

UNIVERSITY OF CENTRAL OKLAHOMA
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**ARTHUR GOOCH: THE POLITICAL, ECONOMIC, AND SOCIAL
INFLUENCES THAT LED HIM TO THE GALLOWS**

A THESIS

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By

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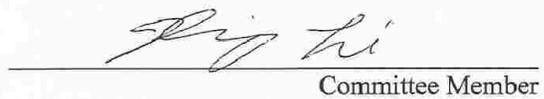

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ABSTRACT OF THESIS

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TITLE OF THESIS: Arthur Gooch: The Political, Social, and Economic Influences That Led Him to the Gallows.

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ABSTRACT: Born in 1908, Arthur Gooch came of age in the prosperous 1920s, but something changed for him and for America in 1930. The socioeconomic depravity and increased media coverage of crimes in the Thirties affected those who lived through them, and, as President Franklin Roosevelt tried to reestablish economic, social, and political balance, Gooch experienced the ills that the Depression had to offer the citizens of Oklahoma. With dust storms destroying parts of the landscape and bandits ruling other regions, Gooch, and others like him, battled against poverty, unemployment, and desperation. Facing a lack of opportunities and constant hunger, many, such as Gooch, turned to a life of crime.

In this time of crisis, President Roosevelt, United States (U.S.) Attorney General Homer Cummings, and Bureau of Investigation Director J. Edgar Hoover skillfully used the environment of the Depression and the people's fear of nationwide lawlessness to develop a powerful federal police force, resulting in the expansion of the Federal Bureau of Investigation (FBI). One particular unlawful act that influenced the attitudes of the country's citizens was the 1932 kidnapping and death

of Charles Lindbergh, Jr., son of the American aviator and hero of the American people. The event horrified the nation and caused congress to pass multiple crime laws, including the Federal Kidnapping Act, popularly known as the Lindbergh Law. Its passage made kidnapping a federal offense. The prosecution and conviction of Bruno Richard Hauptmann, charged with the abduction of the Lindbergh baby, added to the voracity of the government's plans and to Americans' acceptance of federal involvement in state's matters.

During this time of burgeoning crime, Arthur Gooch entered the pages of history by abducting two Texas policemen and transporting them into Oklahoma. With this action, Gooch violated the Federal Kidnapping Act and faced a jury and a judge who had the power to sentence him to death. With the amalgamation of the politics of the 1930s, influenced by President Roosevelt and U.S. Attorney General Cummings, and society's view of lawlessness in the aftermath of the Lindbergh baby's kidnapping and the worsening economy prompted the court to conclude that Arthur Gooch was a menace and deserved the ultimate punishment, death. As a result, Gooch became the first person to face the death penalty under the Lindbergh Law.

In the wake of the passage of strict crime legislation, Gooch ascended the steps to the gallows, after receiving word that President Roosevelt had refused to grant him clemency. Socioeconomic depravity, restrictive politics, societal demand for reform, and poor personal judgment converged to spell death for Arthur Gooch on June 19, 1936. Consequently, Gooch's five-year-old son, Billy Joe, was left without

a father and grew up hiding his true identity; Gooch's extended family struggled to conceal their relationship to him; and his only lasting legacy is one of missed opportunities and crime.

INTRODUCTION

Born in 1908, Arthur Gooch came of age in Oklahoma during the Roaring Twenties, but something changed for him and for America at the end of the decade. The socioeconomic depravity and increased media coverage of crimes in the Thirties affected those who lived through them, and, as President Franklin Roosevelt tried to reestablish economic, social, and political balance, Gooch experienced the ills that the Depression had to offer the citizens of Oklahoma. With dust storms destroying parts of the landscape and bandits ruling other regions of the country, Gooch, and others like him, encountered poverty, unemployment, and desperation. Facing a lack of opportunities and constant hunger, many, such as Gooch, turned to a life of crime. The amalgamation of the politics of the 1930s, influenced by President Roosevelt and United States (U.S.) Attorney General Homer Cummings, and society's view of lawlessness in wake of the Lindbergh baby's kidnapping and the worsening economy created an environment that led Arthur Gooch to be labeled a menace who deserved the ultimate punishment, death.

Congressmen and the president passed legislations and created programs in an effort to counteract the progress of the Depression. The nation's leaders faced multiple issues and problems never encountered in the country's history, and they struggled to restore the American economy and society's sense of security. The media extended their coverage and furnished citizens with greater access to the news and events, such as crimes occurring in a wide-range of states. One particular

unlawful act, called the “crime of the century,” that influenced the attitudes of the American citizens and the legislators was the 1932 kidnapping and death of Charles Lindbergh, Jr., son of the American aviator and hero of the American people.¹ The event horrified the nation and caused congress to pass multiple crime laws. One such edict was the Federal Kidnapping Act, popularly known as the Lindbergh Law, and its passage made kidnapping a federal offense. President Franklin Roosevelt, U.S. Attorney General Homer Cummings, and Bureau of Investigation Director J. Edgar Hoover skillfully used the environment of the Depression and the people’s fear of nationwide lawlessness to develop a powerful federal police force, resulting in the expansion of the Federal Bureau of Investigation (FBI). The prosecution and conviction of Bruno Richard Hauptmann, charged with the abduction of the Lindbergh baby, added to the voracity of the government’s plans and to America’s acceptance of federal involvement in state’s matters.

With the increase of reported crime through the media, Arthur Gooch entered the pages of history when he violated the Lindbergh Law by abducting two Texas policemen and transporting them into Oklahoma. Gooch’s criminal act prompted a judge and jury to sentence him to death, and he was hanged on June 19, 1936. His five-year-old son, Billy Joe, was left without a father and grew up hiding his true identity; Gooch’s extended family struggled to conceal their relationship to him; and his only lasting legacy is one of missed opportunities and offenses against the law.

¹ Charles Edwin Still, *Styles in Crimes* (New York: J.B. Lippincott Company, 1938), 127.

This author, Gooch's third cousin, learned of his death as a young adult, and, upon researching his life, crimes, and execution, a number of questions arose. Could his actions have been the result of his environment or of his socio-economic condition? Was he, as Judge Robert Williams believed, on the path to becoming a murderer? Under similar circumstances today, would Gooch be sentenced to death for his crime? Or, is it possible that President Franklin Roosevelt, U.S. Attorney General Cummings, and J. Edgar Hoover used Gooch as a political pawn in the war on crime? In order to answer these questions, particular aspects require in-depth study: the environment of the 1930s pitted the country against difficulties that had previously never been encountered; the kidnapping of the Lindbergh baby and resulting legislation changed the outlook of countless Americans on lawlessness; and the escalating crimes of Arthur Gooch require an analysis against the backdrop of increased federal involvement and the public's outcry for harsher punishments and stronger laws.

**CHAPTER I: THE FORCES AND EVENTS OF THE EARLY 1930S IN
OKLAHOMA AND THE NATION: UNDERSTANDING THE WORLD OF
ARTHUR GOOCH**

Many in Oklahoma and the rest of the nation prospered in the 1920s, and Americans felt elated in the years following the victorious outcome of World War I. The glorious feelings led to unprecedented self-indulgence and an era when many did as they pleased.¹ Prohibition put countless numbers in jail and made millionaires of others. Women cut their hair, wore makeup, shortened their skirts, and demanded more independence. Hollywood began producing movies in the Twenties that exploited and emphasized sex.² However, the end of the decade was far different from its favorable beginning. The stock market crash on October 29, 1929, ushered in significant changes to the American environment of the 1930s. The decade's events caused many Americans to welcome the federal government's influence into their lives and into the laws of their states. The Great Depression plagued the nation's citizens for over ten years, and many lost their faith in a better future. Arthur Gooch, a native Oklahoman and resident of Okmulgee, experienced the ills of the early Thirties, and while Oklahoma and the United States (U.S.) endured political,

¹ Paul Sann, *The Lawless Decade* (New York: Crown Publishers, Inc., 1957), 133.

² David F. Burg, *The Great Depression: An Eyewitness History* (New York: Facts On File, Inc., 1996), 16; William E. Leuchtenburg, *The Perils of Prosperity, 1914-1932* (Chicago: The University of Chicago Press, 1958), 168.

economic, and social changes, he succumbed to his surrounding environment and entered into a life of crime.

The 1920s were one of the most turbulent times in Oklahoma's history, politically and socially. In the first year of the new decade, Manuel Herrick, a certified lunatic, was sent to Congress to represent the state. Herrick filed as the primary challenger of Representative Dick Morgan, but, after the filing period closed, Morgan died and Herrick received the congressional seat by default, serving one term.³ While Herrick was in Congress, the Tulsa Race Riots broke out, and parts of the city were destroyed, with the racially segregated neighborhood of Greenwood suffering the most damage. Dick Rowland, a black man, had been arrested for the attempted rape of Sarah Page, a white woman. On May 31, 1921, while Rowland sat in the Tulsa County jail, groups from both races gathered outside of the county courthouse, seeking justice. Hatred grew, words and threats were shouted, and finally violence broke out within the crowd and a race-war erupted. The brutality lasted two days. The rioters killed several blacks (the total is still unknown) and burned numerous buildings, including churches. The events of May, 1921, deeply bruised Oklahomans and marred the state for years to come.⁴ The Ku Klux Klan (KKK) also experienced a resurgence, and its members harassed countless numbers within the Sooner State, conducting whippings in Okmulgee County and attacks in Tulsa. In

³ W. David Baird and Danney Goble, *The Story of Oklahoma* (Norman: University of Oklahoma Press, 1994), 349.

⁴ Baird and Goble, *The Story of Oklahoma*, 384-86.

1923, at the peak of the KKK's activities, Governor John Callaway Walton decided to take action against the Klan and placed the state under martial law, activating 6,000 national guardsmen to end the violence. The governor's actions and subsequent misuse of martial law led to his impeachment trial and eventual removal from office. Legislators again used this power six years later to remove Governor Henry Johnston, charging him with incompetence.⁵ Oklahoma was a relatively young state, and its leaders were still striving to place the state within the current political framework, unwittingly making numerous mistakes.

Oklahoma experienced various political and social ills during the 1920s, but, economically, it thrived. Oil men drilled a number of successful wells, and upwards of 2 million barrels of oil hit the market by the end of the Roaring Twenties. The estimated value of petroleum and natural gas extracted from Oklahoma during this time was over \$3.5 billion.⁶ From 1926 to 1931, the Greater Seminole Field alone pumped out \$1 billion worth of oil. The increase in oil production created lawless "Boom Towns," and a roustabout, a term for the oil workers, could make \$130 a

⁵ Baird and Goble, *The Story of Oklahoma*, 352, 355; Tom Streissguth, *The Roaring Twenties* (New York: Facts On File, Inc., 2001), 112; Charles Robert Goins and Danney Goble, *Historical Atlas of Oklahoma* (Norman: University of Oklahoma Press, 2006), 164; W. David Baird and Danney Goble, *Oklahoma: A History* (Norman: University of Oklahoma Press, 2008), 183.

⁶ Baird and Goble, *The Story of Oklahoma*, 366.

month – more money than a sharecropper could make in three years.⁷ Many made their fortunes during the Roaring Twenties, while others lost everything.

Ernest Whitworth Marland, a governor of Oklahoma in the 1930s, tapped into the riches oil had to offer. Creating his own oil business, Marland, at one point, made \$60,000 per day, and he spread his wealth around Ponca City. Through his philanthropy, numerous structures were erected, institutions created in his name, and beautification projects completed. Marland also had a mansion built for him and his family. However, in 1928, through a series of poor business decisions, bankers gained control of his company, and a new board of directors pushed him out. Within months after the completion of his home, Marland lost everything, and he could not even afford to pay his electric bill. Marland's rise to great wealth and fast fall into the depths of poverty seem to represent the fate many Americans.⁸

Oklahoma, dependent upon oil and farming, saw both industries fail in the 1930s.⁹ Oil wells, such as “Wild Mary Sudik” in southeastern Oklahoma County, gushed into the air, making millions for some and providing jobs for others.¹⁰ Production increased and prices plummeted, and the members of the Oklahoma City Council wanted restrictions put into place to help control the prices. The legislative

⁷ Baird and Goble, *Oklahoma: A History*, 21, 211; Baird and Goble, *The Story of Oklahoma*, 379.

⁸ Baird and Goble, *The Story of Oklahoma*, 367-68, 389.

⁹ Goins and Goble, *Historical Atlas of Oklahoma*, 178.

¹⁰ Robert L. Dorman, *It Happened in Oklahoma* (Guilford, CT: Morris Book Publishing, LLC, 2006), 72-73.

body passed an ordinance in 1930 to limit drilling, but the chaotic situation worsened. In an effort to control matters, Governor William “Alfalfa Bill” Murray declared martial law in May, 1932, and shut down 3,000 wells in order to drive the prices back up. The governor again enacted martial law in June, 1932 and March, 1933. A bill passed on April 10, 1933 that finally settled the situation and brought oil production under control.¹¹

On October 29, 1929, when the stock market crashed, America ceased the positive growth it had enjoyed just a few years earlier, affecting everyone, even those not directly involved.¹² The federal government’s policies and the instability of the banking system foreshadowed a disaster. The 1930s saw every aspect of the United States change, and the new decade paled in comparison to what the people had experienced in the 1920s. The hard times transformed politics, music, literature, art, society, the film industry, and personal identities. Tension and conflicts boiled to the surface; long held value systems strained under the tumult, and thousands lost their jobs.¹³ This new decade was a time of dreariness, chaos, and a “blasting of hope,”

¹¹ Timothy Egan, *The Worst Hard Time* (Boston: Mariner Books, 2006), 109; “Oklahoma City Oil Fields,” *OK Moments: Insight into the Oklahoma Spirit*, January 4, 2010, <http://www.okmoments.com/index.php?q=167> (accessed January 19, 2010).

¹² Caroline Bird, *The Invisible Scar* (New York: David McKay Company, Inc., 1966), xiv; Leuchtenburg, *The Perils of Prosperity*, 243-44.

¹³ Leuchtenburg, *The Perils of Prosperity*, 245-47; Kenneth J. Bindas, *Remembering the Great Depression in the Rural South* (Gainesville: University Press of Florida, 2007), 2; Terry A. Cooney, *Balancing Acts: American Thought and Culture in the 1930s* (Boston: Twayne Publishers, 1995), 1.

causing perhaps immeasurable psychological damage to millions.¹⁴ When those living in the Great Plains states thought that it could not possibly get worse, the dust storms began, causing enormous erosion and dumping tons of dirt as far away as Chicago and Washington, D.C.

The combination of the dust storms and the Depression affected Oklahoma more than any other state. Wheat prices in 1932 dropped from sixty cents the previous year to thirty cents a bushel. The unemployment rate within the Sooner State reached twenty-nine percent in 1932, and many Sooners barely earned half that of other Americans.¹⁵ In 1933, at the height of the Depression, many oil wells dried up, companies floundered, farm lands stopped producing, and people lost their jobs. The Agricultural Adjustment Act of 1933 was also a component that increased the hardships of several who depended on the land. The act offered money to agriculturalists who agreed not to cultivate portions of their land, hoping this would decrease market surpluses and elevate prices. However, tenant farmers found themselves evicted by landlords seeking the governmental handout, and thousands of

¹⁴ William H. Young and Nancy K. Young, *The 1930s* (Westport, CT: Greenwood Press, 2002), xii; Barrington Boardman, *Flappers, Bootleggers, "Typhoid Mary," & the Bomb: An Anecdotal History of the United States from 1923-1945* (New York: Harper & Row, Publishers, Inc., 1989), xii; Susan Ware, *Holding Their Own: American Women in the 1930s* (Boston: Twayne Publishers, 1982), xiii; William E. Leuchtenburg, *Franklin D. Roosevelt and the New Deal* (New York: Harper & Row Publishers, 1963), xii.

¹⁵ Goins and Goble, *Historical Atlas of Oklahoma*, 167, 178; Burg, *The Great Depression*, 63; Egan, *The Worst Hard Time*, 110.

families that owned small farms continued to suffer.¹⁶ These combined factors led to the migration of over 60,000 Oklahomans between 1930 and 1940. During that time, Okfuskee County lost close to forty-two percent of its population; Seminole County suffered losses of fifty percent; Okmulgee relinquished twenty-one percent.¹⁷

A drought that began in 1931 only worsened over the next five years, and that, combined with strong winds, poor farming techniques, and over grazing by cattle, created the Dust Bowl. The first black blizzard occurred on September 14, 1930, and 1934 saw fifty-six storms destroy lives, crops, and the landscape. Doctors and hospitals began reporting cases of a strange sickness, leading to a number of deaths, and later termed dust pneumonia. A myriad of citizens were sick and starving. People begged for, stole, or went without food, ate out of garbage cans, or fed road kill to their children. Often, family members took turns eating because there just was not enough money or enough food.¹⁸ Oklahomans Gene Autry and Will Rogers spoke out about the conditions in their native state. Autry explained that “Nobody

¹⁶ James N. Gregory, *American Exodus: The Dust Bowl Migration and Okie Culture in California* (New York: Oxford University Press, 1989), 11-12; Gilbert C. Fite, “Agricultural Adjustment Act,” *Encyclopedia of Oklahoma History and Culture*, Courtesy of the Oklahoma Historical Society, <http://digital.library.okstate.edu/encyclopedia/entries/A/AG002.html>, (accessed March 26, 2010).

¹⁷ Goins and Goble, *Historical Atlas of Oklahoma*, 178-180.

¹⁸ T.H. Watkins, *The Great Depression: America in the 1930s* (Boston: Little, Brown and Company, 1993), 190; Burg, *The Great Depression*, 114-15; Egan, *The Worst Hard Time*, 88, 153, 165, 173; Frederick Lewis Allen, *Since Yesterday: The 1930s in America* (New York: Harper & Row, Publishers, Inc., 1940), 64; Bird, *The Invisible Scar*, 28-29.

had anything to do; nobody had anything to eat.”¹⁹ Rogers said, “Ten men in our country could buy the whole world and ten million can’t buy enough to eat.”²⁰ The 1930s got worse for a number of Oklahoma citizens as a result of the failure of farming and the oil fields. On January 20, 1931, a riot broke out in Oklahoma City, and a mob of men and women stormed a grocery store demanding food. Another such event occurred in July, 1931, this time in Henryetta.²¹ Oklahoma and the rest of the nation struggled to cope and survive. The Sooner State’s legacy of chaos mixed with prosperity continued to spread.

Arthur Gooch came of age in Oklahoma during the booming Twenties, but he and his family did not thrive financially. Named for his paternal uncle, a police constable for Okfuskee County, Gooch was born on January 4, 1908 to James Edward “Ed” Gooch, a member of the Muscogee-Creek tribe, and Adella Ussery-Gooch. On January 26, 1916, when “Little Arthur,” a nickname given by his family, was eight years old, his father died.²² By 1920, at the age of forty-four, Adella had survived the

¹⁹ Gene Autry during an interview with Kenneth J. Bindas, *Remembering the Great Depression in the Rural South*, 20.

²⁰ Boardman, *Flappers, Bootleggers, “Typhoid Mary,” & the Bomb*, 125.

²¹ Watkins, *The Great*, 80; Leuchtenburg, *The Perils of Prosperity*, 261.

²² Willadean Smeltzer, Interview by Leslie Jones, Tape recording, March 7, 2009, Research Center, Oklahoma History Center, Oklahoma City, Oklahoma; Hereafter cited as Smeltzer Interview. Lenora Holland, Interview by Leslie Jones, Tape recording, March 7, 2009, Oklahoma History Center, Oklahoma City, Oklahoma; Hereafter cited as Holland Interview, OHC; Janice Jones, Interview by Leslie Jones, Tape recording, January 23, 2009, Research Center, Oklahoma History Center, Oklahoma City, Oklahoma; Final Dawes Roll Index, Page 549, Card Number 2633, Enrollment Number 7773, Research Center, Oklahoma History Center, Oklahoma

death of her husband as well as three of her seven children and had taken in her widowed brother, James, and his three children. Times were tough, and they lived in such poverty that it defined their lives. Joining ten million other women nationwide, Adella went to work. Unable to read or write, she could not afford to be selective and found jobs as a laundress and pecan picker. Gooch peddled apples on the streets of Okmulgee and began stealing items to sell to help his mother.²³ Often, females who entered the workforce to support their families faced harassment from those who believed they were taking jobs from men and ruining the accepted family structure. Gooch dropped out of school after the sixth grade; he was fifteen years old at the time. By 1928, he was employed at a local grocery store and had married Mary Lenora Lawrence, daughter of Jim and Daisy Lawrence.²⁴ After two years, Gooch was working in an oil refinery, a baby was on the way, and the couple hoped the future would bring better days. In the early 1930s, he witnessed a rise in the number

City, Oklahoma. Author also visited the gravesite of James Edward Gooch, located in the Welty, Oklahoma cemetery, to confirm birth and death dates.

²³ Bureau of the Census, Fourteenth Census of the United States (1920), Severs Township, Okmulgee County, Oklahoma, Enumeration District 124, Sheet 20B, Family No. 460, Courtesy of www.ancestry.com (accessed April 6, 2009); Bureau of the Census, Fifteenth Census of the United States (1930), Severs Township, Okmulgee County, Oklahoma, Enumeration District 56-28, Sheet 3B, Family No. 61, Courtesy of www.ancestry.com (accessed April 6, 2009); Holland Interview, OHC; "Gooch Goes to Gallows 5am Friday," *McAlester Democrat*, June 18, 1936, 1-2.

²⁴ Bindas, *Remembering the Great Depression in the Rural South*, 9; Leuchtenburg, *The Perils of Prosperity*, 160; Ware, *Holding Their Own*, 29; Arthur Gooch, "Gooch Advises 'Shun Whiskey' in Last Words," *Okemah Daily Leader*, June 23, 1936, 3; Bureau of the Census, Fourteenth Census of the United States (1920), Okfuskee Township, Okfuskee County, Oklahoma, Enumeration District 154, Sheet 7A, Family No. 125, Courtesy of www.ancestry.com, (accessed April 6, 2009).

of bank robberies in his home town as times grew tougher; people became desperate, and nothing else mattered but to get money and to protect their children.²⁵

As the Depression deepened in Oklahoma and the nation, Gooch's life also took a turn for the worse. He and his wife began quarreling, and home life became difficult. Adella lived with the couple, and Billy Joe, the couple's son, had been born. To avoid the fights and the questions waiting for him at home, Gooch went out with friends after work and began drinking. He was a young man without a father-figure and lacking direction or goals, with a marriage that was crumbling. The pressures of family, finances, and the hard times pushed harder on Gooch, and, like many others, he wanted to escape. The nights of partying increased in frequency, and his wife soon accused him of infidelity.²⁶ According to Gooch, her accusations were, at first, untrue, but he soon quit his job and decided to "have the game as well as the name."²⁷ Faced with difficult circumstances and a lack of opportunity, Gooch began stealing cars and stripping them to sell the parts. The twentieth century had given rise to

²⁵ Bureau of the Census, Fifteenth Census of the United States (1930), Severs Township, Okmulgee County, Oklahoma, Enumeration District 56-28, Sheet 3B, Family No. 61, Courtesy of www.ancestry.com (accessed April 6, 2009); Okmulgee Historical Society and the Heritage Society of American, ed., *History of Okmulgee County* (Tulsa: Historical Enterprise, Inc., 1985), 314; Ware, *Holding Their Own*, xx.

²⁶ Bureau of the Census, Fifteenth Census of the United States (1930), Severs Township, Okmulgee County, Oklahoma, Enumeration District 56-28, Sheet 3B, Family No. 61, Courtesy of www.ancestry.com (accessed April 6, 2009); Arthur Gooch, "Gooch Advises 'Shun Whiskey' in Last Words," *Okemah Daily Leader*, June 23, 1936, 3.

²⁷ Arthur Gooch, "Gooch Advises 'Shun Whiskey' in Last Words," *Okemah Daily Leader*, June 23, 1936, 3.

women demanding more from their marriages, and Mary was no exception. Gooch's progressive criminal activities proved too much for his wife, and, with a son to think about, she filed for divorce.²⁸

Gooch lived in a time when the country was suffering, and, with so many thousands out of work, the future hardly seemed optimistic. In 1932, New York department stores took advantage of the countless number of unemployed college graduates and required a bachelor's degree for their elevator operators. Legions of Americans depleted their savings, borrowed against their life insurance, and sold their possessions in an effort to eat and feed their families.²⁹ More started smoking, and cigarette production increased from 123 billion in 1930 to 158 billion just six years later, marriage rates dropped, divorce rates rose from 100,000 in 1914 to 205,000 in 1929, and birth rates decreased. The expense of children led to an increase in the number of abortions, and doctors performed the procedure because of their own monetary needs.³⁰

The prosperous, carefree years of the 1920s were a painful memory. The nation's citizens wondered when life would get better but every day seemed to bring

²⁸ "Five Are Accused of Auto Thefts," *Okmulgee Daily Times* July 5, 1931, 6; "Five Held for Car Theft at Okmulgee," *The Oklahoman*, July 5, 1931, 19; "Four are Sentenced to Prison Terms," *Okmulgee Daily Times*, July 10, 1931, 2; Leuchtenburg, *The Perils of Prosperity*, 162.

²⁹ Ware, *Holding Their Own*, 55; Boardman, *Flappers, Bootleggers, "Typhoid Mary," & the Bomb*, 137; Allen, *Since Yesterday*, 58.

³⁰ Allen, *Since Yesterday*, 143; Bird, *The Invisible Scar*, 51, 289; Leuchtenburg, *The Perils of Prosperity*, 162.

worse news. In 1930, 1,350 banks failed with 256 in November alone, and bankers were singled out as the villains who precipitated the economic disaster. In 1931, 2,294 more banks collapsed, the European market crumbled, and panic spread throughout the country, worsening the Depression. In 1929, 3 million faced unemployment, but, just two years later, that number had risen to over 8 million.³¹ As a result, family incomes dropped by forty percent when compared to the years prior to the Depression. Close to 2 million young people wandered the nation aimlessly as hobos and various disturbances broke out in America's towns. Race and food riots broke out, and, in 1932, 273,000 people were evicted from their homes, leading a number of historians to compare the events of the Depression years to Europe's Middle Ages.³² Their dire condition led the homeless to live in shanty towns made of scraps, and these areas became known as "Hooverilles," named for the president.³³ People blamed Hoover for the condition of the country, and he failed to reassure the American people that circumstances would improve. He was reluctant to use federal resources in aiding the economic recovery. Hoover claimed that no one was starving, and citizens grew angrier at his remarks and inaction, spreading rumors

³¹ Watkins, *The Great Depression*, 13-14; Egan, *The Worst Hard Time*, 92, 95; Allen, *Since Yesterday*, 51; Louis W. Liebovich, *Bylines in Despair: Herbert Hoover, the Great Depression, and the U.S. News Media* (Westport, CT: Praeger Publishers, 1994), 149; Bird, *The Invisible Scar*, 24; Burg, *The Great Depression*, 64.

³² Young and Young, *The 1930s*, xvii; Bird, *The Invisible Scar*, 66, 281; Allen, *Since Yesterday*, 60; William Dudley, ed. *The Great Depression: Opposing Viewpoints* (San Diego: Greenhaven press, Inc., 1994), 25.

³³ William E. Leuchtenburg, *Herbert Hoover* (New York: Henry Holt and Company, 2009), 113.

of his incompetence.³⁴ The public perceived the millionaire president as “cold and heartless” and began booing him during his speeches.³⁵ With economic and social ills abounding, crime rates rose throughout the nation.

As a method of escape, thousands listened to popular radio broadcasts such as *The Shadow*, *The Green Hornet*, and *The Lone Ranger*. The movies also pulled in weekly audiences of eighty-five million from a population of 128 million, and Hollywood’s movie stars, such as Greta Garbo, Clark Gable, the Marx Brothers, and Shirley Temple, influenced their viewers’ lives and the fashion trends with women’s clothing designed to emphasize their curves. Babe Ruth and Lou Gehrig became household names when they both hit forty-six homeruns in 1931, playing for the New York Yankees.³⁶ Charles Lindbergh, “America’s Golden Boy,” had also made headlines in 1927 with his solo flight across the Atlantic in *The Spirit of St. Louis*, winning the Congressional Medal of Honor, and, fellow aviator, Wiley Post, a native Oklahoman, flew around the world in eight days in his plane, the *Winnie Mae* in

³⁴ Liebovich, *Bylines in Despair*, 137-38, 148; Athan G. Theoharis, *The FBI: A Comprehensive Reference Guide* (Phoenix: Oryx Press, 1999), 174; Leuchtenburg, *Herbert Hoover*, 130.

³⁵ Leuchtenburg, *Herbert Hoover*, 135, 140; Liebovich, *Bylines in Despair*, 143; Burg, *The Great Depression*, 347.

³⁶ Boardman, *Flappers, Bootleggers, “Typhoid Mary,” & the Bomb*, 119; Ware, *Holding Their Own*, xvi; Young and Young, *The 1930s*, xii, xv- xvii; Burg, *The Great Depression*, 75.

1931.³⁷ Transfixed by the radiocasts, listeners learned of the bank robbers and bandits who made fortunes from their crimes and outsmarted the police. The names of Al Capone, “Pretty Boy” Floyd, John Dillinger, “Machine Gun” Kelly, and Bonnie and Clyde splashed across the pages of newspapers, and multitudes glamorized their activities and were mesmerized by their adventures.³⁸ People followed the lives of these infamous individuals and lived vicariously through them, imagining a life filled with money and power. However, with robberies, murders, and other delinquent behaviors frequently occurring, it seemed America had returned to the violent Old West era.

Oklahoma was riddled with robberies, violence, and kidnappings in the 1930s and “Boomtowns” continued to be pockets of criminal activity. Charles “Pretty Boy” Floyd was the product of such an environment. Born in Georgia in 1904, he and his family moved to Oklahoma in 1911, and Floyd soon mixed with the wrong crowd. He committed his first holdup in St. Louis, Missouri, in 1925, and, during the Thirties, Floyd robbed more than fifteen banks in Kentucky, Missouri, Ohio, and Mississippi, as well as his adopted state.³⁹ Well known in the Sooner State, Floyd

³⁷ Leuchtenburg, *The Perils of Prosperity*, 271; Leuchtenburg, *Franklin D. Roosevelt and the New Deal*, 73; Burg, *The Great Depression*, 351; Baird and Goble, *Oklahoma: A History*, 217.

³⁸ Frederick Lewis Allen, *Only Yesterday: An Informal History of the 1920s* (New York: Harper & Row, Publishers, Inc., 1964), 224.

³⁹ William Helmer and Rick Mattix, *Public Enemies: America’s Criminal Past, 1919-1940* (New York: Facts On File, Inc., 1998), 14, 167-225; Lawrence Block, ed., *Gangster, Swindlers, Killers, & Thieves: The Lives & Crimes of Fifty American Villains* (New York: Oxford University Press, Inc., 2004), 82-83.

became a “hero to legions of disaffected dust bowlers” by robbing banks in the early Thirties and destroying bank loan records, making farm foreclosures more difficult.⁴⁰ Woody Guthrie, a singer, songwriter from Oklahoma, wrote the song “Pretty Boy Floyd,” praising Floyd and claiming he used the stolen money to aid needy families. Countless Oklahomans began to see Floyd as Robin Hood, stealing from the rich and helping the poor.⁴¹ A reporter wrote, after witnessing one of his crimes, that “it was like the hometown performance of a great actor who has made good on Broadway.”⁴² When the local police and federal agents shot him down on October 22, 1934, thousands attended his funeral.⁴³ Tabloid-readers, who sought to break away from their hard times, romanticized Floyd’s deeds as well as other criminals.

The stock market crash modified the political environment of the Thirties, and society experienced change as well. Snatching someone for financial gain dated back to biblical times, and, with little to deter the misdeed, ransom kidnappings increased dramatically. Americans’ faith in the president had faltered as did their belief that law enforcement could protect them. Abductions could mean large sums of money,

⁴⁰ Bryan Burrough, *Public Enemies: America’s Greatest Crime Wave and the Birth of the FBI, 1933-34* (New York: The Penguin Press, 2004), 20; Helmer and Mattix, *Public Enemies*, 240.

⁴¹ Wood Guthrie, “Pretty Boy Floyd,” *The Woody Guthrie Foundation*, <http://www.woodyguthrie.org> (accessed January 22, 2010); Helmer and Mattix, *Public Enemies*, 240.

⁴² Baird and Goble, *The Story of Oklahoma*, 381.

⁴³ Helmer and Mattix, *Public Enemies*, 225; Block, ed., *Gangster, Swindlers, Killers, & Thieves*, 84.

and, with the development of automobiles, the perpetrators could easily escape across state lines. In 1931, the police reported upwards of 300 kidnappings, and the numbers continued to rise as wealthy Midwestern families were preyed upon; some considered taking out insurance against the crime.⁴⁴ The citizens of St. Louis, Missouri, suffered a rash of kidnappings, and, in 1931, a committee formed, including the mayor and police chief, to press Congress for strong laws. These crimes merely reflected the general lawlessness of the early Thirties and some congressmen called for more legislation. Also in 1931, Senator Roscoe Conkling Patterson and Congressman John J. Cochran, both of Missouri, introduced bills in the Senate and the House of Representatives, respectively. They called to have kidnapping changed to a federal crime because local law enforcement lost authority when borderlines were crossed. However, the measures stalled in the House and the Senate, largely due to the infringement on state's rights.⁴⁵

⁴⁴ Athan Theoharis, *The FBI & American Democracy: A Brief Critical History* (Lawrence: University Press of Kansas, 2004), 38; Joseph M. Hawes and Elizabeth F. Shores, *The Family in America: An Encyclopedia* (Santa Barbara, CA: ABC-CLIO, Inc., 2001), 619; John Reisinger, *Master Detective: The Life and Crimes of Ellis Parker, America's Real-Life Sherlock Holmes* (New York: Kensington Publishing Corp., 2006), 95; Marie Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge: Cambridge University Press, 2006), 64; Claire Bond Potter, *War on Crime: Bandits, G-Men, and the Politics of Mass Culture* (New Brunswick: Rutgers University Press, 1998), 118.

⁴⁵ Paula S. Fass, *Kidnapped: Child Abduction in America* (New York: Oxford University Press, 1997), 107; Richard J. Gallagher, "Kidnapping in the United States and the Development of the Federal Kidnapping Statute," in Brian M. Jenkins, ed., *Terrorism and Personal Protection* (Boston: Butterworth Publishers, 1985), 129, 131; "Mitchell Presses Wide federal Hunt," *The New York Times*, March 4, 1932, 9; Gottschalk, *The Prison and the Gallows*, 64; Tim Onosko, *Wasn't the Future Wonderful?: A View of Trends and Technology from the 1930s* (New York: E.P.

The kidnapping of Charles Augustus Lindbergh, Jr., the son of “America’s Golden Boy,” from his home on March 1, 1932, changed the views of the congressional members and the public concerning the federal government’s involvement in crime.⁴⁶ The following day, newspapers filled their headlines with reports of the missing child, calling it the “crime of the century.”⁴⁷ An outpouring of sympathy and anger came forth from the public, and immediately, proposals went before Congress to enact legislation, making kidnapping a federal offense.⁴⁸ Charles C. Colden, District Attorney for Queens, New York, stated that kidnapping “is so horrible and the suffering it causes is so terrible that no mercy should be shown to criminals who instigate it.”⁴⁹ Senator John J. McNaboe of New York declared, “At no time in the history of the world has a crime shocked mankind as has the kidnapping of the baby of Colonel Lindbergh. Every family feels as though its own child has been suddenly snatched away. The kidnapping of the Lindbergh baby drove home to me the need for a law to curb such happenings.”⁵⁰ House and Senate leaders

Dutton, 1979), 783; Robert Isham Randolph, “Origin of the Lindbergh Law,” *The American Mercury* 48 (1939): 253.

⁴⁶ Leuchtenburg, *The Perils of Prosperity*, 271.

⁴⁷ James Ciment, ed., “Lindbergh Kidnapping,” *Encyclopedia of the Great Depression and the New Deal* (Armond, NY: M.E. Sharpe, Inc., 2001), 173.

⁴⁸ “Lindbergh Baby is Kidnaped (sic): U.S. Kidnaping (sic) Laws Sought,” *The Oklahoman*, March 2, 1932, 1, 10.

⁴⁹ States Rush Action on Kidnapping Laws,” *The New York Times*, March 3, 1932, 8.

⁵⁰ “Roosevelt Orders State Police Hunt,” *The New York Times*, March 3, 1932, 8.

quickly moved to enact a law, but held off, believing that the increased punishment would cause the abductors to end communications and disappear, lessening the chances of finding the Lindbergh baby alive. After the child was discovered to be dead, Congress passed the Federal Kidnapping Act, but President Hoover was reluctant to approve the bill, resisting a national war on crime. Eventually persuaded, the president signed the act into law on June 22, 1932. Becoming the first federal kidnapping legislation in America's history, the edict was popularly known as the Lindbergh Law.⁵¹

The presidential election later that year brought Franklin Delano Roosevelt (FDR) to the White House, carrying all but six states, and he and his administration were determined to wage a war on crime. During his campaign, Roosevelt promised to repeal Prohibition, to reduce tariffs, and to provide public and economic relief, and the response was overwhelming. The country wanted change, and, not since the election of Franklin Pierce in 1852, had a democrat been elected with a popular majority. The new administration first began by focusing on improving the economy, and the enthusiastic, confident, and magnetic FDR, unlike Hoover, utilized the radio

⁵¹ Horace L. Bomar, Jr., "The Lindbergh Law," *Law and Contemporary Problems* 1 (Oct., 1934): 436; Colin V. Ram, "Regulating Intrastate Crime: How the Federal Kidnapping Act Blurs the Distinction Between What Is Truly National and What Is Truly Local," *Washington & Lee Law Review* (Spring, 2008): 784; Gottschalk, *The Prison and the Gallows*, 64-65; Gallagher, "Kidnapping in the United States and the Development of the Federal Kidnapping Statute," in Jenkins, ed., *Terrorism and Personal Protection*, 132; Fass, *Kidnapped*, 177.

waves to reach the American people and layout his plans for a New Deal.⁵² Known as his fireside chats, Roosevelt was viewed as “folksy and appealing,” and he strove to reassure the people.⁵³ The people viewed the new president as their savior and their friend as well as their country’s leader. Roosevelt and his administration believed that society and the economy were closely connected.

Faced with the possible collapse of the nation’s banking system, FDR planned to use his political power to get America back on track by strengthening the economy through recovery programs. Within his first 100 days in office, Roosevelt created a number of so-called alphabet agencies to combat the Great Depression, to restore hope, and to rehabilitate the unemployed.⁵⁴ Among these were the CCC, AAA, HOCL, and the PWA. The Civilian Conservation Corps (CCC), provided jobs for out of work men; the Agricultural Adjustment Administration (AAA), reduced production of farm crops in order to raise their value; the Home Owners’ Loan Corporation (HOLC) strove to prevent home foreclosures by refinancing mortgages; and the Public Works Administration (PWA) provided money for construction projects, also creating more means of decreasing the unemployment rate. The new administration believed that when people were out of work, unrest developed, trouble

⁵² Burg, *The Great Depression*, 82, 118; Leuchtenburg, *Herbert Hoover*, 142; Liebovich, *Bylines in Despair*, 131.

⁵³ Liebovich, *Bylines in Despair*, 202.

⁵⁴ Allen, *Since Yesterday*, 65, 96; Watkins, *The Great Depression*, 18; Potter, *War on Crime*, 200; Bindas, *Remembering the Great Depression in the Rural South*, 63; Burg, *The Great Depression*, 107-110.

ensued, and riots broke out, but an individual who worked found pride in himself and his labor. As the New Deal progressed and infiltrated countless lives, the federal government expanded its role in social and economic matters, and, as a result, Americans developed a feeling of intimacy between themselves and their president.⁵⁵

When FDR took office in the spring of 1933, the number of dust storms were increasing in the Great Plains area, despair continued to be palpable, and newspapers across the nation filled their headlines with stories of kidnappings and robberies.⁵⁶ Writer Caroline Bird said that “In the Thirties, people acted as if they were lynching, bombing, strangling, and cutting each other up for the sheer hell of it,” and the peak of the Depression, saw “scores of suicides, murders, kidnappings, riots, lynchings, armed robberies, bomb scares, and jailbreaks.”⁵⁷ In July, 1933, the Roosevelt administration turned its attention to the rise in crime rates, viewing it as a reflection of society’s breakdown.⁵⁸

FDR assigned party loyalist Homer Cummings as the United States (U.S.) Attorney General, and the two immediately declared a war on crime. Cummings had received his law degree from Yale University in 1893 and practiced law in

⁵⁵ Burg, *The Great Depression*, 107-110; Watkins, *The Great Depression*, 18; Theoharis, *The FBI*, 175.

⁵⁶ Burrough, *Public Enemies*, 14.

⁵⁷ Bird, *The Invisible Scar*, 194.

⁵⁸ Potter, *War on Crime*, 123; Theoharis, *The FBI*, 175.

Connecticut prior to his new assignment.⁵⁹ Appointed as head of the Justice Department in 1933, Cummings strove to garner support for the New Deal programs and for federal involvement in law enforcement. In his eyes, for the country to be strong again, socially and economically, criminals needed to be punished and future wrongdoing deterred. The president agreed with Cummings and supported him in his endeavors, expecting the new U.S. Attorney General to be successful in reestablishing balance and progress. As a result, the war on crime became a large part of the New Deal policies.⁶⁰

In the early 1930s, the American citizens' indignation at the inability of the police to cope with the increasing lawless activity was only heightened by the kidnapping of the Lindbergh baby, creating a national focus on the epidemic of crime. Countless wanted the Lindbergh Law strengthened and called for more aggressive enforcement. FDR and Cummings prepared to meet their demands and respond to the hysteria gripping the nation. The Roosevelt administration planned to confront with offenses against the law the way it did with the failing economy, creating programs. The White House leaders used the war on crime to show the public the effectiveness of the New Deal, and the Lindbergh kidnapping became the catalyst used to attract public support for more reforms. This crime and the resulting legislation placed

⁵⁹ Burg, *The Great Depression*, 100; Burrough, *Public Enemies*, 14.

⁶⁰ Theoharis, *The FBI*, 175.

Arthur Gooch, who had suffered from and added to the ills of the Depression, on a collision course with his ultimate destiny and legacy.⁶¹

⁶¹ Fass, *Kidnapped*, 109.

CHAPTER II: THE CRIME OF THE CENTURY AND SUBSEQUENT LEGISLATION

Punishment for kidnapping can be found in the ancient Jewish law, outlined in the Bible. Exodus 21:16 states that “he that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death.”¹ Legislators presented various bills before Congress in an attempt to strengthen the laws against abductors, but these measures failed mostly due to the concern of encroaching on state’s rights. The kidnapping of Charles Augustus Lindbergh, Jr., son of the American aviator, changed the public’s mind about the direct involvement of the federal government in local law enforcement, resulting in the passage of legislation making kidnapping a federal offense when state lines were crossed. The change in attitude towards crime and subsequent laws in the wake of the Lindbergh baby kidnapping meant a harsh reality for Arthur Gooch.

In 1936, the state of New Jersey executed Bruno Richard Hauptmann for the crime, but historians and writers continue to dispute who was actually responsible for “Little Lindy’s” death. John Vreeland Haring, writing in 1937, concluded that the analysis of Hauptmann’s handwriting, when compared to the ransom note and other written communications with the kidnapper, proved that he was directly involved.² In

¹ The Holy Bible: Old and New Testaments in the King James Version, Nashville: Thomas Nelson Publishers, 1976, 127.

² John Vreeland Haring, *The Hand of Hauptmann: The Handwriting Expert Tells the Story of the Lindbergh Case* (Plainfield, NJ: The Hamer Publishing Company, 1937).

the same year, Thomas F. Rice penned his belief that United States (U.S.) Attorney General Homer Cummings and Bureau of Investigation Director J. Edgar Hoover suppressed evidence that could have proved Hauptmann's innocence. In 1976 and 1985, Antony Scaduto and Ludovic Kennedy, respectively, wrote books also claiming evidence had been suppressed, blaming the local and federal law enforcements.³

Two years after Kennedy's work, James Fisher, a former Federal Bureau of Investigation (FBI) agent and faculty member within the criminal justice department at Edinboro University, in Pennsylvania, studied the case for four years and decided that Hauptmann was guilty and the New Jersey police had acted properly.⁴ Most recently, however, four authors have argued their conclusion that Hauptmann was innocent. In 1993, Gregory Ahlgren and Stephen Monier, in a joint work, declared that Charles Lindbergh himself had accidentally killed his son when a practical joke went wrong. One year later, Noel Behn blamed the sister of Anne Morrow Lindbergh, Charles's wife, for the baby's demise and insisted that Lindbergh created the kidnapping claim to cover up his sister-in-law's crime. Lloyd C. Gardner, publishing in 2004, stated his belief that Hauptmann was either entirely innocent or a member of a gang that perpetrated that crime. A. Scott Berg asserted that any theory

³ Thomas F. Rice, "President Roosevelt Was Right – J. Edgar Hoover Was Wrong in the Lindbergh Case," (Brooklyn: Thomas F. Rice, 1938), 3; James W. Osterburg and Richard H. Ward, *Criminal Investigation: A Method for Reconstructing the Past* (Cincinnati: Anderson Publishing, 2004), 668; Ludovic Henry Kennedy, *The Airman and the Carpenter: The Lindbergh Kidnapping and the Framing of Richard Hauptmann* (New York: Viking Penguin, Inc., 1985), 5-8.

⁴ Osterburg and Ward, *Criminal Investigation*, 668.

that does not involve Hauptmann as the kidnapper and murderer is absurd.⁵ It may never be known what occurred the night the Lindbergh baby disappeared, but the matter still remains that the event led to significant changes in kidnapping laws.

The nation's attention was focused on the state of New Jersey in March, 1932. On the first day of that month, the son of "America's Golden Boy" vanished from his bed. Born on his mother's birthday, June 22, 1930, Charles Augustus Lindbergh, Jr., was the first born child of Charles and Anne Lindbergh. He had beautiful blonde curls and was the pride and joy of both parents. The American public admired "Lucky Lindy" but he often felt the need to escape the public's eye. The end of February, 1932, was such a time, and the couple, the baby, and their servants went to the family home in Hopewell, New Jersey, to rest and relax.⁶ Anne and their servant Betty put baby Charles to bed at 7:30 p.m. on March 1, but, at 10:00 p.m., his bed was empty. Lindbergh immediately ordered the butler to call the police, and, upon their arrival, they discovered a homemade ladder with a broken rung, impressions in the ground outside the baby's second floor window made by the ladder, shoe prints in the mud, and a three-quarter wood chisel. A ransom note was also found near the

⁵ Gregory Ahlgren and Stephen Monier, *Crime of the Century: The Lindbergh Kidnapping Hoax* (Boston: Branden Books, 1993); Osterburg and Ward, *Criminal Investigation*, 668; Lloyd C. Gardner, *The Case That Never Dies: The Lindbergh Kidnapping* (New Brunswick, NJ: Rutgers University Press, 2004); A. Scott Berg, *Lindbergh* (New York: G.P. Putnam's Sons, 1998).

⁶ Judy Monroe, *The Lindbergh Baby Kidnapping Trial: A Headline Court Case* (Berkeley Heights, NJ: Enslow Publishers, Inc., 2000), 15; Jeffrey Lehman and Shirelle Phelps, ed., *West's Encyclopedia of American Law* (Detroit: Thomson / Gale, 2005), 329; Diana M. Concannon, *Kidnapping: An Investigator's Guide to Profiling*, (New York: Academic Press, 2008), 12.

nursery window, demanding \$50,000 for the child's safe return. The kidnapper included a type of "signature" in the note to authenticate future written communication. It consisted of two blue intersecting circles with the converged area colored red with three square holes punched through the paper.⁷

The media declared that the kidnapping was the "crime of the century," and the public was shocked by the misdeed, reacting "as though a member of their own family had been snatched away."⁸ Their deep affection for Lindbergh, a hero in their minds, developed into anger when they saw the sorrow inflicted upon their adored aviator. Countless people viewed an attack on "Lucky Lindy" and his family as a direct "assault on American values," and the crime epitomized the "demoralization into which the country had fallen."⁹ Retired teacher, Dr. John F. Condon, outraged by the criminal act, wrote a letter, published by *The Bronx Home News*, offering to serve as an intermediary. The kidnapper replied to Condon and accepted his proposal, including his "signature." On the night of March 12, 1932, a cab driver arrived with a note, containing the captor's mark and instructions for Condon to

⁷ Anne Morrow Lindbergh, *Hour of Gold, Hour of Lead: Diaries and Letters of Anne Morrow Lindbergh, 1929-1932* (New York: Harcourt Brace Jovanovich, 1973), 226-27; Osterburg and Ward, *Criminal Investigation*, 662.

⁸ Charles Edwin Still, *Styles in Crimes* (New York: J.B. Lippincott Company, 1938), 127; Barrington Boardman, *Flappers, Bootleggers, "Typhoid Mary," & the Bomb: An Anecdotal History of the United States from 1923-1945* (New York: Harper & Row, Publishers, Inc., 1989), 144.

⁹ William H. Young and Nancy K. Young, *The Great Depression in America: A Cultural Encyclopedia* (Westport, CT: Greenwood Press, 2007), 295; Frederick Lewis Allen, *Since Yesterday: The 1930s in America* (New York: Harper & Row, Publishers, Inc., 1940), 67.

come, with the ransom money, in the Woodlawn Cemetery in the Bronx. Upon arriving, Condon met a man who called himself John and spoke with a German accent, but Condon had not brought the money, stating he first needed proof of the baby's well-being. The two talked for over an hour, and John, who never let Condon see his face, claimed to be only a go-between for the real kidnappers. The two parted with a promise from John of another meeting. Four days later, a package arrived at Condon's house, containing the baby's sleeping clothes and an accompanying note demanding \$70,000. On Saturday, April, 2, a letter arrived informing Condon of a second meeting, this time in St. Raymond's Cemetery. At the confrontation, John demanded the cash in exchange for a note containing the location of the baby, and the deal was made.¹⁰

Meanwhile, the New Jersey police followed up on leads and examined the evidence. New Jersey State Police Superintendent Colonel Norman Schwarzkopf removed the media from the scene and secured the area, but, if there had been other clues, the curiosity seekers had destroyed them. The investigators found no fingerprints on the ladder and those found in the nursery could all be identified as belonging to the family or servants. The examiners concluded that the kidnapper must have worn gloves.¹¹ Lieutenant John J. Sweney of the Newark Police Department used the ladder to recreate the crime and understand the kidnapper's moves. New Jersey Governor A. Harry Moore offered a \$25,000 reward to anyone

¹⁰ Osterburg and Ward, *Criminal Investigation*, 662; Berg, *Lindbergh*, 255-66.

¹¹ Monroe, *The Lindbergh Baby Kidnapping Trial*, 26-27.

with information leading to the baby's safe return; he later withdrew this offer at Lindbergh's request, fearing possible endangerment to the child.¹² The detectives interviewed all of the servants and determined that Violet Sharpe, the English maid, was hiding something. They pressed her further and interviewed her several times, but she refused to answer questions concerning her personal life. After learning of a scheduled second interrogation, Ms. Sharpe drank cyanide chlorine, a cleaning solvent, and died. Later inquiry revealed that she had no connection to the kidnapping but was hiding an affair with the butler.¹³

The note given to Condon with directions to the baby's location yielded nothing. On May 12, William Allen, a trucker who had stopped on the side of the road four miles from the Lindbergh's Hopewell home, discovered the decomposed remains of Charles Lindbergh, Jr. The resulting autopsy, performed by Dr. Charles H. Mitchell, revealed that he had died from a blow to the head shortly after the kidnapping. Lindbergh ordered his son to be cremated to avoid the hordes of curiosity seekers attempting to view the body or visit the gravesite.¹⁴

Turning their attention to their best piece of evidence in finding the kidnapper and now killer, the police instructed Arthur Koehler, a wood technologist, to examine the ladder. Studying each rail and rung, Koehler discovered that the sixteenth rail had

¹² Jim Fisher, *The Lindbergh Case* (New Brunswick, NJ: Rutgers University Press, 1987), 22.

¹³ Berg, *Lindbergh*, 279.

¹⁴ Berg, *Lindbergh*, 271, 273-74.

four square nail holes that suggested prior usage, and the lack of rust and weathering led him to conclude the board came from someone's garage or attic. Koehler also deduced, from the lack of wear on the rungs, that the ladder had been made especially for the kidnapping.¹⁵

Prior to the abduction of the Lindbergh baby, kidnapping was a misdemeanor, and congressional bills changing the act to a federal offense had failed. An abduction directly affecting "America's Golden Boy" provided the needed "catalyst for a radical change in federal policy."¹⁶ The people's emotional reaction and their public outcries urged Congress to act quickly, increasing the severity of the crime and punishment. President Herbert Hoover signed the Federal Kidnapping Act into law on June 22, 1932, and it stated:¹⁷

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whoever shall knowingly transport or cause to be transported, or aid or abet in transporting, in interstate or foreign commerce, any person who shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped (sic), abducted, or carried away by any means whatsoever and held for ransom or reward shall, upon conviction, be punished by imprisonment in the penitentiary for such term of years as the court, in its discretion, shall determine: Provided, That the term "interstate or foreign commerce" shall include transportation from any State, Territory, or the District of Columbia to another State, Territory, or the District of

¹⁵ Berg, *Lindbergh*, 296-97; Osterburg and Ward, *Criminal Investigation*, 665.

¹⁶ Athan Theoharis, *The FBI & American Democracy: A Brief Critical History* (Lawrence: University Press of Kansas, 2004), 41.

¹⁷ Richard J. Gallagher, "Kidnapping in the United States and the Development of the Federal Kidnapping Statute," in Brian M. Jenkins, ed. *Terrorism and Personal Protection* (Boston: Butterworth Publishers, 1985), 132; John Reisinger, *Master Detective: The Life and Crimes of Ellis Parker, America's Real-Life Sherlock Holmes* (New York: Kensington Publishing Corp., 2006), 239.

Columbia, or to a foreign country; or from a foreign country to any State, Territory, or the District of Columbia: Provided further, That if two or more persons enter into an agreement, confederation, or conspiracy to violate the provision of the foregoing Act and do any overt act toward carrying out such unlawful agreement, confederation, or conspiracy such person or persons shall be punished in like manner as hereinbefore provided by this Act.¹⁸

However, a few immediately declared the popularly named Lindbergh Law too lenient.¹⁹

More than a year after the kidnapping, the ransom money produced more clues for the police to examine. On April 5, 1933, President Franklin Roosevelt (FDR) ordered all gold coins and gold certificates of \$100 or more be deposited or exchanged at a Federal Reserve Bank by May 1. The president issued this directive to prevent the hoarding of gold by the nation's citizens, to replenish the depleted gold reserves, and to halt bank failures.²⁰ On May 1, a man of German descent entered a New York bank and deposited \$2,980, signing the slip as J. J. Faulkner; the bills were later identified as part of the ransom money. However, the authorities never located the man, but the combination of the recall and the recorded serial numbers of the bills given to the kidnapper precipitated an eventual arrest one and a half years later.²¹

¹⁸ *Federal Kidnapping Act of 1932*, Public Law 72-190, *U.S. Statues at Large* 47 (June 22, 1932): 326.

¹⁹ Michael Newton, *Stolen away: The True Story of California's Most Shocking Kidnap-Murder* (New York: Pocket Star Books, 2000), 362.

²⁰ "Gold Coin, Gold Bullion and Gold Certificates Are Required to Be Delivered to the Government. Executive Order No. 6012, April 5, 1933, *The Public Papers and Addresses of Franklin D. Roosevelt*: 114-15, Courtesy of HeinOnline.org.

²¹ Berg, *Lindbergh*, 297.

One year after the enactment of the Lindbergh Law, federal authorities and the courts used it to arrest and convict the notorious George “Machine Gun” Kelly. Charles F. Urschel, a wealthy Oklahoma oilman, was sitting on his porch, playing cards, on the night of July 22, 1933. Two armed men approached his Heritage Hills mansion and took Urschel at gun point. Four days later, J.G. Catlett, a friend of Urschel’s, received a package containing four letters; one was addressed to E. E. Kirkpatrick, another friend and writer for the *Daily Oklahoman*. The note demanded \$200,000 in return for Urschel’s release and, knowing the authorities recorded the serial numbers of the bills, warned that their captive would remain in their custody until the money had been exchanged for unmarked currency. Further instructions called for Kirkpatrick to go to the Muehlebach Hotel in Kansas City, Missouri, on July 29, with the ransom money, and wait to be contacted. Kirkpatrick did as ordered, and he received a telephone call upon his arrival the following day, directing him to the LaSalle Hotel. While walking to the new location, a man approached him, identified himself as the contact, and confiscated the bag of money. Charles Urschel was then driven to Norman, Oklahoma, on July 31, and released.²²

Upon arriving home and regaining his composure and strength, the police interviewed Urschel, and he was able to give them specific details about his captivity. With the new intelligence of the kidnapping involving the crossing of state lines, the

²² Federal Bureau of Investigation (FBI) History, Famous Cases, “George “Machine Gun” Kelly,” <http://www.fbi.gov/libref/historic/famcases/kelly/kelly.htm> (accessed January 28, 2010); Ken Butler, *More Oklahoma Renegades*. Gretna (LA: Pelican Publishing Company, Inc., 2007), 71, 80; Ron Owens, *Jelly Bryce: Legendary Lawman* (Paducah, KY: Turner Publishing Co., 2003), 89.

crime was classified as a federal offence and government agents took over the investigation. Following his information, the authorities determined that Urschel had been taken to Paradise, Texas, by George “Machine Gun” Kelly and Albert Bates; Kelly’s wife, Kathryn, was also directly involved. The criminals had taken their captive to a farm owned by Kathryn’s mother, Ora, and stepfather, Robert Shannon. A raid on August 12, at the Shannon farm resulted in the arrests of Mr. and Mrs. Shannon. Agents tracking Bates located him in Denver, Colorado, and took him into custody. Federal authorities located Kelly and his wife in Memphis, Tennessee, on September 26, with Kelly supposedly yelling his famous lines, “Don’t shoot, G-Men!,” referring to the government agents.²³ Bates and the Shannons were convicted of kidnapping under the Lindbergh Law and sentenced to life in prison on October 7, 1933, and George “Machine Gun” Kelly and Kathryn received the same punishment five days later.²⁴ Kelly was sent to Alcatraz.

The Urschel kidnapping made national news and tested the strength of the Federal Kidnapping Act. U.S. Attorney General Homer Cummings spoke out about the crime, and he condemned the act and the perpetrators, insisting that their convictions were “distinct achievements” in the struggle to rein in gangsters and

²³ Lawrence Block, ed., *Gangster, Swindlers, Killers, & Thieves: The Lives & Crimes of Fifty American Villains* (New York: Oxford University Press, Inc., 2004), 125.

²⁴ Federal Bureau of Investigation (FBI) History, Famous Cases, “George “Machine Gun” Kelly,” <http://www.fbi.gov/libref/historic/famcases/kelly/kelly.htm> (accessed January 28, 2010).

bandits.²⁵ He also seized the opportunity to praise the involvement of the federal agents, giving them credit for the quick resolution and portraying them as heroes. The crime compelled Oklahoma Senator Thomas P. Gore to recommend an amendment be added to the Federal Kidnapping Act, allowing the death penalty, and Cummings was intent on that as well.²⁶

In the summer, 1933, President Roosevelt, along with Cummings, pledged a war on crime with an emphasis on ending the wave of abductions for financial gain, and the two men exploited, according to Historian Kenneth O'Reilly, the "sensational crimes to advance specific legislative objectives."²⁷ Taking advantage of the heightened alarm and reactions to the Lindbergh kidnapping, the Roosevelt administration increased the power and influence of the federal government's position within law enforcement. With FDR's support, Cummings, as head of the Justice Department, took the lead and, seeing a political opportunity, used the widespread fear to design an anticrime program as well as develop a public relations campaign to

²⁵ "Trial of American Kidnappers," *Times* (London), October 22, 1933, 13.

²⁶ E.E. Kirkpatrick, *Crimes' Paradise: The Authentic Inside Story of the Urschel Kidnapping* (San Antonio: The Naylor Company, 1934), 246-47; Marie Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge: Cambridge University Press, 2006), 68; A.W. Neville, *The Red River Valley, Then and Now* (Paris: North Texas Publishing Company, 1948), 141.

²⁷ Kenneth O'Reilly, "A New Deal for the FBI: The Roosevelt Administration, Crime Control, and National Security," *The Journal of American History* 69 (Dec., 1982): 642; Claire Bond Potter, *War on Crime: Bandits, G-Men, and the Politics of Mass Culture* (New Brunswick: Rutgers University Press, 1998), 123; Gottschalk, *The Prison and the Gallows*, 65.

draw support for a strong federal police force.²⁸ In a series of speeches, Cummings stated that the main task of the Department of Justice was to prove that crime did not pay, and he iterated that the United States was “no longer a Nation whose problems are local and isolated,” but that “every economic and social problem is both local and national.”²⁹ Crime control, according to Cummings, had to be repressive, punitive, preventative, and reformatory, and he urged the American public to support laws that strove to capture criminals who hid in the “twilight zone” between state and federal jurisdictions.³⁰ The U.S. Attorney General said he understood that the Depression had created difficult circumstances for the nation’s young people and had limited their opportunities, causing several to drift into lawlessness. He further declared that the “loss of employment or unemployability of the father of a family or any other mischance which induces real poverty is, of course, another cause of juvenile delinquency.”³¹ Invoking the name of Lindbergh, Cummings declared kidnappers to be menaces to society, and he explained that new transportation and highways called

²⁸ Athan G. Theoharis, *The FBI: A Comprehensive Reference Guide* (Phoenix: Oryx Press, 1999), 13; Athan Theoharis and John Stuart Cox, *The Boss: J. Edgar Hoover and the Great American Inquisition* (Philadelphia: Temple University Press, 1988), 121-22.

²⁹ Homer Cummings, *Modern Tendencies and the Law* (Washington: United States Government Printing Office, 1934), 3; Homer Cummings, *The National Government’s Law Office* (Washington: United States Government Printing Office, 1937), 6.

³⁰ Homer S. Cummings, *We Can Prevent Crime* (New York: Macfadden Publications, Inc., 1937), 25; Cummings, *The National Government’s Law Office*, 6-7.

³¹ Homer S. Cummings, *Addresses by Attorney General Homer S. Cummings, 1933-1938* (Washington, D.C.: United States Government Print Office, 1933-1938), 3, 5.

for more involvement by the federal government in interstate crime.³² Cummings also used his position of authority and connection with FDR to link his war on crime with New Deal politics and policies. By the fall, 1933, it had become part of the “fight to overcome the Depression” and a “centerpiece of Roosevelt’s push to centralize many facets of American government.”³³

As part of his anticrime crusade, Cummings wanted a menacing prison for the federal government’s use that sent the message that crime did not pay. In October, 1933, the Justice Department acquired Alcatraz from the War Department for such a purpose. Located in the middle of San Francisco Bay, the island was isolated and surrounded by frigid, shark-infested waters and had once been a military fort that then changed over to an army prison. The large building could be seen from shore, and Cummings was determined to have it serve as an “ominously visible monument,” threatening those who dared to break the law.³⁴ Acquiring the names “The Rock” and “Devil’s Island,” Alcatraz housed many dreaded criminals from the 1930s and those who had become celebrities through their misdeeds; George “Machine Gun” Kelly

³² Cummings, *Addresses by Attorney General Homer S. Cummings, 1933-1938*, 14.

³³ Potter, *War on Crime*, 9, 118-120; Bryan Burrough, *Public Enemies: America’s Greatest Crime Wave and the Birth of the FBI, 1933-34* (New York: The Penguin Press, 2004), 59.

³⁴ William Helmer and Rick Mattix, *Public Enemies: America’s Criminal Past, 1919-1940* (New York: Facts On File, Inc., 1998), 278.

was sent there after being convicted of kidnapping Charles Urschel, and Al Capone served five years within its walls.³⁵

The New Jersey police, meanwhile, had still not solved the Lindbergh kidnapping or identified any suspects, and FDR, showing his support for federal control of a war on crime, ordered the Bureau of Investigation to take over the case.³⁶ The Roosevelt administration strove to demonstrate to the American people that the increase in lawlessness was a direct reflection of society's breakdown and that "economic order rested on social order."³⁷ Louis M. Howe, FDR's personal secretary, also announced that a "war on crime was consistent with New Deal goals."³⁸ The campaign, begun by Cummings and supported by the Roosevelt administration, garnered the public's support and resulted in a dramatic budget increase for the Bureau as well as expansion of its jurisdiction.³⁹

Furthering his plan, President Roosevelt's annual address to Congress on January 3, 1934, called for more aggressive laws and further government involvement. FDR argued that "crimes of organized banditry, coldblooded shooting, lynching, and kidnapping have threatened our security," and that "these violations of

³⁵ Helmer and Mattix, *Public Enemies*, 9, 17, 224, 278.

³⁶ Theoharis, *The FBI*, 13.

³⁷ Potter, *War on Crime*, 200; Theoharis, *The FBI*, 175.

³⁸ Potter, *War on Crime*, 122.

³⁹ Kenneth O'Reilly, "The Roosevelt Administration and Black America: Federal Surveillance Policy and Civil Rights during the New Deal and World War II Years," *Phylon* 48 (1st Qtr., 1987): 12-13.

law call on the strong arm of Government for their immediate suppression.”⁴⁰ In agreement with the president, Cummings revealed his Twelve Point Program, in February, 1934, to continue the anticrime campaign. His agenda included amending the Federal Kidnapping Act to include the death penalty, registration for weapons, federal jurisdiction extended to protect any bank insured by the Federal Deposit Insurance Corporation (FDIC), a restriction on the importation of weapons, and making it a federal offence to wound or kill a federal officer. At the urging of FDR, the Seventy-Third Congress approved six of the twelve bills in May, 1934, and another three in the following month; the president then signed them into law.⁴¹ As a result of Roosevelt’s pressing, the Seventy-Third Congress had passed more legislation for federal crime control than any previous assembly, and, according to Cummings, had “wisely provided additional appropriations for equipment, personnel, laboratories, scientific apparatus, and the like” to aid in the empowerment of federal authorities for the “eradication of crime.”⁴²

⁴⁰ “Annual Message to the Congress, January 3, 1934,” in Samuel L. Rosenman, ed., *The Public Papers and Addresses of Franklin D. Roosevelt* (New York: Random House, 1938), vol. 3, page 12-13. Volume and page number hereafter cited as 3:12.

⁴¹ Helmer and Mattix, *Public Enemies*, 271; “Statement on Signing Bill to Help the Federal Government Wage War on Crime and Gangsters, May 18, 1934,” in Rosenman, ed., *The Public Papers and Addresses of Franklin D. Roosevelt*, 3: 243-44; Theoharis, *The FBI*, 113; O’Reilly, “A New Deal for the FBI,” 643; Theoharis and Cox *The Boss*, 128; Potter, *War on Crime*, 124.

⁴² Theoharis, *The FBI*, 175; Homer Cummings, “Progress Toward a Modern Administration of Criminal Justice in the United States” (Washington: United States Government Printing Office, 1938), 5-7.

The amendment to the so-called Lindbergh Law, included in the Twelve Point Program, stated:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 22, 1932 be, and the same is hereby amended to read as follows:

“Whoever shall knowingly transport or cause to be transported, or aid or abet in transporting, in interstate or foreign commerce, any person who shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped (sic), abducted, or carried away by any means whatsoever and held for ransom or reward or otherwise, except, in the case of a minor, by a parent thereof, shall, upon conviction, be punished (1) by death if the verdict of the jury shall so recommend, provided that the sentence of death shall not be imposed by the court if, prior to its imposition, the kidnaped, person has been liberated unharmed, or (2) if the death penalty shall not apply nor be imposed the convicted person shall be punished by imprisonment in the penitentiary for such term of years as the court in its discretion shall determine: Provided, That the failure to release such person within seven days after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away shall create a presumption that such person has been transported in interstate or foreign commerce, but such presumption shall not be conclusive.

SEC. 2. The term ‘interstate or foreign commerce,’ as used herein, shall include transportation from one State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia, or to a foreign country, or from a foreign country to any State, Territory, or the District of Columbia.

SEC. 3. If two or more persons enter into an agreement, confederation, or conspiracy to violate the provisions of the foregoing Act and do any overt act toward carrying out such unlawful agreement, confederation, or conspiracy, such person or persons shall be punished in like manner as hereinbefore provided by the Act.⁴³

The addition of the death penalty and requiring all individuals engaged in a criminal alliance to be accountable for the act of one would soon place Arthur Gooch on the path to the gallows for his lawless acts.

⁴³ *Federal Kidnapping Act of 1932, Amended, Public Law 73-232, U.S. Statues at Large 48 (1934): 781-82.*

FDR continued to declare that “crime is a symptom of social disorder,” and national interests needed to center on the corruption problem and pass “measures to deal with it.”⁴⁴ The president stated that it was a “constant struggle to safeguard ourselves against attacks of the lawless and the criminal elements of our population.”⁴⁵ With the authority provided by Roosevelt, Cummings reorganized the Department of Justice to bring action against felonies “perhaps in order to increase prosecutions,” bringing in support of the nation and reinforcing the Bureau’s “reputation for honesty.”⁴⁶ Their joint efforts were a success, and the people welcomed more federal involvement in their lives and in the local law enforcement. The anticrime crusade resulted in the widespread search for John Dillinger, Charles “Pretty Boy” Floyd, and George “Baby Face” Nelson, ending in the deaths of all three in 1934 by federal agents.⁴⁷ However, the Lindbergh case had still not been resolved.

On September 18, 1934, over two years after the kidnapping and death of the Lindbergh baby, a man purchased gas in the Bronx using a ten dollar gold note. The station manager, Walter Lyle, knew that the gold standard was no longer being used and suspected the bill was a fake. He wrote the license plate of the paying customer

⁴⁴ “Address to the Conference on Crime Called by the Attorney General of the United States, December 10, 1934,” in Rosenman, ed., *The Public Papers and Addresses of Franklin D. Roosevelt*, 3: 493, 495.

⁴⁵ Address to the Conference on Crime Called by the Attorney General of the United States, December 10, 1934,” in Rosenman, ed., *The Public Papers and Addresses of Franklin D. Roosevelt*, 3: 492.

⁴⁶ Potter, *War on Crime*, 119.

⁴⁷ Theoharis, *The FBI*, 55.

on the bill and called the police. The information provided by Lyle led the authorities to the home of Bruno Richard Hauptmann, a German born carpenter. They took him in for questioning, but he stated he had nothing to do with the abduction. Later, the police searched his home and, hidden in his garage, they found nearly \$15,000 in gold notes with serial numbers matching those from the ransom money. They also discovered that Hauptmann's home was filled with new and expensive furniture. Further inspection revealed that Hauptmann had a set of carpentry tools but was missing a three-quarter chisel, of the same make and model as the one discovered at the Lindbergh kidnapping site.⁴⁸

The authorities returned to question Hauptmann and inform him of their finding. When asked if he had any previous arrests, he answered in the negative, but, upon further investigations, the police learned that Hauptmann had been convicted in Germany of grand larceny and armed robbery. In committing the first crime, Hauptmann had used a ladder to enter a second story window, same as the kidnapper of the Lindbergh baby. Confronted with questions concerning the ransom, he denied having any of the gold notes. The police informed him of finding the money in his garage, and, immediately, Hauptmann claimed that the currency belonged to his friend, Isidor Fisch, who had returned to Germany. However, Fisch died before the authorities could verify Hauptmann's accusation. Pressed further, Hauptmann continued to proclaim his innocence and refused to admit having any knowledge of

⁴⁸ Berg, *Lindbergh*, 297-300; Osterburg and Ward, *Criminal Investigation*, 664-65.

the Lindbergh kidnapping.⁴⁹ Law enforcement, in “one of the most thorough and dramatic manhunts in the history of American crime,” believed otherwise and charged him.⁵⁰

In 1932, when the Lindbergh baby was taken, kidnapping, in New Jersey, was a misdemeanor and carried a maximum sentence of twenty years in prison. Additionally, the state’s felonious burglary laws did not cover stealing a child.⁵¹ The newly enacted Federal Kidnapping Act could not be used against Hauptmann since the abduction occurred before the law had been established. However, New Jersey Attorney General David Wilentz was not satisfied with allowing Hauptmann to be charged with a minor offense, and he developed the idea to indict Hauptmann with “statutory felony murder in the course of a burglary.”⁵² Essentially, the state charged the accused with the death of the Lindbergh baby that occurred in the course of stealing the child’s pajamas. In January, 1935, thousands of journalists, newsreel operators, and celebrities descended upon the small town of Flemington, New Jersey, for the trial. Viewers watched and listened as the prosecution pointed out that the

⁴⁹ Berg, *Lindbergh*, 300-02.

⁵⁰ Negley King Teeters and Jack H. Hedblom ... *Hang by the neck ... The Legal Use of Scaffold and Noose, Gibbet, Stake, and Firing Squad from Colonial Times to the Present* (Springfield, IL: Charles C. Thomas, 1967), 331.

⁵¹ Still, *Styles in Crimes*, 128; Joshua Dressler, ed., *Encyclopedia of Crime and Justice* (New York: Macmillan Reference USA, 2002), 972.

⁵² Still, *Styles in Crimes*, 128; Sanford H. Kadish, ed., *Encyclopedia of Crime and Justice*, “Identification to Psychology and Crime,” (New York: The Free Press, A Division of Macmillan, Inc., 1983), Vol. 3, page 994.

man on trial made little money, but, when his house was searched by police, they found it decorated with new and expensive furnishings. Wilentz revealed that the four holes, identified by Arthur Koehler, a wood technologist, in rail sixteen of the ladder used to reach the child's nursery window matched a joist board located in Hauptmann's attic. After studying the ransom notes and other written correspondence with the kidnapper, eight handwriting experts determined the accused man had penned them.⁵³ It was known, from Condon's meetings with the man in the cemeteries, that "John" was German, and there were numerous misspellings in the received notes that also indicated the same ethnicity: "aus" used for "out," "gut" rather than "good," "ouer" for "our," "dank" instead of "thank."⁵⁴ Furthermore, police found Condon's name and address written on the inside of Hauptmann's closet, and the man on trial could not produce any solid alibis to counteract the evidence presented to the jury. Casting an even wider net of suspicion, the prosecution stated that Hauptmann was very secretive, and his own wife, Anna, did not know his first name was Bruno until the newspapers published it. Edward J. Reilly, chief of the defense, argued against the prosecution's claims, and he pointed out that the police had no evidence placing the accused at the scene of the crime and that Hauptmann's fingerprints had not been found on the ladder or in the nursery.

⁵³ Osterburg and Ward, *Criminal Investigation*, 667; Berg, *Lindbergh*, 335.

⁵⁴ Osterburg and Ward, *Criminal Investigation*, 665-66.

However, on February 13, 1935, after deliberations, the jury voted unanimously, finding the defendant guilty and sentencing him to death.⁵⁵

Hauptmann's trial developed from one of the most dramatic investigations in U.S. history, and the "crime of the century" increased the powers and jurisdiction of the Bureau of Investigation.⁵⁶ Local law enforcement had failed to find a suspect after one year, but, empowered by the president, federal agents intervened in a kidnapping case for the first time in the Bureau's history and helped solve the crime, calming the fears of the American people. The reverence for gangsters and bandits declined among the public. The "G-Men" were the new heroes, and even Hollywood proclaimed it, producing thirty-five movies, in 1935, featuring federal agents. Between 1932 and 1935, the Bureau doubled the number of agents; Congress increased its appropriations by seventy-two percent; and it officially became known as the Federal Bureau of Investigation (FBI).⁵⁷

By the end of 1935, Charles Lindbergh wanted to escape the spotlight and media and not even the development of federal law enforcement could alleviate his apprehensions. With his and Anne's new son, Jon, born in August, 1932, he decided the family should sail for England on December 21; Lindbergh chose Great Britain

⁵⁵ Berg, *Lindbergh*, 334-35; Still, *Styles in Crimes*, 128; Osterburg and Ward, *Criminal Investigation*, 667; Geoffrey A. Campbell, *The Lindbergh Kidnapping* (San Diego, Lucent Books, 2003), 88.

⁵⁶ William H. Young and Nancy K. Young, *The 1930s* (Westport, CT: Greenwood Press, 2002), xviii; Young and Young, *The Great Depression in America*, 295.

⁵⁷ Block, ed., *Gangster, Swindlers, Killers, & Thieves*, 125; Jay Robert Nash, *The Great Pictorial History of World Crime* (Wilmette, IL: History, Inc., 2004), 623; Theoharis, *The FBI*, 176; Theoharis, *The FBI & American Democracy*, 43.

because he believed its people had a “greater regard for law and order.”⁵⁸ The couple had received numerous letters demanding money and threatening to kidnap Jon, and Lindbergh had become increasingly uneasy about leaving his wife and child at home while he was away on business. Their departure shocked the public, and congressmen immediately called for enforcement of legislation and harsher penalties for breaking the law.⁵⁹ Florida Senator Duncan U. Fletcher said, “When Colonel Lindbergh, one of America’s outstanding young men, is forced to flee his country because of fear of racketeers and gangsters, we must take immediate action.... We must not stand branded as a country of outlaws.”⁶⁰ In agreement, Representative Sol Bloom of New York added that “Something should be done to make punishment more severe and more certain.”⁶¹ Americans demanded that they and their heroes be protected and the criminals stopped and punished.

Neither life sentences nor the threat of imprisonment on “The Rock” had deterred individuals from kidnapping for financial gain, leading legislators to believe that the answer to stopping the rising crime rates was the death penalty. The

⁵⁸ Lauren B. Lyman, “Lindbergh Family Sails For England To Seek A Safe, Secluded Residence; Threat On Son’s Life Force Decision,” *The New York Times*, December 23, 1935, 1.

⁵⁹ Berg, *Lindbergh*, 281, 283, 340, 346; Lauren B. Lyman, “Lindbergh Family Sails For England To Seek A Safe, Secluded Residence; Threat On Son’s Life Force Decision,” *The New York Times*, December 23, 1935, 1, 3.

⁶⁰ “Capital Discusses New Crime Laws,” *The New York Times*, December 24, 1935, 1, 2.

⁶¹ “Capital Discusses New Crime Laws,” *The New York Times*, December 24, 1935, 2.

Lindbergh Law and its subsequent amendment allowed for federal agents to take control of the investigation if state lines had been crossed. Whereas the original edict allowed for life imprisonment, the amended act permitted the death penalty to be enforced if the victim was harmed while being transported into another state.⁶² However, abductions without injury were rare, and the law made no distinction between intentional and inadvertent injuries. Further, the words “or otherwise” signified that kidnappings for almost any purpose could be prosecuted under the Lindbergh Law. The new Federal Kidnapping Act, however, did not deter individuals intent on committing the crime, and numerous abduction cases were investigated between 1932 and 1934.⁶³ When Arthur Gooch began breaking the law in 1930, he probably would not have imagined his path leading him to have his name appear next to Lindbergh’s.

⁶² Hugo Adam Bedau, ed., *The Death Penalty in America* (New York: Oxford University Press, 1982), 100; Young, and Young, *The Great Depression in America*, 294; Joseph M. Hawes and Elizabeth F. Shores, *The Family in America: An Encyclopedia* (Santa Barbara, CA: ABC-CLIO, Inc., 2001), 620; “A Rationale of the Law of Kidnapping,” *Columbia Law Review* 53 (Apr., 1953): 549.

⁶³ “A Rationale of the Law of Kidnapping,” *Columbia Law Review* 53 (Apr., 1953): 549-50; Horace L., Jr. Bomar, “The Lindbergh Law,” *Law and Contemporary Problems* 1 (Oct., 1934): 438.

CHAPTER III: ARTHUR GOOCH: THE BEGINNINGS OF A LIFE OF CRIME

Arthur Gooch grew up in Okmulgee during the prosperous 1920s, but his life was anything but easy. He lost his father, James Edward Gooch, at the age of eight, and his mother, Adella Ussery-Gooch, could neither read nor write and worked menial jobs. Named for a paternal uncle, his family called him “Little Arthur,” but, after the death of his father, the closeness with many of his relatives diminished. By 1920, Adella was forty-four years old, had buried her husband and three of her seven children, and taken in her widowed brother and his son and two daughters. While Oklahoma and the country flourished, they lived in extreme poverty. At the age of seven, the blue-eyed, black-haired Gooch peddled apples on the streets of Okmulgee and began stealing to help care for his mother. In 1923, at the age of fifteen, Gooch dropped out of school to find work, having only progressed to the sixth grade.¹ Left

¹ Bureau of the Census, Fourteenth Census of the United States (1920), Severs Township, Okmulgee County, Oklahoma, Enumeration District 124, Sheet 20B, Family No. 460, Courtesy of www.ancestry.com (accessed April 6, 2009); Bureau of the Census, Thirteenth Census of the United States (1910), Okfuskee Township, Okfuskee County, Oklahoma, Enumeration District 142, Sheet 6B, Family No. 167, Courtesy of www.ancestry.com (accessed April 6, 2009); Willadean Smeltzer, Interview by Leslie Jones, Tape recording, March 7, 2009, Research Center, Oklahoma History Center, Oklahoma City, Oklahoma; Lenora Holland, Interview by Leslie Jones, Tape recording, March 7, 2009, Oklahoma History Center, Oklahoma City, Oklahoma; Janice Jones, Interview by Leslie Jones, Tape recording, January 23, 2009, Research Center, Oklahoma History Center, Oklahoma City, Oklahoma. Author also visited the gravesite of James Edward Gooch, located in the Welty, Oklahoma, cemetery and the graveside of Arthur Gooch, located in the Okmulgee cemetery, to confirm birth and death dates; “Gooch Goes to Gallows 5am Friday,”

without a father and little money, Gooch's life deteriorated from desperate to criminal. As the Depression began, his misdeeds mounted on top of one another, and, in the end, the only legacy he left was being the first person executed under the Lindbergh Law.

By the mid-1920s, Gooch found work at a local grocery store and was the sole supporter of his mother. Working in the butchery, he became acquainted with a fellow employee, Mary Lawrence, and they married in 1927. Happy and content, the couple was soon expecting a baby, but, after the birth of their son Billy Joe, Mary quit her job, and family life changed. The two started quarreling, and Gooch dreaded going home after work. Soon, he passed the nights, drinking and carousing. On September 25, 1930, when his son was only one month old, the Okmulgee police arrested Gooch for forgery, later dismissing the charge. In July of the following year, he, now unemployed, and four other men, Jesse Bohein, Charles Banks, G.E. Green, and Willie Carter, were arrested for stealing and stripping two cars; one vehicle belonged to A.D. Adcock, an oilfield worker, and the other to Deputy Sheriff Harry DeVinne.² Presented before Judge Mark L. Bozarth, Gooch and George Green pled guilty to grand larceny and received a sentence of eighteen months in the McAlester

McAlester Democrat, June 18, 1936, 1-2; Arthur Gooch, "Gooch Advises 'Shun Whiskey' in Last Words," *Okemah Daily Leader*, June 23, 1936, 3.

² An interesting note: Arthur Gooch had a brother-in-law named Charles Bank, but the author has been unable to prove the Charles Banks involved in this crime and Gooch's brother-in-law are one in the same.

state penitentiary. After serving eleven months, Gooch was released on June 7, 1932, but before long he saw the inside of a jail cell again.³

Picked up in Sapulpa on January 29, 1933, Gooch faced another grand larceny charge, this time for stealing two saddles. Within the Superior Court of Creek County, on February 8, he again pled guilty and received a one year sentence to be served in the state penitentiary. After his release in October, the crimes Gooch committed became progressively more serious. By 1934, the Okmulgee police knew his name well, and, when a crime was committed, Gooch's name made their list of suspects.⁴ Their thoughts were well founded when, in mid-August of that year, during a summer of thirty-five consecutive days of over 100 degree temperatures, he joined up with Bill Johnson, Maudie Lawson, and Dosie Beavers, and robbed two gas stations in Arpelar. They kidnapped the operators Cecil Thompson and Charlie

³ Oklahoma City, Oklahoma, *Oklahoma Department of Corrections*, Ledger Page, Arthur Gooch File, No. 24157; Arthur Gooch, "Gooch Advises 'Shun Whiskey' in Last Words," *Okemah Daily Leader*, June 23, 1936, 3; Bureau of the Census, Fifteenth Census of the United States (1930), Severs Township, Okmulgee County, Oklahoma, Enumeration District 56-28, Sheet 3B, Family No. 61, Courtesy of www.ancestry.com (accessed April 6, 2009); State of California, Department of Public Health, Certification of Vital Record, Certificate of Death, Billy Joe Frisby, State File Number 3052000199129; Ft. Worth, Texas, National Archives-Southwest Region, *United States of America vs. Arthur Gooch*, District Court of the United States for the Eastern District of Oklahoma, Case Number 19373, Transcript of the record by John Edgar Hoover, Director of the Division of Investigation, United States Department of Justice, Washington, D.C., Dated January 4, 1935, 26; "Five Are Accused of Auto Thefts," *Okmulgee Daily Times*, July 5, 1931, 6; "Four Are Sentenced to Prison Terms," *Okmulgee Daily Times*, July 10, 1931, 2; Ken Butler, *More Oklahoma Renegades* (Gretna, LA: Pelican Publishing Company, Inc., 2007), 316.

⁴ "Hunt Widened for Suspects," *The Oklahoman*, August 8, 1934, 18; Butler, *More Oklahoma Renegades*, 316.

Regileski but later released them, unharmed, in Stuart. Afterward, the quartet captured three farmers, Wallace Howell, Dee Howell, and Turley McGee, who were following them, made the men disrobe, and left them naked on the highway. Entering Calvin, Oklahoma, the gang of four robbed another store, again taking and later freeing the attendant. Officers in these towns and surrounding communities were alerted to the criminal activity and began searching for the outlaws. Two Wetumka policemen, Curtis Lowder and Glen Young, spotted a vehicle that matched the description of the fugitives' car. In pursuit, the lawmen attempted to get them to pull over but failed, and the suspects began firing their weapons. Intent on stopping them, the deputies shot out their rear tires, and Gooch, Johnson, Beavers, and Lawson fled on foot into a cotton field.⁵

Additional officers and search dogs soon arrived on the scene, and all, except Gooch, were quickly arrested. He had escaped to a nearby farm belonging to Mary Gammill and hid in the barn. Emerging a day later, Gooch held Mary and her daughter, Geneva, hostage and asked them to cook him something to eat. Later, Geneva received permission from her captor to feed their chickens, and she took the opportunity to alert the police. Officers soon arrived, surrounded the house, and

⁵ "Bloodhounds Aid Posse to Catch Alleged Robbers," *Dallas Morning News*, August 21, 1934, 10; Ruth Fisk Bowman, "Death by Hanging: The Crimes and Execution of Arthur Gooch," *Chronicles of Oklahoma* 62 (1984): 158; Butler, *More Oklahoma*, 316-17; Timothy Egan, *The Worst Hard Time* (Boston: Mariner Books, 2006), 7.

Gooch surrendered. On August 20, 1934, he was charged with armed robbery and sent to the Holdenville jail but was not there long.⁶

On October 24, Gooch, Bill Johnson, Maudie Lawson, Ambrose Nix, Frank Hurst, and Myrtle Kendig escaped the prison.⁷ Leading the jail break, Johnson struck Jim Sickles, a county jailer, with a piece of plumbing pipe and freed the other five prisoners. Splitting up, Gooch, Nix, and the two women robbed J.M. Sappington, a local man, and stole Dr. Gregory Morgan's De Soto Coup. Meanwhile, Johnson and Hurst kidnapped T.C. Puckett, a Holdenville grocer, and his son Jarald, later releasing them, unharmed, and stealing their automobile. Newspapers reporting the escapees' misdeeds also ran stories on the same page of George "Pretty Boy" Floyd's death at the hands of federal agents and tracked the progress of the Bruno Richard Hauptmann trial.⁸

Sometime after parting from Lawson and Kendig, Gooch and Nix struck out alone and began a series of burglaries. Traveling to Henryetta, they robbed John Hopkins' service station, and then drove west to Choctaw, where they broke into a

⁶ Bowman, "Death by Hanging," 159; Ft. Worth, Texas, National Archives-Southwest Region, *United States of America vs. Arthur Gooch*, District Court of the United States for the Eastern District of Oklahoma, Case Number 19373, Transcript of the record by John Edgar Hoover, Director of the Division of Investigation, United States Department of Justice, Washington, D.C., Dated January 4, 1935, 26.

⁷ "Officers, Aides Closing In On Kidnapers (sic) of Puckett," *Holdenville Daily News*, October 24, 1934, 1.

⁸ "Officers Are Closing In On Two Fugitives," *Holdenville Daily News*, October 26, 1934, 1, 4; "Felons Free Two Hostages," *The Oklahoman*, October 25, 1934, 1; "Officers, Aides Closing In On Kidnapers (sic) of Puckett," *Holdenville Daily News*, October 24, 1934, 1.

hunting lodge owned by H.E. Concannon and took a number of firearms. Meanwhile, police apprehended Johnson on October 27, 1934, near Quinton, Oklahoma, and Hurst three days later, in Fort Smith, Arkansas.⁹ Turning eastbound, Gooch and Nix held up a gas station in Tuskahoma on November 7 and headed in a southerly direction. Driving through Durant, the two men dumped their car and stole another one, belonging to Oscar Caldwell, a local doctor. Continuing south, the fugitives entered Tyler, Texas, on November 25 and robbed yet another filling station, taking \$100 and tying the owner and an employee to a tree.¹⁰

Gooch and Nix had been on a one-month crime spree since their escape from Holdenville, but, on November 26, they committed a crime that altered the course of their lives. While driving through Paris, Texas, the two men had a flat tire in the early morning hours and sought out an auto repair shop. Policemen R.N. Baker and H.R. Marks drove by in their patrol car, noticed the vehicle, and became suspicious, thinking the two men could possibly be part of the Bonnie and Clyde gang. The officers stopped, approached Gooch, and asked to see the title papers of the car. Gooch stated he did not have them, and Marks and Baker surrounded him. Gooch reached for his gun, and he and Marks struggled.¹¹ When Baker started to draw his

⁹ Bowman, "Death by Hanging," 159-60; Butler, *More Oklahoma Renegades*, 318; "Bloodhounds Catch Jailbreak Leader," *The Oklahoman*, October 28, 1934, 9; "Holdenville Jail Fugitive Captured," *The Oklahoman*, October 31, 1934, 1.

¹⁰ Bowman, "Death by Hanging," 159-60; Butler, *More Oklahoma Renegades*, 318-19.

¹¹ Ft. Worth, Texas, National Archives-Southwest Region, *United States of America vs. Arthur Gooch*, District Court of the United States for the Eastern District of

gun, Nix yelled, “Hands up!”¹² Nix approached Baker and shoved him into a glass showcase; the glass broke and a piece cut Baker’s left hip. Meanwhile, Gooch had relieved Marks of his firearm, and the two fugitives forced the officers into the back seat of their patrol vehicle. With Nix holding a gun on the policemen, Gooch retrieved money, three shotguns, two rifles, and four pistols from their stolen car and rejoined Nix. Gooch then held a firearm on Baker and Marks, and Nix began driving north. Avoiding any major highways, the group crossed the state lines and entered Choctaw County, Oklahoma, and then Pushmataha County. Around 9:00 p.m. on the night of November 27, 1934, forty-two hours since the kidnapping, Gooch and Nix released the officers in the Kiamichi Mountain area between Cloudy and Snow. Gooch dressed Baker’s wound before releasing the officers, and the fugitives were not seen again until late December.¹³

While officers searched for Gooch and Nix, six bandits robbed two banks in Okemah on December 22, 1934, taking \$17,000. Several law enforcement officials arrived in the small town to investigate and search for the criminals. State and federal agents received a tip that the bank robbers planned to gather at a farmhouse owned by

Oklahoma, Case Number 19373, “Bill of Exceptions,” R.N. Baker’s testimony, 43; Bowman, “Death by Hanging,” 161. Hereafter cited as *United States of America vs. Arthur Gooch*, Case Number 19373.

¹² *United States of America vs. Arthur Gooch*, Case Number 19373, “Bill of Exceptions,” R.N. Baker’s testimony, 43.

¹³ *United States of America vs. Arthur Gooch*, Case Number 19373, “Bill of Exceptions,” R.N. Baker’s testimony, 42-45; “Gooch Goes To Gallows 5am Friday,” *McAlester Democrat*, June 18, 1936, 1, 2.

Lee Mulky, nearly four miles east of Okemah. The following evening Assistant Superintendent of the Oklahoma State Bureau of Investigation Murray Barton, also serving as the Okfuskee County Deputy Sheriff, and Okemah Chief of Police Frank Gahagen drove to the Mulky Farm and secretly observed the property. While doing so, a car approached, stopped, and a young woman jumped out, yelling, and ran away. Alarmed at the activity, Barton and Gahagen drew their guns, and, when two men stepped out of the newly arrived car, the officers began shooting. All four exchanged fire and the law men shot and killed one of the car's occupants, prompting the other man to surrender. The officers soon discovered that the two men were not the Okemah bank robbers but rather Arthur Gooch and Ambrose Nix. They took Gooch and the woman, Irene Sutton, Nix's girlfriend, into custody, sent Nix's body to the Barry Funeral Home in Okemah, and arrested Lee Mulky for harboring criminals.¹⁴

Gooch survived the first attempt on his life, but a local citizen also wanted him dead. After being taken to the Okemah jail, officers prepared Gooch to be transported to Oklahoma City. While sitting in a patrol car, a man approached, drew a gun, pointed it at Gooch's head, and pulled the trigger. The weapon, however, jammed, and policemen seized the gunman. After interviewing the attacker, the

¹⁴ *United States of America vs. Arthur Gooch*, Case Number 19373, "Bill of Exceptions," Murray Barton's testimony, 48-49 and "Pleas and Proceedings Before the Honorable R.L. Williams," 16; "Bank Robbery Suspect Slain In Gun Battle," *The Oklahoman*, December 24, 1934, 1; Butler, *More Oklahoma Renegades*, 320; Bowman, "Death by Hanging," 161; "Gooch To Be Charged With Kidnaping (sic); New "Breaks" Are Expected," *Okemah Daily Leader*, December 24, 1934, 1.

deputies discovered that he was John Hopkins, owner of one of the gas stations Gooch and Nix had robbed, and Hopkins wanted revenge.¹⁵

Gooch was sent to Muskogee and charged, on December 26, with violating the Dyer Act (theft of an automobile) and the Federal Kidnapping Act. However, on May 30, 1935, he was indicted for “kidnapping and injury by force.”¹⁶ Arraigned the following day before Eastern District Court Judge Robert Lee Williams, a former Oklahoma governor and Oklahoma Supreme Court judge, Gooch entered a plea of not guilty through his lawyer, E.M. Frye, a former assistant district attorney who had been assigned Gooch’s case, but, less than two weeks later, he withdrew his plea and pled guilty. Known for his “hard bitten reputation” and “mortal hatred of dishonesty,” Judge Williams denied his guilty plea, stating the issue would be presented before a jury.¹⁷ By the magistrate’s orders, the newly amended Lindbergh Law was scheduled to have its first test on June 10.

¹⁵ “Gooch To Be Charged With Kidnaping (sic); New “Breaks” Are Expected,” *Okemah Daily Leader*, December 24, 1934, 1; Butler, *More Oklahoma Renegades*, 321.

¹⁶ *United States of America vs. Arthur Gooch*, Case Number 19373, Transcript of the record by John Edgar Hoover, Director of the Division of Investigation, United States Department of Justice, Washington, D.C., Dated January 4, 1935, 27 and “Praeipie For Record,” Dated June 21, 1935, Signed by Chief Deputy Lacy Grimes and Attested to by United States District Court Clerk W.V. McClure, 37.

¹⁷ “Gooch Death Sentence Climaxed Five-Year Crime Career Over Oklahoma,” *Muskogee Daily Phoenix*, June 19, 1936, 7; *United States of America vs. Arthur Gooch*, Case Number 19373, “Court Transcript” and “Praeipie For Record,” Dated June 21, 1935, Signed by Chief Deputy Lacy Grimes and Attested to by Clerk W.V. McClure, 17, 19, 37; William C. Kellough, “Oklahoma: the Territorial and District Courts,” in James K. Logan, ed., *The Federal Courts of the Tenth Circuit: A History* (Denver: U.S. Court of Appeals for the Tenth Circuit, 1992), 201, Courtesy of *The*

Seven months earlier, several of the nation's citizens believed that the Federal Kidnapping Act should have been invoked. On October 18, 1934, the fully-clothed dead body of nineteen-year-old Lola Cannidy was found near her home in Greenwood, Florida. Dr. Hodges, a county physician, determined she had been raped and beaten to death. Another medical practitioner, Dr. MacKinnon, agreed with the cause of death, but concluded that the victim had recently engaged in intercourse but had not been forced. Sheriff W.F. Chambliss arrested Claude Neal for her murder; he was a black farmhand who lived across the road from the Cannidys and the person last seen speaking with Lola. Fearing an attack on Neal by a group of angry local people, Chambliss moved him to a jail in Brewton, Alabama. However, the mob followed, broke into the prison, and kidnapped Neal. Crossing state lines, they returned him to Florida, where they blatantly announced their intentions to lynch Neal. On October 27, 3,000 people gathered at Neal's home, burning it to the ground and waiting to partake in his death. Unknown to them, a group of 100 men had tortured and killed Neal in a nearby wood. They then presented his body to the mob, and the crowd commenced to mutilate his corpse.¹⁸

Historical Society of the Tenth Judicial Circuit, http://10thcircuithistory.org/pdfs/1992_historical_book/8Chapter6.pdf, (accessed on June 12, 2009); Charles Evans, "Robert Lee Williams," *Chronicles of Oklahoma* 26 (1948): 121; Baxter Taylor, "Robert Lee Williams As I Knew Him," *Chronicles of Oklahoma* 31 (1953): 379.

¹⁸ Dora Apel, *Imagery of Lynching: Black Men, White Women and the Mob* (Piscataway, NJ: Rutgers University Press, 2004), 136-37, Courtesy of Google Books, <http://books.google.com/books?id=O3ZldmMty7UC&printsec=frontcover#v=onepage&q=&f=false>, (accessed February 5, 2010); James R. McGovern, *Anatomy of a*

Much of the American public expressed outrage at the horrific crime, with many appealing to President Franklin Roosevelt and United States (U.S.) Attorney General Homer Cummings to use their federal powers in bringing the murderers to justice. Members of the Association of Southern Women for the Prevention of Lynching (ASWPL) and the Commission on Interracial Cooperation contacted FDR and Cummings demanding the mob be prosecuted.¹⁹ Walter White, the National Association for the Advancement of Colored People (NAACP) secretary, wanted Neal's kidnappers charged under the newly amended Lindbergh Law. Further, he claimed that the attorney general had supported the Federal Kidnapping Act's amendment and called for a broad interpretation. Cummings, however, in this instance, chose a strict analysis of the words "or otherwise," and concluded that the law did not apply because the abduction was not committed for financial gain. The Justice Department also refused to investigate the Neal lynching or to pursue prosecution of the offenders. The NAACP secretary judged that the federal government was only seeking justice for white people, and the death of a black man was irrelevant.²⁰ A short time later, in the case against Arthur Gooch, Cummings and

Lynching: The Killing of Claude Neal (Baton Rouge: Louisiana State University Press, 1982), 43-45, 73, 157.

¹⁹ "Troops Guard Second Negro," *The Oklahoman*, October 28, 1934, 9; "Races: They Done Me Wrong," *Time*, November 5, 1934, <http://www.time.com/time/magazine/article/0,9171,882544,00.html> (accessed February 5, 2010).

²⁰ Kenneth S. Davis, *FDR: The New Deal Years, 1933-1937* (New York: Random House, 1986), 484-85; Kenneth O'Reilly, "The Roosevelt Administration and Black America: Federal Surveillance Policy and Civil Rights during the New Deal and

the Supreme Court redefined their understanding of the Lindbergh Law and adopted a broader interpretation.

World War II Years,” *Phylon* 48 (1st Qtr., 1987): 14; Walter White, “United States Department of (White) Justice,” (1935), in Howard Zinn, ed., *New Deal Thought* (Indianapolis: Hackett Publishing Company, Inc., 2003), 334-35; McGovern, *Anatomy of a Lynching*, 119-20.

CHAPTER IV: THE AMENDED LINDBERGH LAW HAS ITS FIRST TRIAL

June 10, 1935, Arthur Gooch's day in court, arrived, and he again requested to plead guilty to the charges lodged against him, kidnapping of two Texas police officers and injuring one of them. Judge Williams repeated his previous denial "because a life sentence was the maximum he could give without a jury verdict."¹ The amended Lindbergh Law stated that a defendant "shall, upon conviction, be punished by death if the verdict of the jury shall so recommend, provided that the sentence of death shall not be imposed by the court if, prior to its imposition, the kidnaped (sic) person has been liberated unharmed."² Since Baker had received a cut during the struggle with Nix, Gooch faced the possibility of execution, if tried before a jury and found guilty. Though he did not inflict the wound upon the officer, section three of the act stated, "If two or more persons enter into an agreement, confederation, or conspiracy to violate the provisions of the foregoing Act and do any overt act toward carrying out such unlawful agreement, confederation, or

¹ "Bank Bandit Is Given Life," *The Oklahoman*, June 12, 1935, 4.

² *Federal Kidnapping Act of 1932, Amended*, Public Law 73-232, *U.S. Statutes at Large* 48 (1934): 781-82. The spelling of the word "kidnapping" had not been codified at this time and the use of one "p" was considered the correct spelling.

conspiracy, such person or persons shall be punished in like manner.”³ Therefore, the guilt of one became the fault of all.

In a twist of fate, the first case prosecuted under the Federal Kidnapping Act of 1932 was for the abduction of an Oklahoman, Charles Urschel, taken to Texas, and the first person charged under the amended law was an Oklahoman who captured two Texans, in 1934, and brought them to the Sooner State. In the first case, George “Machine Gun” Kelly and his wife, Kathryn, received life sentences in 1933 for their actions. However, with the addition of the death clause included in the amendment to the Lindbergh Law, Gooch faced a harsher punishment during his 1935 trial.

U.S. Attorney Cleon A. Summers, representing the government, called his first witness, Assistant Chief of Police for Paris, Texas, R.N. Baker. The officer testified that after being kidnapped and then released by Gooch and Nix, he and H.R. Marks, the second lawman abducted, walked to a store in Snow, Oklahoma, woke the owner, W.M. Franks, and asked to be driven to Antlers. The three men arrived around 3:00 a.m. on November 28, 1934, and Baker called the Paris police station and Pushmataha County Sheriff John Helms to report the incident. The two Texas lawmen met with Helms, and after noticing Baker’s wound, Helms offered to provide first aid. Baker stated that he suffered great pain from the cut to his hip, but he refused Helms’ offer, opting to travel back to Paris to a hospital, where he received four stitches. Upon taking the stand, Marks corroborated Baker’s story as did Helms,

³ *Federal Kidnapping Act of 1932, Amended*, Public Law 73-232, *U.S. Statues at Large* 48 (1934): 781-82.

concerning his contact with the officers.⁴ Assistant Superintendent of the Oklahoma State Bureau of Investigation Murray Barton testified next. He stated that, during the encounter with Gooch and Nix, he was without injury but bullets left three holes in his clothes; *The Oklahoman* reported eight. After Frank Gahagen took the stand and confirmed Barton's version of the events, the government rested its case. Gooch's attorney, E.M. Frye, moved to strike Barton's and Gahagen's testimonies, and Judge Williams sustained the motion.⁵ Frye then rested, presenting no evidence on behalf of his client or choosing to have Gooch testify.⁶

The magistrate then handed the matter over to the jury and informed them that, according to the Federal Kidnapping Act, the injury inflicted upon Officer Baker allowed for the death sentence. The panel retired for deliberations but returned to pose questions. First, they inquired if the defendant, Gooch, had pled guilty to both counts, and the judge explained that he had originally pled guilty to the first count, kidnapping, and not guilty to the second, injury by force, later, offering to plead guilty to both. However, the issues of the second count had been presented to the jury

⁴ Ft. Worth, Texas, National Archives-Southwest Region, *United States of America vs. Arthur Gooch*, District Court of the United States for the Eastern District of Oklahoma, Case Number 19373, "Court Transcript," R.N. Baker's, H.R. Mark's, and John Helms' testimonies, June 10, 1934, 9, 42-48. Hereafter cited as *United States of America vs. Arthur Gooch*, Case Number 19373.

⁵ The trial transcripts do not include a reason for Frye's request to remove Barton's and Gahagen's testimonies from the court records.

⁶ *United States of America vs. Arthur Gooch*, Case Number 19373, "Court Transcript," June 10, 1934, 19, 48-50; "Bank Robbery Suspect Slain In Gun Battle," *The Oklahoman* December 24, 1934, 1.

and given to their charge. They then asked if it was mandatory for the court to punish the defendant with death if the jury found Gooch guilty and recommended that sentence. Judge Williams explained that he would dutifully abide by their verdict. Afterward, the panel resumed their considerations and entered a short time later with their decision.⁷ Foreman Dial Currin read the verdict: “We the jury...duly empanelled and sworn, upon our oaths, find the defendant Arthur Gooch guilty, as charged in the first count of the indictment [kidnapping]. We further find the defendant guilty, as charged in the second count of the indictment [injury by force], and we recommend that he be punished by death.”⁸ Frye immediately rose to his feet and made a motion for a hearing to consider a new trial. The judge agreed and set the date for June 19.⁹

Directly after the reading of the verdict, Frye formally submitted his request. He listed several mistakes committed by the court: the judgment and evidence were contrary to the law, errors occurred during the trial, “incompetent, irrelevant, and immaterial evidence” was submitted, the testimonies of Murray Barton and Frank Gahagen should not have been allowed, and the court erred in denying the defendant’s guilty plea, stating that “this court is without authority of law to refer

⁷ Edward Everett Dale and James D. Morrison, *Pioneer Judge: The Life of Robert Lee Williams* (Cedar Rapids, IA: Torch Press, 1958), 312; *United States of America vs. Arthur Gooch*, Case Number 19373, “Court Transcript,” 50-51.

⁸ *United States of America vs. Arthur Gooch*, Case Number 19373, “Verdict,” June 10, 1934, 21.

⁹ *United States of America vs. Arthur Gooch*, Case Number 19373, “Court Transcript,” 20.

same to a jury for assessing punishment after a plea of guilty by him has been entered.”¹⁰

On June 19, Gooch, Frye, and U.S. Attorney Summers stood before Judge Williams to hear his decision for a new trial. He overruled the motion. Further, the magistrate stated, “It is now by the court here considered, ordered and adjudged that the said defendant, Arthur Gooch, for the crime by him committed” shall on September 13, 1935, be “hanged by the neck” at the Muskogee jail until dead; the state of Oklahoma used this method of execution, versus electrocution, for transgressors convicted of violating federal crimes.¹¹ The judge asked the defendant, whose wife and son were in attendance, if he had anything to say. Gooch replied, “I think there have been worse crimes than mine and I don’t see why I should hang.” Tending to be harsher on repeat offenders, Williams responded by stating that “other juries have been cowardly,” and it was “no pleasure for me to sentence a man to die but when they roam about the country like a pack of mad dogs, killing and robbing and kidnaping (sic), I am going to do it.”¹² Afterward, U.S. Attorney General Homer

¹⁰ *United States of America vs. Arthur Gooch*, Case Number 19373, “Motion For a New Trial,” June 19, 1935, 22-24.

¹¹ *United States of America vs. Arthur Gooch*, Case Number 19373, “Judgment and Sentence,” 28-29; “Governor Faced with Making Decision on Prisoner Execution,” *The Oklahoman*, March 7, 1977, 7; Ron Owens, *Jelly Bryce: Legendary Lawman* (Paducah, KY: Turner Publishing Co., 2003), 88.

¹² Dale and Morrison, *Pioneer Judge*, 314; “Gooch To Pay Death Decree, September 13,” *The Oklahoman*, June 20, 1935, 3.

Cummings contacted Judge Williams directly and praised him for imposing the death penalty and aiding in the “national battle against crime.”¹³

Upon the magistrates ruling and on behalf of his client, Frye requested to present the matter before the Tenth Circuit Court of Appeals. However, Gooch, as a “poor person,” could not pay the necessary costs, and the defendant’s lawyer submitted a pauper’s affidavit, petitioning the court to release him from the required “prepay fee or costs or for the printing of the record.”¹⁴ The magistrate permitted both inquiries, and police returned Gooch to his Oklahoma City jail cell. However, he did not stay in the state’s capital long. In July, policemen moved him to the Muskogee jail for fear of mob violence from angry citizens. Afterward, they transferred him to McAlester state penitentiary, where he joined fourteen other men on death row.¹⁵

With money from his Uncle Arthur Gooch who felt a closeness to his namesake, “Little Arthur” hired two more Muskogee lawyers, W.F. Rampendahl and Chal Wheeler.¹⁶ On July 10, 1935, Frye, along with the newly hired attorneys,

¹³ “Cummings Praises Judge Bob Williams,” *The Oklahoman*, June 21, 1935, 1.

¹⁴ *United States of America vs. Arthur Gooch*, Case Number 19373, “Pauper’s Affidavit” and “Order Permitting Defendant Arthur Gooch to Appeal In Forma Pauperis,” 32-33.

¹⁵ “Gooch’s Attorneys Hope To Argue Appeal From Death Sentence In Court Here,” *The Oklahoman*, July 24, 1935, 54; “Gooch Placed In Prison Death Row,” *The Oklahoman*, August 9, 1935, 8.

¹⁶ Willadean Smeltzer, Interview by Leslie Jones, Tape recording, March 7, 2009, Research Center, Oklahoma History Center, Oklahoma City, Oklahoma; *United States of America vs. Arthur Gooch*, Case Number 19373, “Writ of Appeal,” June 21, 1935, 34.

submitted an Assignment of Errors to the Tenth Circuit Court of Appeals, listing fourteen mistakes committed by the Eastern District Court, among them: Ambrose Nix inflicted the injury upon Officer R.N. Baker and the government failed to prove that Arthur Gooch acted in conspiracy, officers had no probable cause to accost Nix and Gooch and no warrant for their arrest, the defendant and his companion rightly resisted an illegal arrest and Baker was trespassing when injured, and the officer's injury occurred before the kidnapping.¹⁷

Upon reviewing the matter in late August, Judges Ori L. Phillips, G.T. McDermott, and Sam G. Bratton certified two points to the United States Supreme Court in November.¹⁸ On January 13 and 14, 1936, the Supreme Court considered their questions: one, "Is holding an officer to avoid arrest within the meaning of the phrase, 'held for ransom or reward or otherwise'" as outlined in the so-called Lindbergh Law, and two, "Is it an offense...to kidnap and transport a person in interstate commerce for the purpose of preventing the arrest of the kidnaper (sic)?"¹⁹ Gooch's three attorneys favored a strict interpretation of the words "or otherwise" within the Federal Kidnapping Act, but U.S. Attorney Cleon Summers argued for a

¹⁷ *United States of America vs. Arthur Gooch*, Case Number 19373, "Assignment of Errors," 38-40.

¹⁸ "Court To Hear Issues Raised In Gooch Case," *The Oklahoman*, November 12, 1935, 9; "Gooch Appeal Will Be Heard Next Monday," *The Oklahoman*, August 23, 1935, 5.

¹⁹ *Gooch v. United States*, 297 U.S. 124 (1936), 124-25.

broader analysis.²⁰ Justice James Clark McReynolds delivered the court's decision three weeks later, stating that "Holding an officer to prevent the captor's arrest is something done with the expectation of benefit to the transgressor...If the word reward, as commonly understood, is not itself broad enough to include benefits expected to follow the prevention of an arrest, they fall within the broad term, "otherwise."²¹

After the conclusion was read, the Supreme Court returned the matter to the Tenth Circuit Court, and the judges affirmed the original ruling and sentence.²² However, U.S. Attorney General Cummings' agreement with the court's broad interpretation of the word "otherwise" and that the Lindbergh Law encompassed kidnapping for any reason somehow did not invoke him, just fifteen months earlier, to seek the individuals involved in the abduction of Claude Neal and his subsequent lynching.

Arthur Gooch was returned to his McAlester prison cell and waited for Judge Williams' resentencing. Immediately, Attorney W.F. Rampendahl filed a motion to challenge the constitutionality of the death penalty clause contained within the

²⁰ Ruth Fisk Bowman, "Death by Hanging: The Crimes and Execution of Arthur Gooch," *Chronicles of Oklahoma* 62 (1984): 163; *Federal Kidnapping Act of 1932, Amended*, Public Law 73-232, *U.S. Statues at Large* 48 (1934): 781-82.

²¹ *Gooch v. United States*, 297 U.S. 124 (1936), 128.

²² *United States of America vs. Arthur Gooch*, Case Number 19373, "Order to Marshal to Bring Prisoner from the State Penitentiary at McAlester to Muskogee for Sentence," Marsh's Docket No. 29645, May 6, 1936.

Federal Kidnapping Act, but the Supreme Court refused to review the plea.²³ In response, Rampendahl, using \$400 of his own money, and Chal Wheeler, Gooch's third lawyer, filed executive clemency forms, stating that he "should not hang for a purely technical violation," referring to the cut Officer Baker received to his hip.²⁴ Also working to help, Adella, Gooch's mother who was now blind in one eye and going deaf, attempted to get a petition signed to have his sentence commuted to life in prison.²⁵

Meanwhile, on April 3, the state of New Jersey executed Bruno Richard Hauptmann for the death of the Lindbergh baby that had occurred four years earlier. Even as he was being prepared for the electric chair, Hauptmann never ceased to proclaim his innocence.²⁶ During this month, J. Edgar Hoover, Director of the Federal Bureau of Investigations (FBI), responded to congress's consideration to cut the Justice Department's budget, warning that a new "wave of kidnapping" would

²³ "Gooch Plans Another Plea," *The Oklahoman*, February 4, 1936, 1; "Way Is Paved To Resentence Arthur Gooch," *The Oklahoman*, April 23, 1936, 1; Richard J. Gallagher, "Kidnapping in the United States and the Development of the Federal Kidnapping Statute," in Brian M. Jenkins, ed., *Terrorism and Personal Protection* (Boston: Butterworth Publishers, 1985), 140.

²⁴ "Supreme Court Agrees To Test Bankrupt Law," *Washington Post*, April 14, 1936, 4; "Gooches Mother Arrives In City," *McAlester Democrat*, June 13, 1936, 1.

²⁵ "Mother Seeks To Aid Gooch," *The Oklahoman*, April 4, 1936, 3; "Gooch Hopeful Of Reprieve," *Ada Evening News*, June 18, 1936, 5.

²⁶ Ernest Kahlar Alix, *Ransom Kidnapping in America, 1874-1974: The Creation of a Capital Crime* (Carbondale: Southern Illinois University Press, 1978), 115; Judy Monroe, *The Lindbergh Baby Kidnapping Trial: A Headline Court Case* (Berkeley Heights, NJ: Enslow Publishers, Inc., 2000), 106; Ken Butler, *More Oklahoma Renegades* (Gretna, LA: Pelican Publishing Company, Inc., 2007), 326.

occur if they followed through on their decision. Further, in answering questions posed by a Senate subcommittee, Hoover claimed that the immediate increase in crime ““would cripple law enforcement and place a premium on lawlessness.”” He strove to prove the legitimacy of the Bureau’s efforts and actions by stating that agents had solved sixty-two abduction cases since June, 1932, resulting in 136 convictions.²⁷

One month later, Judge Williams sent an order to have Gooch appear before him on May 7, 1936, in the courtroom at the federal building in Muskogee. The magistrate then sentenced Gooch, a “two-time loser,” to be hanged at the state penitentiary on June 19.²⁸ Williams asked if Gooch had anything to say, and he replied, ““I didn’t commit a crime for which I should be executed. I admit my life hasn’t been what it should have been, but I don’t think I should die.”” The judge responded by advising him to “make peace with your God.”²⁹ A number of Oklahomans thought the death penalty was too harsh of a sentence. Mrs. Donnelly Reid, an Oklahoma City Jeffersonian Club member, moved to ask the president for clemency ““for that poor boy,”” and she added ““I think this will be a popular issue with women of the state because it would be a rotten shame to hang that boy when a

²⁷ Information and all direct quotes from “J.E. Hoover Warns Of A Kidnap Wave,” *The New York Times*, April 17, 1936, 6.

²⁸ *United States of America vs. Arthur Gooch*, Case Number 19373, “Death Warrant,” Marsh’s Docket No. 29645, May 7, 1936, 2; Charles Edwin Still, *Styles in Crimes* (New York: J.B. Lippincott Company, 1938), 133.

²⁹ “Gooch To Die On Gallows Here June 19,” *McAlester News-Capital*, May 7, 1936, 1.

short jail term is his just dessert. It seems we have two types of law in this country. One for the rich and one for the poor. Gooch was given an application of the poor man's law."³⁰ Mrs. Reid also spoke out against Judge Williams, declaring him to be cruel, and that Gooch "never had a chance."³¹ Mabel Bassett, State Commissioner of Charities and Corrections, knew President Roosevelt and the two frequently exchanged letters; she even received an invitation to the president's March 4, 1933, inauguration.³² Mrs. Bassett joined Mrs. Reid in her clemency pleas for Gooch, believing her connection to the president would aid them in their quest. She also met with U.S. Attorney General Homer Cummings to discuss the matter at length.³³

President Roosevelt, however, denied the clemency request upon Cummings' review and recommendations.³⁴ With time running out, Gooch appealed to Oklahoma Governor E.W. Marland for help, but the state's leader also refused to intercede on his behalf, asserting that "Men, women, and children will breathe free in

³⁰ "Women Seek Recruits For Gooch Appeal," *The Oklahoman*, May 5, 1936, 3.

³¹ "Judge Rapped In Gooch Case," *The Oklahoman*, May 6, 1936, 5.

³² Mabel Bassett Papers, Box 1, Folder 3, Mabel Bassett Collection, Research Center, Oklahoma History Center, Oklahoma City, Oklahoma.

³³ Message from Mabel Bassett to the President, Received by M.H. McIntyre, Assistant Secretary to the President, Dated June 17, 1936, Hyde Park, New York. The President's Official File (OF 2207): Arthur Gooch Case, Franklin D. Roosevelt Presidential Library; "Women Seek Recruits For Gooch Appeal," *The Oklahoman*, May 5, 1936, 3; "Cummings To Study Appeal For Gooch," *The Oklahoman*, May 30, 1936, 1.

³⁴ "Judge Favors Gooch Death," *The Oklahoman*, May 5, 1936, 1; "Kidnaper (sic) Loses Roosevelt Plea," *Los Angeles Times*, June 9, 1936, 2.

this state, will be safer, when we exterminate these kidnapers (sic).”³⁵ Judge Williams maintained that Gooch had received a “fair trial,” and he expressed his disapproval of Mrs. Reid’s and Mrs. Bassett’s pleas for clemency, attesting that “I cannot stand silent while such a campaign for sympathy is being carried on in behalf of such a man.”³⁶ The magistrate also declared that Gooch was dangerous and a potential murderer, and, if “his attorney [had] put him on the stand, his criminal and moral records would have been revealed to the public.”³⁷ Judge Williams’ statement seemingly reveals that Gooch’s history of illegal activities played a role in his ruling and sentencing.

Mabel Bassett and others continued to believe that Gooch should be granted clemency or at least be given a lesser sentence. R.T. Fredericks, editor of the *Oklahoma News*, telegrammed President Roosevelt on June 13, 1936, claiming that the “humane portion of our people are incensed at the thought of this man being executed for a crime, which in fact he did not commit...and the fear persists that our president for the want of time to consider the case, has no (sic) yet expressed his true

³⁵ “Gooch Hopes To Be Saved From Noose,” *McAlester Democrat*, June 11, 1936, 1, 4; “Marland Says He Won’t Act To Aid Gooch,” *The Oklahoman*, June 19, 1936, 1, 2.

³⁶ “Judge Favors Gooch Death,” *The Oklahoman*, May 5, 1936, 1; “Gooch Resentenced To Hang; Death Date Is Set June 19,” *The Oklahoman*, May 8, 1936, 2.

³⁷ Dale and Morrison, *Pioneer Judge*, 313; “Gooch Resentenced To Hang; Death Date Is Set June 19,” *The Oklahoman*, May 8, 1936, 2.

and final verdict.”³⁸ Gooch’s thirteen-year-old niece, Clara Lee Banks, as well as Judge Fletcher Riley, Justice of the Oklahoma Supreme Court, sent messages pleading for clemency.³⁹ The Department of Justice also received several messages from outside of Oklahoma as well. Mrs. Asta Larensen wrote from Cincinnati, Ohio, J.E. Winans from Fort Worth, Texas, and Mrs. I.M. Amos from Dallas, Texas, asking the president to “save Arthur Gooch from an unfair trial, an unjust sentence.”⁴⁰ However, others believed that the certainty of punishment would deter future criminals, and the knowledge that “the police get their man and the courts punish him” would make an impression on “susceptible young people.”⁴¹ In agreement, newspaper men wrote that “until the world makes punishment sure, swift, severe, the outlaw will continue to hold the upper hand” and affirmed that “execution is a

³⁸ R.T. Frederick’s Telegram to the Honorable Franklin D. Roosevelt, Dated June 13, 1936, Hyde Park, New York, The President’s Official File (OF 2207): Arthur Gooch Case, Franklin D. Roosevelt Presidential Library.

³⁹ Bureau of the Census, Fifteenth Census of the United States (1930), Okemah Township, Okfuskee County, Oklahoma, Enumeration District 54-12, Sheet No. 6A, Family No. 128, Courtesy of www.ancestry.com, (accessed April 9, 2009); Messages from Clara Lee Banks and Honorable Fletcher Riley, Received by M.H. McIntyre, Assistant Secretary to the President, Dated June 16, 1936, Hyde Park, New York, The President’s Official File (OF 2207): Arthur Gooch Case, Franklin D. Roosevelt Presidential Library.

⁴⁰ Messages from Mrs. Asta Larensen, J.E. Winans, and Mrs. I.M. Amos, Received by M.H. McIntyre, Assistant Secretary to the President, Dated June 18, 1936, Hyde Park, New York, The President’s Official File (OF 2207): Arthur Gooch Case, Franklin D. Roosevelt Presidential Library.

⁴¹ “Swift And Sure,” *The New York Times*, May 15, 1936, 24.

regrettable necessity.”⁴² All the while, workers at the McAlester state penitentiary prepared to build the necessary gallows for Gooch’s execution; Dick Blackbird, the prison’s blacksmith, devised a trigger; and U.S. Marshall Sam Swinney announced that 200 people, including journalists and police officers, would be allowed to witness the hanging.⁴³

By the early nineteenth century, hanging had become the universally used method for capital punishment within the United States and remained so for nearly 100 years. Once the trap of the gallows is opened and the individual falls, the rope, with a suitable knot, presses on the vessels of the neck that supply blood to the brain, and the heart slows but continues beating for up to ten minutes. The execution technique, when performed properly, causes the one being hanged to immediately lose consciousness and to suffer little. Rope marks will be visible on the neck, but the skin will not be broken. If administered correctly, the discoloration will disappear within minutes.⁴⁴ Arthur Gooch was not so lucky.

While he sat in his jail cell on death row, Gooch visited with family and hoped President Roosevelt would change his mind and grant him clemency. He made a statement to the press and wanted “it made plain to the public that I am not being hanged for the crime for which I was convicted, but for crimes of which I have never

⁴² “Lindbergh Law Effective,” *Dallas Morning News*, April 16, 1936, 2; “The State Press,” *Dallas Morning News*, August 16, 1935, 2.

⁴³ “Gooch Goes To Gallows 5am Friday,” *McAlester Democrat*, June 18, 1936, 1, 2; “Execution Of Gooch Is Set For June 19,” *The Oklahoman*, May 29, 1936, 1.

⁴⁴ August Mencken, *By the Neck* (New York: Hastings House, 1942), vi-vii.

been tried.”⁴⁵ Seemingly backing up his claim, Officer H.R. Marks declared that ““If he had never done anything but that kidnaping (sic), it might have been different but he’s been guilty of other crimes.””⁴⁶

Gooch had not seen his now ex-wife, Mary, since his preliminary hearing in 1935, but his twenty-year-old girlfriend of four months, Marie Lepley, a Muskogee waitress, visited him often. The newspapers also reported that Gooch had fathered an illegitimate son with yet another woman.⁴⁷ After all he had done, Mary still defended him, telling the newspapermen that ““Arthur never hurt anyone in his life. He didn’t get any ransom. Judge Williams is too heartless. He has no wife and no children. He doesn’t think of anyone except himself.””⁴⁸ Further, she stated that Gooch ““was a good husband to me while I lived with him. He was kind and considerate and earned enough money for us to live on. We got along so well...I think bad women and wrong friends were at the bottom”” of his troubles.⁴⁹ Gooch appreciated her words

⁴⁵ “Permit To Hang As Gooch Dies Sought By Girl,” *Muskogee Times-Democrat*, June 17, 1936, 1, 2.

⁴⁶ “Victims May Not Attend,” *Ada Evening News*, June 17, 1936, 8.

⁴⁷ “Gooch Goes To Gallows 5am Friday,” *McAlester Democrat*, June 18, 1936, 1, 2; “Permit To Hang As Gooch Dies Sought By Girl,” *Muskogee Times-Democrat*, June 17, 1936, 1, 2; “Gooch Puts Last Hope In Appeal To Mrs. Roosevelt,” *The Oklahoman*, June 17, 1936, 1, 3.

⁴⁸ “Gooch Goes To Gallows 5am Friday,” *McAlester Democrat*, June 18, 1936, 1, 2.

⁴⁹ “Mother Hopes Six-Year-Old Boy will Grow Up ‘To Feel The Law Is His Friend,’” *The Oklahoman*, June 18, 1936, 1.

but did not want to see their son, Billy Joe, explaining that it was ““bad enough for him to have my name.””⁵⁰

Gooch and his supporters continued sending letters and telegrams to President Roosevelt, seeking clemency. When he received a negative reply, Gooch believed that FDR had not completely reviewed his requests but was merely ““acting on the attorney general’s recommendations.””⁵¹ Cummings responded by declaring that Gooch’s case had to do with a ““recent statute, where it is specifically provided that when a kidnaping (sic) occurs and the kidnaped (sic) person is not returned unharmed and where the jury recommends death, the judge should impose that sentence.””⁵² On the day before the scheduled execution and in support of Cummings’ statement, Roosevelt broke his silence and issued a memorandum to the U.S. Attorney General who then released it to the press:

The record of the petitioner discloses repeated offenses of a major character. His record discloses repeated acts of violence with the aid of firearms, as well as prior convictions of serious offenses....At the time of the gun battle referred to Gooch and his companion both fired upon the officers with the intent to kill them....Clemency is asked for primarily upon the assertion that the penalty is excessive. Under these circumstances to interfere with the sentence would be to substitute the preferences of the executive for the processes of the courts...It is manifest that the use of the executive power to modify the sentence imposed would be to render nugatory a law carefully considered by the congress and designed to meet a national need. While I sympathize with those who are pleading for clemency, and especially with the

⁵⁰ “Gooch Hopeful Of Reprieve,” *Ada Evening News*, June 18, 1936, 5.

⁵¹ “Permit To Hang As Gooch Dies Sought By Girl,” *Muskogee Times-Democrat*, June 17, 1936, 1, 2.

⁵² Noel Houston, “Gooch Laughs And Hopes As Trap Is Fixed,” *The Oklahoman*, June 18, 1936, 1.

members of his family, nevertheless I cannot rid myself of the belief that they are asking for the exercise of power which under the law and facts I would not be justified in using.⁵³

Taken as the president's final decision, Gooch prepared for his death. He told those around him that he would "take it on the chin," and he spoke to Billy Joe, encouraging his son to be good and not to get into trouble.⁵⁴ After meeting with her son, Adella refused to leave the prison grounds. She had voiced her worries concerning the burial of her son's body, knowing she did not have the money to transport his body back to Okmulgee. Seeing her sitting on a bench outside the jail, Deputy Warden Jess Dunn and three other deputy marshals, out of respect and concern, gathered funds and gave it to her.⁵⁵ In his final hours, Gooch tried to envision death and dying, telling his thoughts to the visiting newspapermen:

It's kind of funny-dying. I think I know what it will be like. I'll be standing there and all of a sudden everything will be black, then there'll be a light again. There's got to be a light again – it, there's got to be. There'll be that light and I'll be standing there alive. I don't know what the scene will be. It seems like it will be pale blue and maybe pink. And the lighting coming from no place you can see. I don't know what happens after that.⁵⁶

⁵³ "Roosevelt Breaks Rule Of Silence To Discuss His Decision," *Tulsa World*, June 19, 1936, 1, 10; Franklin D. Roosevelt, "The Verdict Should Not Be Disturbed," *The Oklahoman*, June 19, 1936, 1.

⁵⁴ "Roosevelt Explains Stand, Dashing Kidnaper's Hopes For Last Minute Clemency," *Okmulgee Daily Times*, June 19, 1936, 1; Francis E. Barden, "Arthur Gooch Dies On Gallows At Dawn: Forfeits Life For Kidnaping Two Officers," *Ada Evening News*, June 19, 1936, 3.

⁵⁵ "Gooch's Nerve Near The Breaking Point," *The Oklahoman*, June 19, 1936, 1, 2; "Mother Unaware Until Yesterday Death So Near," *Muskogee Daily Phoenix*, June 19, 1936, 1.

⁵⁶ "Gooch Nerves Near Breaking Point," *The Oklahoman*, June 19, 1936, 1, 2; "Doomed Gooch Guesses What Death Is Like," *Tulsa World*, June 19, 1936, 1.

Rich Owens agreed to be Gooch's executioner, but he had never hanged anyone. In 1915, Owens built Oklahoma's first electric chair, known as "Old Sparky," and, when his career ended, he had electrocuted sixty-five but only hanged one.⁵⁷ He took his work seriously, but executing people did not bother him "anymore than jerking a chicken's head off."⁵⁸ When told that Gooch was to die on the gallows, Owens was disappointed his electric chair would not be used, believing hangings took too long and were messy.⁵⁹

The day of the execution, June 19, 1936, arrived. A gallows had been erected, and the officials decided to have a public hanging, adhering to the belief that "Executions are intended to draw spectators. If they do not draw spectators they don't answer their purpose."⁶⁰ The publicity of the death was intended to deter future criminals by exposing the consequences of breaking the law.⁶¹ Gooch sent his mother a telegram that said, "President turned me down. Go live with sister. Goodbye to

⁵⁷ David Zizzo, "Executioner's Song," *The Oklahoman*, August 17, 2003, 1A, 6A.

⁵⁸ "Afraid Of Death? Now Rich Owens Has The Answer," *The Oklahoman*, February 2, 1948, 1, 12.

⁵⁹ David Zizzo, "Executioner's Song," *The Oklahoman*, August 17, 2003, 1A, 6A.

⁶⁰ James Boswell, *Boswell's Life of Johnson*, Charles Grosvenor Osgood, ed. (New York: Charles Scribner's Sons, 1917), Courtesy of Google Books, <http://books.google.com/books?id=pxZLAAAAMAAJ&printsec=frontcover&dq=%22boswell's+life+of+johnson%22&cd=1#v=onepage&q=&f=false> (accessed January 15, 2010).

⁶¹ Hugo Adam Bedau, ed., *The Death Penalty in America* (New York: Oxford University Press, 1982), 12.

all,” and, at 5:00 a.m., Gooch, led by Deputy Warden Jess Dunn, emerged from the jail and walked across the prison grounds to the gallows.⁶² Shackled between two guards, Bill West and Bill Bell, and followed by Reverend E.S. Priest, the prison chaplain, L.M. Nichols and Paul Colvert, of the state board of affairs, and Deputy Marshals Allen Stanfield, George Hall, and Claude Swinney, Gooch ascended the scaffold’s steps to the awaiting Rich Owens.

When asked if he had any last words, Gooch merely wanted to know where he needed to stand.⁶³ Before the 200 witnesses, Owens slipped the hangman’s knot over Gooch’s head, covered him with a black hood that reached his waist, and pulled the trap door’s trigger. Gooch fell through the hole, the knot slipped up behind his ears, and he began to strangle. As Doctors T.H. McCarley, W.B. Taylor, B.B. Keys, and O.E. Lovely continued to check his pulse, Muskogee County Court Judge Enloe V. Vernor was in the audience and made note of the time from the trap being opened until the doctors reported Gooch dead. It had taken twenty-six minutes, instead of the expected ten, and Vernor told reporters it was a ““slow, tormenting death.””⁶⁴ Several others agreed with the magistrate’s assessment and were revolted at the sight of

⁶² “Whisky, ‘Wild Life’ Blamed For Downfall, *The Oklahoman*, June 20, 1936, 2; “Arthur Gooch On Gallows: Pays With Life At Dawn For Kidnaping Officers In Petty Crime Career,” *Muskogee-Times Democrat*, June 19, 1936, 1.

⁶³ “Arthur Gooch On Gallows: Pays With Life At Dawn For Kidnaping Officers In Petty Crime Career,” *Muskogee-Times Democrat*, June 19, 1936, 1.

⁶⁴ “Gooch’s Neck Unbroken, Dies By Strangulation,” *Tulsa World*, June 20, 1936, 1, 10; “Muskogee Judge Calls Gooch Hanging ‘Cruel, Inhumane Strangulation,’” *Muskogee Daily Phoenix*, June 21, 1936, 6; Mencken, *By the Neck*, vi-vii.

Gooch's legs suddenly jerking. The doctors finally pronounced him dead, and his body was removed. Immediately, Assistant Deputy Warden John Russell called to have the gallows disassembled and the rope cut up for souvenirs, but Owens asked to keep the noose and the knot.⁶⁵ When questioned on the length of time it took for Gooch's heart to stop beating, Owens answered, "'You pull a chicken's head off and he flops around like everything. That's the way it was with Gooch. He just had to have time to die.'"⁶⁶

After Gooch's body was released, it was sent to Humphreys Undertaking Parlor, and his mother, Adella, began making final arrangements.⁶⁷ Attorneys W.F. Rampendahl and Chal Wheeler contacted her and stated that they wanted to pay for Gooch's funeral.⁶⁸ Services were held at the Pentecostal Holiness Church in Okmulgee with Reverend Arthur Smith officiating. The building had seating for 400, but there were approximately 300 still left standing. As attendees filed past the body, they could see the still visible discoloration on the right side of his throat, another

⁶⁵ "City Kidnaper Dies Smiling On Gallows At State Prison; Execution Is Over Quickly," *Okmulgee Daily Times*, June 20, 1936, 1, 3.

⁶⁶ "Afraid Of Death? Now Rich Owens Has The Answer," *The Oklahoman*, February 2, 1948, 1, 12.

⁶⁷ Bureau of the Census, Department of Commerce, Standard Certificate of Death, State of Oklahoma, Arthur Gooch, Registered No. 307.

⁶⁸ "Arthur Gooch On Gallows: Pays With Life At Dawn For Kidnaping Officers In Petty Crime Career," *Muskogee-Times Democrat*, June 19, 1936, 1.

sign that the hanging had not been administered correctly.⁶⁹ Afterwards, Gooch's body was taken to the Okmulgee cemetery, and he was buried on a sloping hill under a large tree.⁷⁰

In the last days of his life, Gooch wrote a letter to the *Okemah Daily Leader*, and the newspaper published it two days after his death. Believing that he needed to reach out to the younger generation, Gooch penned the following:

As I write these words I have not many hours left in this world, and though I love life as well as the next person who is normal and healthy in every way I do not curse the adverse fate which brought me to my present condition. I have had ample opportunity for serious thought since my arrival at this prison and I can realize that no one is to blame for my plight but myself. I have thought for some months that if I am called upon to pay this penalty of death by the noose, that possibly my going would be of some good after all if I could just show or tell the younger folks of today how I came to be in my present predicament, so you who are on the threshold of manhood or womanhood read this page from the life of one who goes to his death unafraid but filled with remorse for the suffering he has caused mother and loved ones left behind. And as you read, think of what I say, for these are no idle words. Due to circumstances I left school when I was but 15 years old and I had only progressed as far as the sixth grade, so was only fitted for work which would require no schooling. I found it and worked at union places in and around Okmulgee until I finally ended up working in a grocery store. Delivery boy was my title and I stuck to this eventually being promoted to inside work. All this time I was supporting my darling mother who was almost entirely dependent on me. It was while working at this store that I met and married a girl; we were happy for a time and soon a child was born to my wife. Usually this event tends to weld a family closer, but in our case it worked in reverse, and soon began petty quarrels. These led to my going out after my work was done and finally life became so miserable at home that I would leave home each night and stay out until all hours to escape the sharp tongue of my wife. She was forever accusing me of going with other girls. At first this was not so but later as I

⁶⁹ "Gooch Drew Rope Around Own Neck By Court Actions," *Muskogee Daily Phoenix*, June 21, 1936, 1, 3.

⁷⁰ Observations made by author upon visiting Arthur Gooch's grave.

was away from home more and more, I decided to have the game as well as the name, went to dances and automobile riding and as the youth of that day thought a party was not complete, there was always a bottle of moonshine whisky in the crowd, thus starting my decline. I began drinking and, as the alcohol began to poison my will power, soon I was ready for most anything, and very shortly had quit my job and was drinking continually.

The rest of my story is a matter of record. My wife divorced me and took our baby boy with her. He is now seven years old and I pray God that he will manage to dodge the pitfalls which are in wait for all the boys and girls of this world in the shape of whisky and a good time. So you who delight in parties, who take a drink to be sociable, and who have no thought for your parties, give heed to my words and shun as you would a pestilence, this evil called whisky.

No matter if it is moonshine or legally sold bottled in bond, there is some little devil in each bottle to destroy your body and soul.

This is my last word and if these words will keep just one person from the path that I have trod, then I will not have died in vain.

Best wishes to everyone. I must go to my Maker.⁷¹

Gooch's words provide a glimpse into his motivations, self-reflection, and ultimate acceptance of the blame and of his fate. His story of hard times, little education, and missed opportunities was repeated in countless numbers of the nation's citizens during the Depression, but Gooch chose to enter into a life of crime to escape his problems and responsibilities. His mother, Adella, knew he had transgressed the law and never asked for him to be released but that he not be killed. Had he not been executed, it is likely he would have spent the rest of his life in prison for his crimes.

Arthur Gooch's legacy was one of lawlessness, pain, and poor personal judgment. His name is little known to history, and, when mentioned, it is only to address the fact that he was the first person executed under the Lindbergh Law and

⁷¹ Arthur Gooch, "Gooch Advises 'Shun Whiskey' in Last Words," *Okemah Daily Leader*, June 23, 1936, 3.

the only legal hanging at the McAlester state penitentiary.⁷² Gooch's life and his death left those dear to him distressed, grieving, and ashamed, and placed his son, Billy Joe, on a path of secrecy.

⁷² Butler, *More Oklahoma Renegades*, 330; *Oklahoma Department of Corrections*, "Execution Statistics," <http://www.doc.state.ok.us/offenders/deathrow.htm>, (accessed February 8, 2010).

CHAPTER V: CONCLUSION

Oklahoma and the nation experienced turbulent times during the 1930s with dust storms blanketing parts of the United States, banks failing, the Depression ever increasing, and crime rates rising. President Franklin Roosevelt's (FDR) summations of the crises were that the failing economy had led to the breakdown of society and only strong politics could bring the nation back into order and solve the social and economic problems.¹ In the wake of the abduction and murder of the Lindbergh baby, these political motivations expedited the Federal Kidnapping Act in 1932, popularly known as the Lindbergh Law, and prompted the Seventy-third Congress, at the president's urging, to enact several crime laws. After the execution of Arthur Gooch on June 19, 1936, events progressed rapidly for his family, and, with an end to the Depression era and a return to normalcy, legislators and judges began to reassess the statutes passed during the Thirties and the impetus for them.

Gooch's wife, Mary, feared for her son Billy Joe's wellbeing in the wake of the hanging and followed her sister to California to escape the media's attention. She told the press that "Sometime he'll (Billy Joe) know it and what it means. And I'm afraid it might make him grow up to hate the law and that can't happen. It mustn't and I must see that it doesn't. He must feel the law is his friend."² Mary remarried

¹ David H. Bennett, "The Roosevelt New Deal: A Program Assessment Fifty Years Later," in William Dudley, ed., *The Great Depression: Opposing Viewpoints* (San Diego: Greenhaven Press, Inc., 1994), 273.

² "Gooch Hopeful Of Reprieve," *Ada Evening News*, June 18, 1936, 5.

and Billy Joe, though never officially adopted, took his step-father's last name, Frisby, to avoid any connection to his paternal legacy.³ Ashamed and fearing a mar on their own names, Gooch's extended family refused to speak of him or of the happenings of June, 1936, as they struggled to separate themselves from any association with the crime and subsequent events.⁴

Public executions and the repeatedly improper and gruesome methods used to carry them out encouraged the development of a new kind of capital punishment and an end to masses being allowed to view the last moments of a criminal's life. The main argument supporting these types of death sentences was to "maximize the deterrent effect," but, more often than not, pity for the one suffering developed in those viewing his demise.⁵ The last public hanging occurred on May 21, 1937, in Galena, Missouri. On that day, Roscoe Jackson met his doom for murdering a

³ Jay C. Grelen, "Man Overcomes Father's Hanging," *The Oklahoman*, April 22, 2001, 2.

⁴ Lenora Holland, Interview by Leslie Jones, Tape recording, March 7, 2009, Oklahoma History Center, Oklahoma City, Oklahoma; Hereafter cited as Holland Interview, OHC; Janice Jones, Interview by Leslie Jones, Tape recording, January 23, 2009, Oklahoma History Center, Oklahoma City, Oklahoma; Hereafter cited as Jones Interview, OHC; JaNelle Rutledge, Interview by Leslie Jones, Tape recording, January 23, 2009, Oklahoma History Center, Oklahoma City, Oklahoma; Hereafter cited as Rutledge Interview, OHC; Willadean Smeltzer, Interview by Leslie Jones, Tape recording, March 7, 2009, Oklahoma History Center, Oklahoma City, Oklahoma; Hereafter cited as Smeltzer Interview, OHC.

⁵ Hugo Adam Bedau, ed., *The Death Penalty in America* (New York: Oxford University Press, 1982), 12-13.

traveling salesman in order to steal his car, and, as with Gooch's execution, the crowd took pieces of the hangman's rope as souvenirs.⁶

The prevalence of crime in the 1920s and 1930s made Americans more accepting of the federal government's involvement in their lives and increased their desire to see justice carried out against menaces to society. The Lindbergh baby's kidnapping and death fueled people's fear, leaving them "horror-struck," and the Roosevelt administration tapped into that alarm to increase the federal government's involvement in state's matters.⁷ United States (U.S.) Attorney General Homer Cummings warned that "widespread lawlessness" was forcing itself upon the population, and the fate of the Lindbergh baby was connected to a "new type of ruthless criminal 'gangster.'"⁸ Immediately, death penalty statutes were enacted to deter kidnapping and other derelict behavior. In addition, the American public demanded a stronger police force and better protection from the abuse and immorality they saw all around them. Hollywood also became involved, producing sixty-five

⁶ Bedau, ed., *The Death Penalty in America*, 13; Tim O'Neal, "Galena's Gruesome Claim To Fame," *St. Louis Post-Dispatch*, March 20, 2001, <http://websolutions.learfield.com/deathrow/gestalt/go.cfm?objectid=7219F4FA-94AE-4AA6-ACF3D8BF1F09B7DF> (accessed February 8, 2010).

⁷ Homer S. Cummings, *We Can Prevent Crime* (New York: Macfadden Publications, Inc., 1937), 9.

⁸ Homer S. Cummings, and Carl McFarland, *Federal Justice: Chapters in the History of Justice and the Federal Executive* (New York: Macmillan Company, 1937), 475, 478.

movies in 1935, featuring federal agents as brave heroes; gone were the themes that glorified the gangsters.⁹

In the early 1930s, FDR, Cummings, and Bureau of Investigation Director J. Edgar Hoover joined together to develop a powerful national law enforcement within the Justice Department, resulting in the Federal Bureau of Investigation (FBI). Dependent on annual appropriations from congress, Hoover and other agency officials justified the group's existence by "promoting alarm over crime or national security menaces" and publicizing their accomplishments.¹⁰ In one such instance, the Bureau announced that, in 1934, it had a ninety-four percent success rate of apprehending and convicting malefactors.¹¹ Speaking at the U.S. Attorney General's Conference on Crime, Hoover argued that "there is only one way to make a law breaker obey the statutes of our country and that is to make him fear punishment."¹² Calling for strict laws and penalties, the Bureau of Investigation Director affirmed his belief that a criminal "rules by fear, and fear is the only weapon which can rule him – fear of the certainty of arrest and punishment," and he stressed that the "looseness of

⁹ Lawrence Block, ed., *Gangster, Swindlers, Killers, & Thieves: The Lives & Crimes of Fifty American Villains* (New York: Oxford University Press, Inc., 2004), 125.

¹⁰ Athan G. Theoharis, *The FBI: A Comprehensive Reference Guide* (Phoenix: Oryx Press, 1999), 169.

¹¹ John Edgar Hoover, "Detection and Apprehension," in *Proceedings of the Attorney General's Conference on Crime: Held December 10-13, 1934, in Memorial Continental Hall, Washington, D.C.* (Washington, D.C.: Printed Under the Supervision of the Bureau of Prisons, Department of Justice, 1936), 27.

¹² Hoover, "Detection and Apprehension," in *Proceedings of the Attorney General's Conference on Crime*, 27.

the law, and a general laxity of enforcement” could turn any individual prone to derelict behavior into “a national menace.”¹³ Ending his speech, Hoover praised the federal agents who were willing to “pursue relentlessly and prosecute fully” any law breaker and were able to “fearlessly meet the challenge of the underworld even though it means a war to the death.”¹⁴ The media coverage of the conference caused congress and the public to support the government’s anticrime endeavors.

Cummings, continuing in a similar process of promotion, announced to the public and to congress that a national movement was needed to “meet the menace of lawlessness.”¹⁵ However, professional criminologists questioned the reports of a national crime wave because the numbers did not support the claim. William Seagle, an author writing at the time, produced statistics for 1932, the year the Lindbergh baby was abducted. Seagle stated that 285 kidnappings had occurred in 502 cities and only sixteen percent involved interstate commerce, proving that the crime was a mainly local event.¹⁶ In conjunction with Seagle’s findings, in 1933, American criminologist Edwin Sutherland and statistician C.E. Gehlke studied the quantitative data of illegal activities for the 1930s and compared it to information from the

¹³ Hoover, “Detection and Apprehension,” in *Proceedings of the Attorney General’s Conference on Crime*, 34.

¹⁴ Hoover, “Detection and Apprehension,” in *Proceedings of the Attorney General’s Conference on Crime*, 34.

¹⁵ U.S. Department of Justice, *Annual Report of the Attorney General for the Year Ending June 30, 1935* (Washington, D.C.: Government Printing Office, 1935), 1.

¹⁶ Samuel Walker, *A Critical History of Police Reform: The Emergence of Professionalism* (Lexington, MA: Lexington Books, 1977), 152-53.

previous two decades. The two scholars contended that America had not been engulfed by an “immense crime wave,” but they listed the increase in population, widespread media coverage, inefficiency of the criminal justice administration, and additional laws as the cause of a “gradual and continuous rise” of known and recorded lawlessness.¹⁷ Sutherland and Gehlke concluded that harsher punishments were not the answer but a study was needed to determine “by which crime originates and is developed.”¹⁸ Regardless, the president, U.S. Attorney General, and the director of the FBI continued to use the public’s apprehension to enlarge the Bureau’s role and size. Their success resulted in the development of a “modern American police administration” that still exists, in part, today.¹⁹

The Roosevelt administration used the war on crime to prove the effectiveness of the New Deal policies and organize, according to Political Scientist Robert MacIver, the “nation’s economic and social structures.”²⁰ History shows, as reported by retired Judge Rudolph Gerber and Professor John Johnson, that “legislative

¹⁷ Edwin H. Sutherland and C.E. Gehlke, “Crime and Punishment,” in Wesley C. Mitchell, ed., *Recent Social Trends in the United States: Report of the President’s Research Committee on Social Trends* (New York: McGraw-Hill Book Company, Inc., 1933), 1114-15, 1120, 1165.

¹⁸ Edwin H. Sutherland and C.E. Gehlke, “Crime and Punishment,” in Wesley C. Mitchell, ed., *Recent Social Trends in the United States: Report of the President’s Research Committee on Social Trends* (New York: McGraw-Hill Book Company, Inc., 1933), 1167.

¹⁹ Walker, *A Critical History of Police Reform*, ix, 139.

²⁰ Robert M. MacIver, “The Ambiguity of the New Deal,” in Howard Zinn, ed., *New Deal Thought* (Indianapolis: Hackett Publishing Company, Inc., 2003), 51.

decrees...gain a good part of their attraction by appearing rooted in the drama of isolated but sensational crimes that cry out for a remedy.”²¹ Holding to the belief that crime control was rooted in, according to Gerber and Johnson, a “network of political, legal, social, and economic institutions,” FDR and Cummings used the Lindbergh kidnapping as a catalyst to promote the passage of laws that would bring society back under control, linking that to the recovery of the economy.²² Further, the war on crime gained momentum from the Lindbergh trial and the belief that the FBI had played a vital role in bringing the perpetrator to justice. Arthur Gooch, presently considered a “pedestrian robber” and a “petty criminal” whose actions were “colorless and caused little public concern,” found himself, through his own poor personal judgment, in the midst of intense social and political changes when his case went before the court.²³

The first person convicted under the newly amended Lindbergh Law could not be allowed to escape the ultimate punishment. Roosevelt, Cummings, and

²¹ Rudolph J. Gerber and John M. Johnson, *The Top Ten Death Penalty Myths: The Politics of Crime Control* (Westport, CT: Praeger Publishers, 2007), 210.

²² Gerber and Johnson, *The Top Ten Death Penalty Myths*, 59; Ernest Kahlar Alix, *Ransom Kidnapping in America, 1874-1974: The Creation of a Capital Crime* (Carbondale: Southern Illinois University Press, 1978), xix, xxi.

²³ Sanford H. Kadish, ed., *Encyclopedia of Crime and Justice*, Vol. 3, “Identification to Psychology and Crime,” (New York: The Free Press, A Division of Macmillan, Inc., 1983), 995; Michael Newton, *Stolen away: The True Story of California's Most Shocking Kidnap-Murder* (New York: Pocket Star Books, 2000), 362; Negley King Teeters and Jack H. Hedblom, ... *Hang by the neck ...The Legal Use of Scaffold and Noose, Gibbet, Stake, and Firing Squad from Colonial Times to the Present* (Springfield, IL: Charles C. Thomas, 1967), 332.

Hoover had too much invested and too much at stake to back down. Politicians want to appear tough on crime, and, often, judges feel pressured to support the death penalty, especially, as in Gooch's case, when the magistrate has the final decision in determining the defendant's fate.²⁴ After Gooch's sentence was announced, Cummings sent commendations to Judge Robert Williams for imposing the death penalty and aiding in the "national battle against crime."²⁵ President Roosevelt, with Cummings' support, then nominated Williams to fill a seat on the Tenth Circuit Court of Appeals, and, accepting, he served on the bench for two years. With their trials both occurring in 1935 and the crime against "America's Golden Boy" still fresh in the public's minds, Gooch's name was inevitably linked with Bruno Richard Hauptmann, the man accused of the Lindbergh baby's abduction and death. The public and the courts believed that kidnapping was a dreadful offense and required a "criminal boldness" not found in similar immoral behavior, and, therefore, the malefactor deserved no sympathy and must pay the ultimate price for his actions.²⁶ This belief made kidnapping one of the most "severely punished crimes in America."²⁷

²⁴ Gerber and Johnson, *The Top Ten Death Penalty Myths*, 171, 175.

²⁵ "Cummings Praises Judge Bob Williams," *The Oklahoman*, June 21, 1935, 1.

²⁶ Charles Evans, "Robert Lee Williams," *Chronicles of Oklahoma* 26 (1948): 121; Jeffrey Lehman and Shirelle Phelps, ed., *West's Encyclopedia of American Law* (Detroit: Thomson / Gale, 2005), 137.

²⁷ Alix, *Ransom Kidnapping in America, 1874-1974*, xvii, xxiv.

However, beginning with a lawsuit in 1946, judges actively reviewed and reinterpreted the Lindbergh Law. In *Chatwin v. United States*, Justice Frank Murphy presided over a case accusing William Chatwin, Charles F. Zittig, and Edna Christensen of kidnapping fifteen-year-old Dorothy Wyler, who lived in Utah, and taking her to Mexico for a “celestial” marriage, thereby violating the Federal Kidnapping Act.²⁸ Upon consideration of the matter, the Supreme Court held to a strict interpretation of the law as opposed to the court’s rulings on the law ten years earlier and ruled in favor of the defendants. Justice Murphy delivered the court’s opinion:

There is no indication that congress desired or contemplated that the punishment of death or long imprisonment, as authorized by the Act, might be applied to those guilty of immoralities lacking the characteristics of true kidnaping (sic). In short, the purpose of the Act was to outlaw interstate kidnaping rather than general transgressions of morality involving the crossing of state lines. And the broad language of the statute must be interpreted and applied with that plain fact in mind. . . . A loose construction of the statutory language conceivably could lead to the punishment of anyone who induced another to leave his surroundings and do some innocent or illegal act of benefit to the former, state lines subsequently being transverse. The absurdity of such a result, with its attendant likelihood of unfair punishment and blackmail, is sufficient by itself to foreclose that construction.²⁹

A similar resolution and belief that the law should be strictly applied would have greatly benefited Arthur Gooch, but the Supreme Court judges during his trial were more inclined to a broad interpretation of the Lindbergh Law.

²⁸ *Chatwin v. United States*, 326 U.S. 455 (1946), 455; Lewis Wood, “High Court Frees 3 Utah Cultists,” *The New York Times*, January 3, 1946, 24.

²⁹ *Chatwin v. United States*, 326 U.S. 455 (1946), 464; Lewis Wood, “High Court Frees 3 Utah Cultists,” *The New York Times*, January 3, 1946, 24.

Struggling to halt Gooch's hanging, his attorney, W.F. Rampendahl, appealed to the Supreme Court for a second time, declaring the death clause contained with the Federal Kidnapping Act to be unconstitutional, but the court refused to hear his arguments. A comparable case tried in 1966 resulted in the ruling Rampendahl sought. In September of that year, Charles Jackson, Glenn Walter Alexander de la Motee, and John A. Walsh, Jr. kidnapped John J. Grant III, a driver of a truck containing \$150,000 worth of Schick Eversharp products, in Connecticut and released him in New Jersey. Authorities charged the three captors with violating the Lindbergh Law, but Connecticut Federal District Court Judge William H. Timbers, challenged the constitutionality of the edict.³⁰ He explained that the wording of the amended act, stating that a defendant "shall, upon conviction, be punished by death if the verdict of the jury shall so recommend, provided that the sentence of death shall not be imposed by the court if, prior to its imposition, the kidnaped (sic), person has been liberated unharmed," meant only a jury could adjudge the death penalty.³¹ Judge Timbers concluded that many defendants would plead guilty to charges brought against them and give up their constitutional right to a trial by jury to avoid

³⁰ "Ruling Raises Questions On Lindbergh Law," *Dallas Morning News*, January 1, 1967, 3; "Court Voids Death As Kidnap Penalty," *Dallas Morning News*, April 9, 1968, 7; Richard J. Gallagher, "Kidnapping in the United States and the Development of the Federal Kidnapping Statute," in Brian M. Jenkins, ed., *Terrorism and Personal Protection* (Boston: Butterworth Publishers, 1985), 141.

³¹ *Federal Kidnapping Act of 1932, Amended*, Public Law 73-232, *U.S. Statutes at Large* 48 (1934): 781-82.

the maximum punishment.³² The case went before the Supreme Court, and it delivered its opinion on April 8, 1968, stating: “We agree with the District Court that the death penalty provision of the Federal Kidnaping (sic) Act imposes an impermissible burden upon the exercise of a constitutional right... The statute thereby subjects the defendant who seeks a jury trial to an increased hazard of capital punishment.”³³ Upon their ruling, the death penalty clause of the Lindbergh Law was struck, but the remainder of the act remained intact.

Prior to the Supreme Court’s ruling, six people were put to death for violating the Federal Kidnapping Act. Arthur Gooch was the first, hanged on June 19, 1936; John Henry Seadlund was executed on March 19, 1938; Carl Austin Hall and Bonnie Heady faced their end on December 18, 1953; Arthur Ross Brown entered Missouri’s gas chamber on February 24, 1956; and Victor Henry Feguer was hanged on March 15, 1963. In all of the cases, the captors brutally murdered their victims, except Gooch’s.³⁴

The death penalty is a controversial subject among Americans, with many strongly supporting it and others just as vehemently opposing it. To bring society

³² “Ruling Raises Questions On Lindbergh Law,” *Dallas Morning News*, January 1, 1967, 3; “Court Voids Death As Kidnap Penalty,” *Dallas Morning News*, April 9, 1968, 7; Gallagher, “Kidnapping in the United States and the Development of the Federal Kidnapping Statute,” in Jenkins, ed., *Terrorism and Personal Protection*, 141.

³³ *United States v. Jackson, et. al.*, 390 U.S. 570 (1967).

³⁴ Gallagher, “Kidnapping in the United States and the Development of the Federal Kidnapping Statute,” in Jenkins, ed., *Terrorism and Personal Protection*, 140-41.

back into balance and reveal the consequences of criminal behavior, executions were presented before the public. Capital punishment is also used as a political tool, symbolizing the “ultimate power of the state over its individual members.”³⁵

However, crimes that warrant the death penalty have changed in the United States, and courts today rule that execution is too severe, and therefore unconstitutional, for any act other than rape or murder. Even then, someone convicted of such a crime has a ninety-eight percent chance of not being sentenced to death, and ninety-nine percent of those on death row will never be executed. As to whether the death penalty dissuades future criminals, seventy years of criminological research has revealed there is no deterrent effect.³⁶ Citizens who oppose capital punishment center their arguments around four points: 1) it is not a deterrent 2) a civilized society should not employ such means of punishment 3) innocent people are wrongly executed 4) its application is inconsistent.³⁷

Since 1915, the Sooner State has executed 175 inmates on death row. Of those, 167 faced their death for committing murder, five for rape, two for kidnapping, and one for armed robbery. Rich Owens, Gooch’s hangman, served as the executioner for sixty-two, and his electric chair, “Old Sparky,” was employed for eighty-two of the deaths. A review of the data reveals that fourteen prisoners met

³⁵ Gerber and Johnson, *The Top Ten Death Penalty Myths*, 76, 121.

³⁶ Lane Nelson and Burke Foster *Death Watch: A Death Penalty Anthology* (Upper Saddle River, NJ: Prentice Hall, 2001), vii; Bedau, ed., *The Death Penalty in America*, 251; Gerber and Johnson, *The Top Ten Death Penalty Myths*, 217.

³⁷ Nelson and Foster *Death Watch*, 2.

their end in the 1920s, thirty-five in the 1930s, and thirteen in the 1940s. These statistics seemingly prove that either a crime wave had taken place during the Depression era or that, during the Thirties, the American people and the government demanded a harsh penalty for law breakers. A transition occurred in 1977, and Oklahoma became the first in the nation to adopt lethal injection as the method of execution; ninety-two have since died by this procedure. Only one legal hanging has occurred in this state, Arthur Gooch.³⁸

Looking back, Gooch's surviving family members had interesting remembrances and thoughts to share about their relative and his death. Lenora Gooch-Holland, daughter of Gooch's Uncle Henry Gooch, remembers her cousin fondly. One particular memory that stays with her involved "Little Arthur" carrying her to her bed one day when she was ill, calling him a "nice fellow" who was loved by her father.³⁹ Willadean Gooch-Smeltzer, the daughter of "Little Arthur's" namesake, believes her cousin was guilty of the crimes lodged against him, but neither she nor her father thought he should have been executed. She recognizes that "the law was rather stringent at that time" but stated that "there are so many that have done so much worse." Willadean added that her father "always felt sorry for him, because he never did have a good foundation, a good raising, or a good influence of

³⁸ Oklahoma Department of Corrections, "Execution Statistics," <http://www.doc.state.ok.us/offenders/deathrow.htm>, (accessed February 8, 2010); Gerber and Johnson, *The Top Ten Death Penalty Myths*, 12; David Zizzo, "Executioner's Song," *The Oklahoman*, August 17, 2003, 1A, 6A.

³⁹ Holland Interview, OHC.

having a father. My dad was just trying to be a father, more or less, to him because he really loved him.”⁴⁰

Janice Norton-Jones, JaNelle Norton-Rutledge, and Jana Norton-Sellon, the three daughters of Retha Gooch-Norton, sister to Willadean, do not know much about “Little Arthur” except that “it was a matter of shame” to be related to him.⁴¹ Their mother refused to speak of him or his crime, only saying that he was a very nice little boy that got mixed up with the wrong crowd. Jana stated that she thought her mother was “embarrassed and just didn’t want anybody to say ‘Oh, so he was your cousin, huh, are you anything like him?’”⁴² In agreement, JaNelle commented that “Little Arthur” was a “troubled young man, who, according to my mother, had disgraced the family.”⁴³ However, the three women did not hear any stories about Arthur Gooch until they were adults and now regret not asking more questions. Looking back, Janice, this author’s mother, recalled a small table she was instructed to dust but to never look inside; she later discovered that newspaper clippings covering “Little Arthur’s” crimes and execution were hidden in it.⁴⁴ Retha Gooch-Norton’s personal memory book contains a picture of the McAlester State Penitentiary, inserted after

⁴⁰ Smeltzer Interview, OHC.

⁴¹ Jones Interview, OHC.

⁴² Jana Sellon, Interview by Leslie Jones, Tape recording, January 23, 2009, Research Center, Oklahoma History Center, Oklahoma City, Oklahoma.

⁴³ Rutledge Interview, OHC.

⁴⁴ Jones Interview, OHC.

her July, 7, 1936 entry, but she did not write anything in reference to her cousin, Arthur, or why she included the snapshot.⁴⁵

It is unknown if Gooch's son, Billy Joe, had any memories of his father or if his mother ever spoke of him. The extended family never heard from Billy Joe after his mother and he moved to California. In an interview with *The Oklahoman*, Don Scott, a maternal cousin, told the reporter that Billy Joe never mentioned his biological father, but Mr. Scott wanted the world to know that Mary, Billy Joe's mother, had accomplished her goal of providing a fresh start for her son, adding that Billy Joe had "left a mark on a lot of people."⁴⁶ Gooch's son served in the military, played in a country-western band, and worked as a school crossing guard in Milpitas, California, for fifty-one years. When Billy Joe died in 2001 at the age of seventy, few attending his funeral knew the true identity of his biological father, and, in a last attempt to hold on to his anonymity, the last name recorded on his death certificate is Frisby. His father, however, is listed as Arthur Gooch.⁴⁷

Gooch is merely remembered as a young man who lost his father at an early age, had very little money and fewer prospects, made poor choices, and came of age during a time when the nation and Oklahoma were suffering. "Little Arthur" never found a way to be a success and make his family proud, and, in the end, he is a side

⁴⁵ Retha Norton. *My Memory Book*, 1929-1941.

⁴⁶ Jay C. Grelen, "Man Overcomes Father's Hanging," *The Oklahoman*, April 22, 2001, 2.

⁴⁷ Jay C. Grelen, "Man Overcomes Father's Hanging," *The Oklahoman*, April 22, 2001, 2; State of California, Department of Public Health, Certification of Vital Record, Certificate of Death, Billy Joe Frisby, State File Number 3052000199129.

note in history, the first person executed under the Lindbergh Law. Seventy-four years later, however, someone continues to place flowers on his grave in Okmulgee, Oklahoma.

The powerful politics of the mid-1930s played a major role in his final demise. President Franklin Roosevelt and U.S. Attorney General Homer Cummings, in the midst of attempting to strengthen the country socially and economically during the Great Depression, waged a war on crime and against an alleged wave of kidnappings. Achieving strong legislation in the Federal Kidnapping Act, the two men were unwilling to grant clemency in the amended law's first conviction. In their minds, they needed to rebuild the social order and reconstruct the nation's economy and that meant being tough on the menaces of society. Arthur Gooch found himself committing the worst crime at the wrong time, and justice, in the eyes of the federal government, had to be carried out.

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