

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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HAROLD WEISBERG,

Plaintiff,

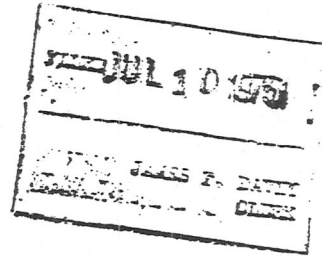
v.

Civil Action No. 75-226

UNITED STATES DEPARTMENT OF  
JUSTICE, and

U.S. ENERGY RESEARCH AND DEVEL-  
OPMENT ADMINISTRATION,

Defendants  
.....



AFFIDAVIT OF HAROLD WEISBERG

I, Harold Weisberg, being first duly sworn, depose as follows:

1. I am the plaintiff in the above-entitled action.
2. In this affidavit I address the FBI's motivation for its continuing coverup of basic scientific information about the assassination of President Kennedy. I explain why the FBI lies about having complied with my request for the disclosure of these basic scientific tests when in fact it has not. In doing so, I show that the FBI knows--and has always known--that the hard evidence in its possession disproves the official theory that one man acting alone killed President Kennedy; that the FBI deceived the members of the Warren Commission about what these tests show; and that for the past eleven years the FBI has suppressed from the American people its certain knowledge that a conspiracy killed President Kennedy.

3. The Warren Commission's conclusions on the shooting of President Kennedy and Governor Connally are as follows:

(1) President Kennedy was first struck by a bullet which entered the back of his neck and exited through the lower front portion of his neck, causing a wound which would not necessarily have been lethal. The President was struck a second time by a bullet which entered the right-rear portion of his head, causing a massive and fatal wound.

(2) Governor Connally was struck by a second bullet which entered on the right side of his back and traveled downward through the right side of his chest, exiting below his right nipple. This bullet passed through his wrist and entered his left thigh where it caused a superficial wound. [Warren Report, p. 19]

The Commission's third conclusion stated that ". . . it is not necessary to any essential findings of the Commission to determine just which shot hit Governor Connally . . ." This is as gross a lie as officials can tell. In fact, the shot which struck Governor Connally could not have been either of the other two admitted shots and nothing could be more essential to any official findings.

The Commission did conclude, however, that the virtually pristine bullet [CE 399, attached hereto as Exhibit A] which "entered the back of [Kennedy's] neck" also struck Governor Connally, inflicting all five of his wounds, and a third bullet missed both the Presidential limousine and its occupants.

4. On February 15, 1965, I completed Whitewash: The Report on the Warren Report, my first book on the assassination of President Kennedy. In this analysis of the Warren Report, I focused on the spectrographic analysis of items of evidence connected with the shooting of President Kennedy and Governor Connally. Spectrography is not a new science. An old text, Crime Investigation,

they had this "dirty rumor" which was "very bad for the Commission" and "very damaging to the agencies that are involved in it" and which "must be wiped out by the Commission.

34. That is what is being tried with these scientific tests I have sought for a decade. In my first suit for these tests, the government manipulated the courts and accomplished a rewriting of the freedom of information law by deceptions and misrepresentations, including the fraudulent declaration that "the Attorney General of the United States has determined that it is not in the national interest to divulge these spectrographic analyses." Then Congress amended the law last year, expressly citing the decision in my suit as one which had to be overturned in order to give the law the meaning Congress had intended it to have before the executive branch corrupted the law by dishonestly procured court decisions. In this present suit the government is once again trying to thwart the Congressional mandate and destroy the new law, this time by insisting that I cannot exercise my discovery rights and the court must accept its nonresponsive and perjurious affidavits.

35. There are two kinds of "new" evidence pertaining to the assassination of President Kennedy: what the Warren Commission suppressed and for varying periods of time, including this moment, the government keeps suppressed; and what the Warren Commission never had. I have, over the long and difficult years, accumulated a large store of both kinds.

36. The FBI states that it has fully complied with my request. If the FBI is now telling the truth, then the Warren Commission, had it demanded to see all the tests made, would have learned that some were never really made. Some samples only were examined, and only in some ways. But the real job, unless the FBI

is lying, was never done. There are, for example, no tabulations of all the components of the ammunition allegedly used in the crime. Not one itemization, anywhere! There is no tabulation of all the measurements of all these components in the various specimens supposedly tested. Not one! Unless the FBI is lying, some of the most basic items of evidence were not tested at all!

37. The Warren Commission went to some trouble to hide the fact that in addition to spectrographic analyses, it also had neutron activation analyses (NAA) done. The Report and the 10,000,000 words of the Commission's published evidence are silent on the neutron activation analyses.

38. Yet neutron activation analysis is an even more precise test than spectrographic analysis. On December 11, 1963, Paul C. Aebersold, Director, Division of Isotope Development of the Atomic Energy Commission, wrote then Assistant Attorney General Herbert J. Miller, Criminal Division, Department of Justice, that "within less than 24 hours of the assassination" the AEC had "offered our assistance and that of our laboratories in obtaining criminalistics evidence by means of nuclear analytical techniques." Aebersold spelled out the potential, stating that by use of NAA testing it ". . . may be possible to determine by trace-element measurements whether the fatal bullets were of composition identical to that of the purportedly unfired shell found with the Italian carbine."

39. In a letter dated April 10, 1975, FBI Director Clarence Kelley has listed the NAA tested items of evidence. If, as the FBI asserts, this is a complete listing, then the comparison suggested by Mr. Aebersold was not made. According to Director Kelley's April 10th letter, the unfired bullet found with the alleged murder weapon was not tested. Of the two bullet fragments

found on the front seat of the President's limousine, one, the one entirely of copper alloy, was not tested. Nor were the President's jacket and shirt, both allegedly penetrated by fabulous bullet 399, tested. And the President's tie, alleged to have been nicked by bullet 399 as it exited the President's throat, was also not tested.

40. Mr. Aebersold, the AEC's expert, was in his own word "eager" to see these tests conducted. He drew this conclusion: "Our work leads one to expect that the tremendous sensitivity of the activation analysis method is capable of providing useful information that may not be otherwise obtainable." Yet J. Edgar Hoover was not eager to use this most refined of scientific techniques to prove his case. Hoover demurred, even tried to talk the Warren Commission out of making the neutron activation analyses. The obvious reason is that he knew such tests would disprove the official government myth that one man acting alone shot President Kennedy. It is for this same reason that the FBI is now refusing to give me all of the tests which were made.

41. Specifically, it is inconceivable that if the copper-alloy jacket of the bullet that allegedly hit the President in the back of the neck was, as Aebersold put it, "identical" with the traces on his jacket this would ever have been kept secret. Nor would the government have fought a five-year legal battle to suppress it. Rather they would have proclaimed it far and wide as the given word, had it on the front page of every newspaper, on TV and radio.

42. In further addressing the FBI's motive for continuing to suppress these tests, I focus here upon the curbstone which was struck by a bullet that resulted in the wounding of bystander James Tague. There is much old evidence on this, and also some that is new.

43. It is "old" that the FBI pretended for nine months that it could not find this curbstone. Yet the whole story was known immediately. Two photographers, Deputy Sheriff Buddy Walthers, and victim Tague were among those who observed it and who knew where it was. When this tactic failed, the FBI tried to talk the Commission out of its interest in the curbstone. This was consistent with Hoover's complete omission of any mention of this "missed" shot in his so-called definitive five volume report.

44. When this failed, the FBI went further. The FBI had newspaper photographer Tom Dillard, TV photographer James Underwood and a picture each of them took. [See Exhibits B and C] These pictures plainly show marks of very visible damage at the top or curve of the curbstone. It should be noted that the Dillard picture is needlessly and seriously over-exposed, unlike commercially printed copies of it. Despite the clearly visible physical damage so essential to the Warren Commission's findings, the FBI reported: "It should be noted that, since the mark was observed on November 23, 1963, there have been numerous rains, which could have possibly washed away such a mark and also the area is cleaned by a street cleaning machine about once a week, which would also wash away such a mark."

45. The Warren Commission had its way. The FBI sent photographic expert Lyndal Shaneyfelt down to Dallas to save that curbstone for posterity. Using these photographers and their photographs, Shaneyfelt readily located the spot with the FBI's Dallas Field Office pretended it could not find.

46. Shaneyfelt had this curbstone dug up and flew back to Washington with it. However, an FBI report on this adventure emphasizes that "no nick or break in the concrete was observed in

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the area checked, nor was there any mark similar to the ones in the photographs taken by Underwood and Dillard." This, of course, fails to explain what happened to the mark plainly visible in these photographs and how Tague was wounded unless by a ricochet from a bullet striking that curbstone or, as the official account has it, by a spray of concrete caused by this bullet's impact.

47. As a result of this present suit, the FBI has given me a masked copy of a letter which J. Edgar Hoover wrote the Warren Commission about this curbstone on August 12, 1964. In this letter, being careful not to say that this bullet came from the so-called sniper's nest, Hoover told the Commission that "assuming that a bullet shot from the sixth floor window of the Texas School Book Depository Building struck the curb on the south side of Main Street at the location of the mark described above and assuming it passed directly over the President, the bullet would have passed over the President . . . 5.3 seconds" after the President was shot in the head. This is within a fraction of a second of the entire time permitted for the entire assassination in the official account of it.

48. In this letter Hoover also states that the "missed" shot "would have passed over the center of Elm Street at an elevation of about 18 feet from the street level" and struck the curbing 260 feet further away than the President was when he was killed. This describes the Marine Corps Oswald, a "rather poor" shot, not the expert who placed those two perfect hits attributed to him in the official account.

49. The FBI found no traces of copper on the curbstone. This, Hoover wrote, "precludes the possibility that the mark on the curbing was made by an unmutilated military-type full metal-jacketed bullet . . ." In plain English, Hoover could not associate whatever struck that curbstone with a whole bullet of the type

allegedly fired by Oswald. Yet something did hit the curbstone and cause the spray of concrete which made Tague bleed. It was not bullet 399, which was recovered intact at Parkland Hospital, and common sense and the laws of physics, if not the FBI laboratory, eliminate the possibility that the fatal head shot sent a bullet fragment that far. This is what forced the Commission into the so-called "single-bullet" theory, which alleged that all seven nonfatal wounds on Kennedy and Connally were caused by bullet 399. This was never more than a theory and it never had any factual or evidentiary basis.

50. Hoover's letter adds further detail: "It was also determined from a microscopic study that the lead object that struck the curbing causing the mark was moving in a general direction away from the Texas School Book Depository Building." Even for Hoover, this was a masterpiece. Any shot fired from anywhere in the Texas School Book Depository--or anywhere that side of the Triple Underpass--had to be moving "in a general direction" away from the TSBD.

51. Attached to the Hoover letter which the FBI has given me is a partly-masked FBI lab work sheet. Under the heading "Specimens submitted for examination" is written "Piece of curbing," followed by this summary:

Small metal smears (see attached for location) were run spectrographically (Jarrell-Ash) & found to be essentially lead with a trace of antimony--could be bullet metal. No copper observed.

52. Also attached to the Hoover letter is a sketch of the piece of curbing tested. This constitutes "new" evidence. While this sketch fails to orient the "smear" tested from top to bottom, it shows it to be in or about the middle of the piece of curbing, if anything a little closer to the street than the top of the



curbing. The sketch shows the alleged angle of the "smear" as 33°. If that angle is carried back some 500 feet to the TSBD, you are way above the top of the sniper's alleged perch. And what kind of ricochet could have gone downward at 33° and had the force to blast and spray concrete?

53. Added to these absurdities is still another. Hoover said the object which struck the curbstone was traveling in a "general direction away from the Texas School Book Depository Building." This would be to the left in the sketch attached to his August 12 letter. But the sketch has an arrow and the arrow shows the direction of whatever object caused the so-called smear as coming from the right. Since the marked piece of curbing is a little over 20 feet from the Triple Underpass, this would mean that the shot originated in the top of the underpart of that bridge. As with the alternative, this too is completely impossible.

54. The FBI has sworn that I have been given all of the tests. Yet the Hoover letter and its attachments establish that there were both microscopic and spectrographic examinations of this piece of curbstone. Neither has been given to me. The reason is obvious. This "smear" cannot have been caused by one of the so-called Oswald bullets. If, indeed, by any bullet. The FBI sketch of the "smear" shows that it was an inch and three-quarters high, considerably longer than the bullet with its copper jacket intact, and an inch wide. Yet the FBI lab says the smear held no copper.

55. Because the curbing clearly and to the FBI's knowledge was damaged, there are only two choices: either the FBI dug up the wrong curbing or the hole in the curbing was patched.

56. The contemporaneous photographs of this curbing by Dillard and Underwood make it unmistakably clear that there is a real hole, not a "smear" in the concrete. [See Exhibits B and C] The Dillard picture [Exhibit B] provides comparison with a ball-point pen. It is anything but the inch and three-quarters by an inch described in the FBI sketch.

57. There definitely was a hole caused by a bullet which struck the curbing when President Kennedy was killed. But the "new" evidence now provided me by the FBI indicates that hole in the piece of curbing no longer exists. This is shown clearly by the photograph which the National Archives took for me on May 13, 1975. [See Exhibit D]

58. The obvious conclusion is that this curbstone evidence would in and of itself be a separate and definitive destruction of the official mythology about the assassination of our President. This is the only reason why Hoover's "definitive" five volume report would ignore it.

59. Whether by digging up the wrong curbstone or by accepting and palming off a patched one or by "testing" the wrong part of whichever curbstone or by suppressing these and other test results, the integrity of the FBI is very much in question and in jeopardy. This gives the FBI motive for falsely proclaiming that it has given me all the tests I seek.

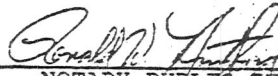
  
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 HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 15<sup>th</sup> day of July, 1975, deponent Harold Weisberg has appeared and signed this affidavit, first having

sworn that the statements made therein are true.

My commission expires JULY 1, 1978



NOTARY PUBLIC IN AND FOR  
FREDERICK COUNTY, MARYLAND