

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

Civil Action No. 75-0226

v.

UNITED STATES DEPARTMENT  
OF JUSTICE, et al.,

Defendants

*Who had reviewed - Gallagher - Weiske*

DEFENDANT UNITED STATES DEPARTMENT OF JUSTICE'S  
ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

John W. Kilty, Special Agent, Federal Bureau of Investigation (hereinafter FBI), being duly sworn, pursuant to Rule 33 of the Federal Rules of Civil Procedure, hereby answers the following Interrogatories. These answers are based on information available to a party within the meaning of Rule 33.

Interrogatory No. 1:      What are the kinds of tests or examinations, physical, chemical, microscopic or otherwise, which would normally be conducted to determine: (a) whether or not bullets or bullet fragments have a common origin, or (b) which bullets or bullet fragments struck which persons or objects?

Answer No. 1:              (a) Elemental analysis is used to determine the composition of bullets and bullet fragments. If, say, bullet A has the same composition as bullet B, our report would say that bullet A came from the same source (origin) of lead as bullet B or another source of lead with the same composition as bullet B. This does not associate bullet A with bullet B to the exclusion of all other bullets. If bullet A is different in composition from bullet B, we point out this fact and say that bullet B

91

could not have come from the same source (origin) of lead as bullet A; however, we point out that bullets of more than one composition are often represented in a single box of ammunition. Our Laboratory and other laboratories have demonstrated that several different compositions of lead are often represented in a single box of cartridges. The two methods of elemental analysis which were used in the Kennedy Assassination case were emission spectroscopy and neutron activation analysis (NAA).

(b) There are no tests available which will specifically associate a bullet or bullet fragment to the exclusion of other bullets or bullet fragments with a particular hole in a person or object. There are tests available which will determine if a hole in a person or object, or a dent in an object, could have been caused by being struck by a bullet. In this case, emission spectroscopy was used to determine the composition at the edges of holes in certain garments and to compare this composition with cloth used as control taken from areas distant from these holes, and also to determine the composition of metal scrapings from an automobile windshield and curbstone.

Interrogatory No. 2: Are there any additional tests which could have been used in the investigation into the assassination of President Kennedy to help make these determinations? If so, what are they?

Answer No. 2: Making the assumption that positive answers to interrogatories 1(a) and 1(b) are possible, there are no additional tests which could have been used to help make these determinations in the Kennedy Assassination case.

Interrogatory No. 3: Which of the tests listed in response to the above interrogatories were performed on the evidence pertaining to the assassination of President Kennedy?

Answer No. 3: Emission spectroscopy and/or NAA were performed on items pertaining to interrogatory 1(a) and emission spectroscopy was performed on articles of clothing or other objects relative to interrogatory 1(b).

Interrogatory No. 4: Were the tests conducted on the items of evidence pertaining to the assassination of President Kennedy as complete as they could have been?

Answer No. 4: Yes.

Interrogatory No. 5: List all items of evidence having to do with the shooting of President Kennedy or any weapon used or allegedly used in the shooting, including any and all bullets or bullet fragments and any objects struck or allegedly struck by bullet or bullet fragments. Give the following information with respect to those items of evidence:

(a) the type of tests performed on each such item of evidence;

(b) the date or dates on which each such item of evidence was tested and the name of the laboratory in which the testing was done;

(c) the name of the person or persons conducting each such test and the names of any other persons present during the testing;

(d) the capacity, official or otherwise, in which the persons listed in response to interrogatory 5(c) were present at such testing; and

(e) the current address and employment of each person named in response to interrogatory 5(c).

Answer No. 5:

<u>SPECIMEN #</u>	<u>IDENTIFICATION</u>
Q1	Bullet from stretcher
Q2	Bullet fragment from front seat cushion
Q3	Bullet fragment from beside front seat on right side

<u>SPECIMEN #</u>	<u>IDENTIFICATION</u>
Q4	Metal fragment from the President's head
Q5	Metal fragment from the President's head
Q6	6.5 mm Mannlicher - Carcano cartridge case from building
Q7	6.5 mm Mannlicher - Carcano cartridge case from building
Q8	6.5 mm Mannlicher - Carcano cartridge from rifle
Q9	Metal fragment from arm of Governor John Connally
Q14	Three metal fragments recovered from rear floor board carpet
Q15	Scraping from inside surface of windshield
Q21	Trousers worn by President Kennedy
Q22	Coat worn by President Kennedy
Q24	Necktie worn by President Kennedy
Q25	Shirt worn by President Kennedy
Q48	6.5 mm Mannlicher - Carcano cartridge case from Depository
Q558	Windshield from President's limousine
Q566	Coat worn by Governor Connally
Q567	Trousers worn by Governor Connally
Q568	Shirt worn by Governor Connally
Q569	Necktie worn by Governor Connally
Q609	Piece of Curbing
K1	6.5 mm Mannlicher - Carcano rifle with telescope sight, serial No. C2766

(a) Firearms Identification Examinations

Q1, Q2, Q3, Q4 and Q5, Q6, Q7, Q8, Q9, Q14, Q48, K1

Elemental Analysis Examinations

Q1, Q2, Q3, Q4 and Q5, Q9, Q14, Q15, Q22, Q24, Q25,  
Q556, Q567, Q568, Q609

Microscopic Analysis (Fibers)

K1

Glass Fracture Examination

Q558

Microscopic Examination

Q609

No records were identified which concern examinations, if any, performed on Q21 and Q569.

- (b) With few exceptions the date(s) on which each item of evidence was examined is not recorded. However in order to be as responsive as possible, the date of receipt of the evidence and the date of the communication containing results are listed below; the date upon which the item was examined would of necessity fall between the former and latter date.

Specimens received in the FBI Laboratory on November 22, and/or 23, 1963, and examined therein:

Q1, Q2, Q3, Q4 and Q5, Q6, Q7, Q8, Q9, Q14, Q15, K1

Results of examinations on these specimens are included in a November 23, 1963, Laboratory Report.

Specimens received in the FBI Laboratory on November 23, 1963, and examined therein:

Q22, Q24, Q25

Results of examinations on these items are included in a December 5, 1963, Laboratory Report.

Specimens received in the FBI Laboratory on November 27, 1963, and examined therein:

Q48, K1

Results of examinations on these items are included in a November 29, 1963, Laboratory Report.

Specimens received in the FBI Laboratory on March 20, 1964, and examined therein:

Q558

Results of examinations on this item are included in a March 26, 1964, Laboratory Report.

Specimens received in the FBI Laboratory on April 9, 1964, and examined therein:

Q556, Q567, Q568

Results of examinations on these items were reported to the President's Commission by letter dated April 16, 1964.

Specimens received in the FBI Laboratory on August 6, 1964, and examined therein:

Q609

Results of examinations on this item were reported to the President's Commission by letter dated August 12, 1964.

Specimens Q1, Q2, Q4 and Q5, Q9, and Q14 were examined by neutron activation analysis at the Oak Ridge National Laboratory. Records indicate that these items were irradiated May 15, 1964, and counted on May 15, 1964, and May 26, 1964. The results of these examinations were reported to the President's Commission by letter dated July 8, 1964.

(c) Firearms Identification Examinations

Special Agents Robert A. Frazier, Courtlandt Cunningham, and Charles L. Killion

Elemental Analysis Examinations

Special Agents John F. Gallagher, Henry B. Heiberger, and William R. Heilman. J. F. Emery and Frank F. Dyer

Microscopic Analysis (Fibers)

Special Agent Paul M. Stombaugh

(d) All individuals listed in 5(c) were acting in their official capacity.

(e) Courtlandt Cunningham, FBI Headquarters, Washington, D. C.

Paul M. Stombaugh, FBI Headquarters, Washington, D. C.

Robert A. Frazier, Retired

Charles L. Killion, Retired

John F. Gallagher, Retired

Henry B. Heiberger, Retired

William R. Heilman, Retired

Our records do not indicate the current address and employment of retired employees. Our records do not indicate the current address and employment of J. F. Emery and Frank F. Dyer. However, in 1963 and 1964 they were chemists for Union Carbide Corporation, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

Interrogatory No. 6: List all correspondence with respect to such tests which was exchanged between the FBI and the Warren Commission, including the Commission's Chairman, Earl Warren, its General Counsel, J. Lee Rankin, or any member of the Commission's staff.

Answer No. 6: Our records indicate that the examinations listed in interrogatory 5 were referred to in letters from J. Lee Rankin, General Counsel, the President's Commission, to J. Edgar Hoover, Director, FBI, bearing the following dates:

January 7, 1964

February 4, 1964

February 12, 1964

March 6, 1964

March 18, 1964

March 18, 1964

April 9, 1964

May 12, 1964

July 7, 1964

Our records indicate that the examinations listed in interrogatory 5 were referred to in letters to J. Lee Rankin, General Counsel, the President's Commission, from J. Edgar Hoover, Director, FBI, bearing the following dates:

January 10, 1964

February 7, 1964

February 18, 1964

March 11, 1964

March 23, 1964

March 24, 1964

April 16, 1964

June 2, 1964

July 8, 1964

August 12, 1964

August 19, 1964

Our records indicate that the examinations listed in interrogatory 5 were referred to in FBI Reports of Special Agent Robert P. Gemberling, Dallas, bearing the following dates:

November 30, 1963

December 12, 1963

April 15, 1964

May 28, 1964

July 2, 1964

Interrogatory No. 7: List all correspondence with respect to such tests which was exchanged between the FBI and the AEC.

Answer No. 7: No correspondence between the Atomic Energy Commission (AEC) and the FBI was located in FBI records.

Interrogatory No. 8: What are all the chemical components of the bullet (CE399) allegedly used in the murder of President Kennedy?

Answer No. 8: CE 399 (Q1) was examined for its elemental composition. An examination of records shows that the lead portion contained bismuth, copper, magnesium, silicon, iron, silver and antimony. The jacket portion contained tin, lead, copper, zinc, silicon, iron and silver.

Interrogatory No. 9: Were all of these chemical components tested in each of the tests made? If not, why not?

Answer No. 9: I am not able to answer this question inasmuch as I do not understand plaintiff's question. See my answer to interrogatory 8 for a listing of the elements in CE 399 (Q1).

Interrogatory No. 10: What are the normal standards and procedures for conducting neutron activation analysis?

Answer No. 10: NAA is a method of chemical analysis based on the detection and measurement of characteristic radionuclides produced in a nuclear reactor. The procedures for conducting such an analysis are many and varied depending on the material to be examined and the chemical elements under investigation. Three texts which are publically available and may be of assistance to plaintiff are Principles of Activation Analysis by Paul Kruger, Applied Gamma Ray Spectrometry by Adams and Dams and Neutron Activation Analysis by De Soete, Gijbels and Hoste. "Normal standards" as this term is used in interrogatory 10 and applied to NAA in general is not understood by me.

Interrogatory No. 11: Were the normal standards and procedures followed with respect to the testing and analysis of items of evidence pertaining to the assassination of President Kennedy?

Answer No. 11: It is assumed that this interrogatory refers to NAA. The procedures used to examine the items of evidence by NAA were ones that would have been employed by other practitioners given the same kinds of materials with which to work.

Interrogatory No. 12: Under normal circumstances, who decides what is tested?

Answer No. 12: Assuming that evidence is submitted to the FBI Laboratory, the contributor usually requests that certain items be examined to show relationships to one another and to somehow associate items with a

crime. Based on their experience and expertise, examiners in the FBI Laboratory will usually determine the kinds of examinations to perform on items of evidence.

Interrogatory No. 13: With respect to the assassination of President Kennedy, who decided what was tested?

Answer No. 13: Our records do not reveal "who decided what was tested" in the Kennedy assassination case.

Interrogatory No. 14: In subjecting evidentiary specimens to neutron activation testing, is it normal to make a full and complete tabulation of the results? In this case, was any such tabulation made? If so, was it complete?

Answer No. 14: It is "normal" to make a "tabulation" of the results when subjecting specimens to NAA. By "results" I mean the numerical quantitative amount of a chemical element measured in the material examined. The use of the "full and complete" characterization of the "tabulation" is not understood by me. A "tabulation" was made of the results obtained in the NAA of metal fragments in this case. This was given to plaintiff and to the best of my knowledge is complete.

Interrogatory No. 15: In making a neutron activation analysis, is it normal to reach stated conclusions as to whether the various evidentiary specimens are identical or different in chemical composition?

Answer No. 15: The conclusion one makes regarding whether or not specimens are "identical or different in chemical composition" is based on the data available from whatever technique or techniques were employed in the examination. In some cases, due to the limited size of the material and/or its state of contamination and/or the character of its composition, it is not possible to reach an "identical or different" conclusion. Additionally, the terms used to

describe the conclusion reached are the choice of the person making the conclusion and may not necessarily be stated as "identical" or "different." See my answer to interrogatory 1(a) for a further discussion regarding the conclusions reached concerning elemental analysis of bullet fragments.

Interrogatory No. 16: Were any such stated conclusions made with respect to the items of evidence tested by spectrographic or neutron activation analysis in this case?

Answer No. 16: Consistent with my answer to interrogatory 15 the answer is yes.

Interrogatory No. 17: Were full and complete results of the spectrographic and neutron activation tests given to the Warren Commission? Did the Warren Commission ask for them?

Answer No. 17: In interrogatory 14 I defined "results" as the numerical quantitative amount of a chemical element measured in the material examined. This definition applied to NAA examinations. An extension of this definition for spectrographic "results" would be the relative concentration of a chemical element in the material examined. Using these definitions, the "results of the spectrographic and neutron activation tests" were not given to the Warren Commission. Based on my review of the records, I am unable to determine if the Warren Commission asked for them.

Interrogatory No. 18: Were full and complete stated conclusions as to what the tests showed given to the Warren Commission? Did the Warren Commission ask for them?

Answer No. 18: If by "full and complete stated conclusions as to what the tests showed" the plaintiff means our expert opinion as to what the results of the spectrographic examinations and NAA indicated, the answer is yes. Based on my review of the records, I am unable to determine if the Warren Commission asked for them.

Interrogatory No. 19: Was the neutron activation testing done on any items of evidence in the Kennedy assassination other than the paraffin casts and the five Commission Exhibits--CE 399 (Q1), CE 567 (Q2), CE 843 (Q4, Q5), CE 842 (Q9), and CE (Q14)--mentioned in the April 10, 1975, letter from FBI Director Clarence Kelley to Mr. James H. Lesar?

Answer No. 19: No.

Interrogatory No. 20: If the answer to interrogatory number 12 is affirmative, what are the other items of evidence which were subjected to neutron activation testing?

Answer No. 20: Assuming plaintiff means to refer to "interrogatory 19," no answer is necessary.

Interrogatory No. 21: If the answer to interrogatory number 12 (sic) is negative, why were the following items of evidence not subjected to neutron activation testing:

(a) CE 141, the live round found in the Mannlicher-Carcano rifle which allegedly belonged to Lee Harvey Oswald and fired the shots which killed President Kennedy?

(b) the clothing of President Kennedy and Governor Connally struck by or alleged to have been struck by bullets?

(c) the curbstone on the south side of S. Main Street east of the Triple Underpass which was struck by bullet?

(d) the bullet fragment which is FBI Laboratory Number Q3?

Answer No. 21:

(a) Our records do not indicate why CE 141 (Q8) was not examined by NAA.

(b) Based on my experience and expertise, the reason the clothing of President Kennedy and Governor Connally was not examined by NAA in the areas where a bullet allegedly passed is because NAA is not the method of choice for the determination

of bullet holes. In 1963, emission spectroscopy was the method of choice for elemental analysis of the borders of holes in garments.

(c) Based on my experience and expertise and an examination of the notes made regarding the spectrographic analysis of the lead smear on the curbstone, it is clear that the minimal amount of lead smear present on the curbstone was not adequate to conduct an examination by NAA.

(d) Records indicate that Q3 is a section of bullet jacket devoid of its lead core. Bullet jacket material made of copper, zinc and/or iron is generally unsuitable for examination by NAA unless chemical separations are conducted. The chemical separations would necessarily destroy markings on the item of evidence. Emission spectrographic analysis was the method of choice for analysis of bullet jacket material in 1963.

Interrogatory No. 22: Under normal procedures would the results of the spectrographic or neutron activation analyses be recorded and verified by someone other than the person conducting the tests? Was such a procedure followed with respect to the items of evidence tested by these techniques in connection with the investigation into President Kennedy's assassination?

Answer No. 22: An examiner often consults with another examiner concerning his findings in a specific case, but in all likelihood there would be no reason to commit this consultation to record. An examination of records does not indicate that more than one person recorded or verified the results of the individual spectrographic or NAA examinations.

Interrogatory No. 23: Was a full and complete comparison made between the chemical composition of CE 399, the bullet which allegedly wounded both President Kennedy and Governor Connally and (a) the composition of the metallic traces on President Kennedy's clothing, (b) the composition of the metallic traces on Governor Connally's clothing, and (c) the composition of all fragments removed from Governor Connally's body?

Answer No. 23:

(a) No. Referring to my answer to interrogatory 1(b), a "full and complete comparison" between the composition of a bullet and the minute traces of metal left at the edges of a hole will not permit the conclusion that the hole was made by a specific bullet.

(b) There were no metallic traces on Governor Connally's clothing.

(c) Our records indicate that only one fragment of lead was removed from Governor Connally's body. The answer to this portion of the interrogatory is yes.

Interrogatory No. 24: Was a full and complete comparison made between the chemical composition of the bullet fragments recovered from President Kennedy's head and (a) the composition of the sweepings from the windshield, and (b) all five fragments found in the car during two different searches?

Answer No. 24:

(a) Yes, to the extent that the specimens were of adequate size and condition for compositional analysis.

(b) Our records indicate that the metal fragments recovered from President Kennedy's head were lead and that the five fragments found in the car consisted of a portion of a jacketed bullet (core and jacket), a bullet jacket and three lead fragments. It is apparent from these records that a compositional comparison was made where appropriate.

Interrogatory No. 25: Was a full and complete comparison made between the chemical composition of CE 399, the bullet which allegedly wounded both President Kennedy and Governor Connally and (a) the composition of CF 141, the bullet found in the Mannlicher-Carcano rifle, and (b) all other bullet fragments?

Answer No. 25:

(a) No.

(b) No. Although comparisons were made, CE 399 (Q1)  
was not compared with all other bullet fragments.

John W. Kilty  
JOHN W. KILTY  
Special Agent  
Federal Bureau of Investigation  
Washington, D. C.

Subscribed and Sworn to before me this 20th day  
of October, 1976.

Ann Lee Balassa  
Notary Public

My commission expires 4-30-78.