gregg was in on one of the murders and is covering up to a  
50 certain extent at this time.) Dick Gregg stated to Agent Burger "Cur-  
51 ley Johnson knows all about the Smith blowup and will squeal if made  
52 to do so."

53  
54 JOHN THOMPSON, Pawhuska, Okla., Osage Torpedo Co., can testify  
55 that one or two days before the Smith home was  
56 blown up, a magazine of said company situated on the Scheidel farm about  
57 fifteen miles north of Fairfax in Osage County was broken into by tear-  
58 ing off some boards and ten quarts of nitro-glycerine stolen; that said  
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stolen nitro-glycerine had never been located or recovered and no clues found as to who had stolen it; that said magazine is situated in an isolated section.

M. C. McNEW, station Agent, Santa Fe Ry., Fairfax, can testify that on March 9, 1923 Lou Oller, intimate friend and associate of Bill Hale sent from Fairfax, Okla. to W. E. Hale, Campbell, Tex., a telegram reading, "Deal stands good. I will go in the morning". (signed) L. L. Oller". M. C. McNew, who lived just two doors south of the Smith home at the time of the explosion, can testify also that he was up with a sick member of his family early morning Mar. 10, 1923 and heard what appeared to be a Ford car which passed his home going south; that this car stopped at the south end of the block; that a man got out and walked back north toward the Smith home, a block north that he paid no attention to this, which was about 2 A. M.; that about 2:35 A. M. that morning he heard a car going south at a high rate of speed and judging from the sound it was a big car; that at 2:50 A. M. the Smith home was blown up, the explosion breaking the windows in McNew's home and showering pieces of wood on his house and in his yard.

CHARLES HEMBREE, Fairfax, Okla. can testify that that night he was coming home from Ralston, south of Fairfax; that about six miles from Fairfax he heard a heavy explosion in the direction of Fairfax, about three A. M.; that a minute or two later he saw the headlights and heard the roar of some big car coming south from Fairfax at a high speed; that he thought it was some drunken Indians, and turned off the road and stopped his truck with the headlight thereof pointing into the road and lit; that the approaching car passed him at high speed and when it came into the light of his truck headlights he noted that there were two men in the front seat, and the man driving was a stranger to him and had a small face; that the car had the curtains up, both headlights lit and two "goose egg" side lights, and a light inside ~~the~~ in the roof in the car; that the car passed him and he heard its brakes screeching when it took the turn into Ralston a few seconds later. Chas. Hembree thinks he may recognize the driver if he ever sees him again, but is doubtful. Hembree states that he knew Kelsey Morrison well and that it was not Morrison driving the car that night but could not state whether there were any persons in the back seat of the car or who they might be. Later Hembree viewed a photo of Eustace Knight and stated he did not recognize him as one of the men in the car.

ROY MOSSBERGER, Grayhorse, Okla., can testify that shortly before the Smith murders he was sitting on the store porch at Grayhorse, a few miles east of Fairfax, when a car approached; that Mossberger remarked to Bryan Burkhart that it was Bill Smith coming; that Burkhart got up, put his hand to his hip pocket and said, "Let the son of a b--- come"; that when the car got close it was seen that only Mrs. Smith and the girl were in it and Mossberger told Bryan that "Bill Smith is not in the car" and Bryan remarked, "It is a d---d good thing for him."

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4 J. R. Burger.

Aug. 9, 1924.

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7 D. E. JOHNSON, all of Fairfax, and A. W. COMSTOCK,? of Paw-  
8 J. G. SHOUN, huska, all can testify that W. E. Smith stated  
9 HENRY WARD and a number of times after the Anna Brown murder  
10 A. C. HUNSAKER, that Bryan and Ernest Burkhart and Bill Hale had  
11 killed her and that he, Smith, expected them to  
12 blow him up or kill him at any time.

13  
14 R E M A R K S.

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16 The above and foregoing is a rather summary digest. Much cumula-  
17 tive and corroborative evidence being omitted. W. K. HALE and the  
18 BURKHARTS, though knowing that people generally are convinced of their  
19 guilty, have at no time proffered any assistance or information that  
20 might assist in the investigation. People generally almost universally  
21 are afraid to tell what they know or have it known that they are even  
22 interested in the investigation. The Indians are especially cowardly  
23 in this respect. No information or evidence of any kind has been fur-  
24 nished agents by the County Attorney's or Sheriff's offices, which  
25 HALE is reliably reputed to dominate completely. This case is allied  
26 with the Henry Roan and Anna Brown murders and the notes at the conclu-  
27 sion of the digest of the ANNA BROWN murder, dated Aug. 9, 1924 as to  
28 prosecution, etc., are equally applicable to this case.  
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42 UNDEVELOPED LEADS:

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44 IRVIN THOMPSON should be located and further questioned exhaust-  
45 tively.  
46  
47 DICK GREGG and should be given time to produce their promised in-  
48 JOHN GREGG formation and evidence.  
49  
50 THEODORE ROSELLE should be given opportunity to "rope" JACK HART.  
51  
52 KELSEY MORRISON is now working in earnest and should be given some  
53 time to get results. He has good opportunity and  
54 promising openings.  
55  
56 GRADY DRAKE should be located and questioned exhaustively.  
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8 CURLEY JOHNSON

should be located and questioned exhaustively (at opportune time.

11 J. H. POWELL

should be given time to work on the two Greggs.

13 JAMES AUTEN

should be interviewed again. He is willing.

15 WENDALL POWELL and  
16 CAMPBELL KEYS

should be interviewed discreetly.

18 FRANK NASH,  
19 RILEY DIXON,  
20 GROVER DURELL

should all be interviewed but as a last resort. They are each and all at Leavenworth prison under 25-year sentences, for robbing M. K. & T. mail train near Okesa, Osage County, Okla. in August, 1923. FRANK NASH is the best bet. Some concessions will almost certainly have to be made with them if they will talk at all.

25 And last of all a special Grand Jury should be called, as indicated in  
26 the Anna Brown murder digest.

30 PENDING.

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