

## AFFIDAVIT DETAILS UNDERWORLD PLOT

### Alleges Conspiracy to Gain Release of Gorg Cigure

Special to The New York Times

TUCSON, Ariz., Oct. 5—The manner in which imprisoned underworld figures can flex their muscles, both inside and outside prison walls, was revealed in an F.B.I. affidavit detailing the case against three men named in warrants on conspiracy charges here yesterday.

A former Mafia operative, Joseph Bananno, 64 years old, and his bodyguard, Peter Notaro, 53, were arrested at their homes. The third man, Charles Joseph (Batts) Battaglia, 52, is serving a 10-year sentence in Leavenworth Federal Penitentiary after being convicted of interference with interstate commerce by threats of violence.

The three were charged with conspiracy to obstruct justice, commit perjury, commit subornation of perjury, commit extortion and cause the use of interstate facilities with intent to commit extortion.

Battaglia's 1967 conviction came as a result of his threatening a Tucson bowling alley operator to force him to install a coin-operated pool table.

According to the affidavit filed with the charges yesterday, Battaglia planned to request a new trial on the basis of new evidence—"false testimony by former Tucson police Sgt. William Dunn" and allegations that the Government installed electronic eavesdropping equipment to obtain his conviction.

It was a handwritten petition by Battaglia seeking a new trial that caused the authorities to bring charges on the basis of earlier information.

Earl L. Fauver, special investigator for the Federal Bureau of Investigation assigned to Battaglia since 1964, signed an affidavit giving this version of how the three hoped to have Battaglia released from prison:

Through promise of money, other rewards and threats of death, Battaglia enlisted the aid of William Reinke, a fellow inmate at Leavenworth and clerk to the prison business manager. He had access to prison stationery and could send letters without censorship.

### Superintendent Informed

Reinke told the prison superintendent, John N. Brown, who supplied copies of outgoing letters to the F.B.I., that Battaglia had a secret means of receiving letters.

In August, Battaglia began a series of nine letters to Bonanno, Notaro, and "Pancho," identified as Oscar Gilbert McDermott Gill, a Tucson barber.

In an early letter, according to the affidavit, Battaglia wrote: "He says that it's possible some ex-Johns [ex-policemen] will say what has to be said about speedway if the price is right. They will put the tap [electronic eavesdropping device] there and swear it was Sam [the United States Government] and this is what I got to have. It don't matter how I get it or who gets hurt, just so I get it."

The right price was \$5,000, according to another letter, and it was to be paid to William Dunn, a former Tucson police sergeant, for his testimony at the new trial. Additional pressure was to be applied as blackmail: Pancho was believed to have tape recordings damaging to Mr. Dunn. Mr. Dunn was dismissed from the police force in 1968 for "numerous administrative violations."

The affidavit said further that Reinke, due for release this month, was to pick up the tapes from Pancho and confront Mr. Dunn with them.

After release, Reinke was to confer in Phoenix with a gunman who was to be assigned killing duties. A letter from Joe Bonanno, the affidavit said, put four men's names on the death list.

They were a former F.B.I. agent, David Hale, another agent named Thomas and not otherwise identified, Sgt. Dunn and Sal Spinelli.

Presumably Mr. Hale's death was intended to stop an investigation of Battaglia. Sgt. Dunn was to be killed if he refused to testify, and the Spinelli man's life was in danger because "he had some books that could ruin Battaglia with the tax people." Sal Spinelli was former co-owner of a Tucson beauty shop, the Wig, that Battaglia ordered Reinke to burglarize to recover the books.