

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

DEC 26 1978

CLERK OF THE UNITED
STATES COURT OF APPEALS

.....
HAROLD WEISBERG,

Appellant

v.

No. 78-1107

U.S. DEPARTMENT OF JUSTICE,
ET AL.,

Appellees
.....

MOTION TO EXPEDITE ORAL ARGUMENT

Pursuant to Rule 7(c)(3) of the Rules of this Court, appellant moves the Court to expedite oral argument on this case. As grounds for this motion, appellant represents to the Court as follows:

First, this is a Freedom of Information Act case and is thus required by statute, 5 U.S.C. §552(a)(4)(D), to be expedited in every way:

Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

SR

Second, appellant Weisberg's original request for disclosure of the FBI's reports on its spectroscopic testing of items of evidence in the assassination of President Kennedy dates to May 23, 1966, more than 12 years ago. It is well over eight years since he first brought suit for these records.

The present suit, which seeks neutron activation analyses and other scientific testing, as well as the spectrographic analyses, was filed on February 19, 1975, the day the amended Freedom of Information Act went into effect. When last before this Court, the Court noted that "[t]he data which plaintiff seeks to have produced, if it exists, are matters of interest not only to him but to the nation." The Court remanded the case to the district court with instructions that the existence or nonexistence of the records sought should be "determined speedily on the basis of the best available evidence, *i. e.*, the witnesses who had personal knowledge of the events at the time the investigation was made." Weisberg v. U.S. Dept. of Justice, 177 U.S.App.D.C. 161, 164, 543 F. 2d 308, 311 (1976).

Despite this mandate, appellees delayed and obstructed the inquiry on remand. [See Brief for Appellant, at 26-29] Nevertheless, Weisberg succeeded in establishing that the FBI had indeed conducted scientific tests it had previously denied, and that vitally important records of such testing have not been located. (The fact that there were such "missing" records had previously been concealed both from Weisberg and the courts.)

The public importance of the information sought by Weisberg is further illustrated by the fact that the "missing" records are directly relevant to recent developments before the House Select Committee on Assassinations. [See Attachments 1-3] For example, Dr. Vincent P. Guinn, who as the Select Committee's expert performed some limited neutron activation tests on certain items of evidence (whose sizes in some instances are reportedly not consistent with previous descriptions), has stated that specimen Q15, the windshield scrapings from the presidential limousine, no longer exists. Yet on remand in this case Weisberg established that specimen Q15 was subjected to neutron activation analysis in 1964.

Another factor which should be considered in determining to expedite this case is Weisberg's medical condition. Weisberg is now nearly 66 years old. In the fall of 1975 he suffered a serious attack of thrombo-phlebitis; during the summer of 1977 he was discovered to have a sub-clavian arterial steal. In view of his medical condition, time may be of the essence.

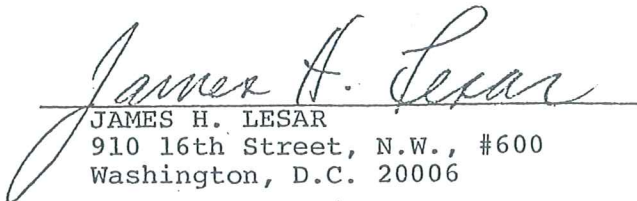
(The government, well aware that time is on its side, has sought time and again to grind Weisberg down through a variety of obstructive tacts. One such tactic is to make totally unjustifiable deletions. This has been carried to such an extreme in Weisberg v. Department of Justice, Civil Action No. 75-1996, that the FBI employed exemption 7(C) to excise the name of FBI fingerprint expert George Bonebrake from a newspaper clipping!) [See Attachment 4]

Appellant's counsel regrets that he was not able to move to expedite this case at the time this appeal was docketed. The ex-

planation for this lies in the particular circumstances of both appellant and his counsel. Appellant has had no regular employment or income for over a decade. Given his scant financial resources, he cannot afford to pay an attorney to represent him. His attorney, a sole practitioner who does his own typing, filing, mailing, xeroxing, and legal research, has very limited resources. For the past eight years his practice has been confined almost entirely to pro bono work or Freedom of Information Act cases for which he has yet to be paid. The amount of work required to successfully prosecute these FOIA cases has been much greater than originally anticipated, largely because government agencies have gone to great lengths to obstruct his client's access to records. For example, of three FOIA suits filed in 1975, none is yet concluded and so far they have resulted in five appeals to this Court. Appellant and his counsel have expended enormous amounts of time on these cases. The consequence of this is that appellant's counsel, under severe time pressures in the 10 active FOIA cases he is handling for appellant, felt that he dared not move for expedited treatment at the time this appeal was taken. Now that the briefing has been completed, he is ready to have the oral argument scheduled at the earliest possible date.

For the above-stated reasons, appellant requests that his motion for expedited oral argument in this case be granted.

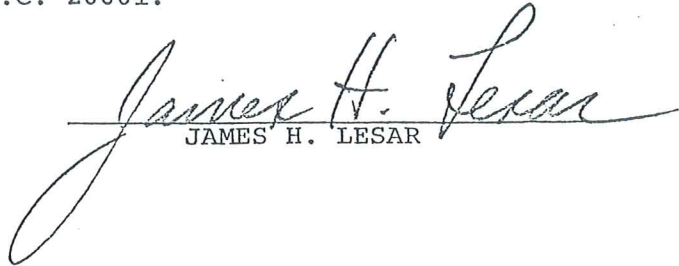
Respectfully submitted,



JAMES H. LESAR
910 16th Street, N.W., #600
Washington, D.C. 20006

Attorney for Appellant

I hereby certify that I have this 26nd day of December, 1978, mailed a copy of the foregoing Motion to Expedite Oral Argument to Assistant United States Attorney John H. Korn, D.C. Superior Court house Building, Washington, D.C. 20001.


JAMES H. LESAR

100 Questions and Answers

THURSDAY, DECEMBER 21, 1978

JFK Panel Gets Evidence of

By George Lardner Jr.
Washington Post Staff Writer

The House Assassinations Committee has received startling last-minute evidence that there was a conspiracy in the assassination of President Kennedy 15 years ago.

The committee was told at a closed meeting Monday night that refined acoustical tests showed—"beyond a reasonable doubt" in the words of one source—that a gunman fired at the president in Dallas on Nov. 22, 1963, from the area of the grassy knoll in Dealey Plaza. "The Warren Commission blew it," a committee source said of the central finding in

1964 that Lee Harvey Oswald, acting alone, killed the president. "The commission said there was no scientific evidence of more than one gunman . . . and therefore there was no conspiracy.

"We've established that there was a conspiracy. If we can't identify the second gunman, that's because it's 15 years later. I don't know what you do about that now."

The House panel is in the process of wrapping up a two-year, \$5 million investigation of Kennedy's assassination. The Warren Commission said in 1964 that three shots were fired at Kennedy, all from

behind, all from the sixth floor of the Texas School Book Depository, where it said Oswald had set up a sniper's nest.

Scientific evidence of a fourth shot, fired at Kennedy from the grassy knoll in front of the presidential limousine, was submitted to the committee this week.

Rep. Harold Sawyer (R-Mich.) made that disclosure yesterday during a radio interview in Grand Rapids, Mich., about the committee's investigation. The House inquiry is scheduled to end Dec. 31.

Sawyer said the committee was told by two acoustical experts "that there were four shots, the third of which was fired from the grassy knoll."

The experts said there was a 95 percent probability to the finding.

The evidence was said to be contained in a long-ignored tape of the sounds in Dealey Plaza. The recording was made on a Dallas police radio frequency when a motorcycle patrolman left his transmitter on.

"They [the experts] can tell within two feet of where the [fourth] shot came from," a committee source said. "They said, beyond a reasonable doubt, that there was a gunman on the grassy knoll. . . they say it [the noise from that area] is a shot, probably a rifle shot, because it has a supersonic wave, a shock wave preceding the speed of sound" such as rifles make.

Sawyer said on the Grand Rapids radio show that he could remember the names of the experts who reached the conclusion, but other sources identified them as Mark Weiss and a colleague from Queens College in New York, both trained in acoustical and electrical engineering. Weiss was a member of the court-appointed panel that analyzed the famous "zap

See ASSASSINATION, A35, Col. 1

Conspiracy

JFK Panel Gets Data of Conspiracy

ASSASSINATION, From AI
on one of President Nixon's Water
gate recordings.

An initial study of the Dallas police
radio recording was made for the
House committee earlier this year by
James Barger, an acoustical expert
with the Massachusetts firm of Bolt,
Bernack and Newman. In testimony be-
fore the committee last Sept. 11, he
said his work on the tape showed a
50-50 possibility of a fourth shot, from
the grassy knoll area.

Weiss and his colleagues were com-
missioned by the committee to see if
they could reach a more definite con-
clusion, "one way or the other. They
concentrated on the third of the four
noises that Barger's studies had identi-
fied as possible gunshots.

The third had come from the grassy
knoll area where photographic evi-
dence—by itself inconclusive — shows
an individual behind a fence with a
linear object next to him, an object
that could not be identified further.

Concentrating on the noise from
the grassy knoll, Weiss and his col-

league plotted the echo pattern mathe-
matically and traced every building
and other object of which it bounced
in 1963.

The work was so precise, one source
said, that they could tell us there
was probably a boxcar on the [nearby]
railroad tracks. They even identified
the press bus coming around the
corner."

They also reportedly fixed the posi-
tion of the motorcycle and even deter-
mined the side of the bike where the
microphone was located.

As part of the study, the experts
obtained an old, presumably similar,
microphone and motorcycle and con-
ducted test firings in New York with
those tests, sources said, "they were
able to reproduce the sound on the
[Dallas] tape."

Sawyer said that Barger studied the
new data and agreed with the find-
ings. "Barger was there [at the Mon-
day night meeting] and he was totally
in concurrence," Sawyer said.

The Michigan Republican said he
was "probably in hot water" for dis-
closing testimony taken in executive
session, but he said he found himself

under close questioning during the ra-
dio show.

"There was no way I could answer
them," he said of his interviewers,
"without getting into this."

The new findings also leave the com-
mittee in a quandary. With its final re-
port due within the next two weeks,
Sawyer said, "I don't know how in the
name of heaven we are going to handle
this . . ."

Only three cartridge cases were found
near the window near the sixth-floor
window of the book depository where
Oswald had been placed. The Warren
Commission said that one bullet missed,
another hit President Kennedy in the
back of the neck and then wounded
Texas Gov. John Connally and the third
struck the president in the head.

"There is no credible evidence that
the shots were fired from the triple
Underpass, the head of the motorcade,
or from any other location," the Com-
mission concluded. "The weight of the
evidence indicates that there were three
shots fired."

There is still likely to be consid-
erable debate over whether the shot
from the grassy knoll hit the presi-
dent or not. The House committee
may take the position that it missed
the presidential party.

The Washington Star

NIGHT FINAL
Late Stocks
And Sports

NIGHT FINAL
Washington Star Staff Writer

WASHINGTON, D.C., THURSDAY, DECEMBER 21, 1978 DC

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Hearings Set on New JFK Evidence

By Jeremiah O'Leary
Washington Star Staff Writer

The House Assassinations Committee will hold public hearings next week to deal with new physical evidence that a second gunman was involved in the murder of John F. Kennedy.

The chief counsel to the committee, Robert G. Blakey, said today the panel will reopen hearings to consider new acoustical tests which indicate that a fourth shot was fired from

the grassy knoll at the Kennedy motorcade in Dallas.

Blakey said the tests, which acoustical experts say are 93 percent accurate, have "turned the whole thing inside out" and will cause the committee to reconsider the possibility of a conspiracy in the 1963 assassination.

"It could be a coincidence that two people fired shots at President Kennedy from opposite directions, but this stretches credibility," Blakey said. "There always was testimony

Sound Tests Point to a Second Gunman

that one of the four shots fired during the assassination had come from the grassy knoll (an area in front of Kennedy). Now, we have physical evidence."

THE COMMITTEE, now in its final days, will meet tomorrow in closed session to decide what it will say in its final report Dec. 31 about

the assassinations of both Kennedy and Dr. Martin Luther King Jr.

The committee had already completed a 600-page report on the premise that there was only a single assassin who fired three shots from an upper floor of the Texas School Book Depository, where the rifle with Oswald's fingerprints was found. That report apparently will have to be redone in light of the evidence that was presented to the panel at a closed-door meeting Monday night.

Rep. Harold Sawyer, R-Mich., disclosed the new finding yesterday in an interview over a radio station in Grand Rapids. He said the committee was told by three acoustical experts that there were four shots, with the third fired from the grassy knoll in the opposite direction from Oswald's vantage point, above and behind the president's car.

The evidence was not planned for

presentation at the Monday meeting. But Sawyer said that when Blakely informed the committee of new and refined acoustical tests indicating shot had been fired from the grassy knoll, committee members asked to hear it immediately.

THE EXPERTS were Mark Weiss and Ernie Oskenoski of Queens College in New York and James Barger of the Massachusetts company of Bolt, Bernek and Newman.

See SLAYING, A-12

SLAYING

Continued From A-1

Barger had made complex acoustical tests earlier of the sounds of shots picked up by the open radio of a Dallas motorcycle policeman during the assassination.

But Barger testified on Sept. 11 that his acoustical work with the tapes and a series of re-enactment test shots indicated that there was only a 50-50 possibility that a fourth shot had come from the grassy knoll.

Sawyer said that at Monday's session Barger joined with the two other acoustical engineers in agreeing that the third of the four shots had come from the grassy knoll beyond any reasonable doubt. The two other engineers were brought in to make further tests and they concluded that the probability of the third shot coming from the knoll was 99 percent.

ACCORDING to Sawyer, the acoustical experts took a film made by a spectator watching the Kennedy motorcade pass, Abraham Zapruder, and dubbed the shots onto the film.

"I've seen that Zapruder film 198 times," Sawyer said from his Grand Rapids home today. "This sound tract added a grisly new dimension. The witnesses told us that the third of the four shots came from the grassy knoll beyond any reasonable doubt."

Sawyer said he does not think committee members have reached any consensus about the meaning of the

tests and added, "I'm not buying this yet and I never said I was. It was the experts who said that there was a 95 percent probability of a shot coming from the other direction."

(In Vernon, Conn., another committee member, Rep. Christopher J. Dodd, D-Conn., called the information significant but added: "I'm not suggesting the evidence can be or should be discredited. We need to make sure it's thoroughly examined in light of other evidence to corroborate it.")

SAWYER SAID all four shots were described by the experts as supersonic and explained that this ruled out any possibility that one of the shots might have been fired from a pistol. He said almost any rifle fires bullets at supersonic speed and that the experts say they can detect this.

The process used by the acoustical experts was described as being an effort to duplicate the sounds picked up by the motorcycle radio at the time Kennedy was killed using test shots and then matching the tests against the real echoes carried over the policeman's open transmitter. The experts then took the electronic "fingerprints" of both the actual shots heard in Dallas and of the tests and found that they matched identically.

Sawyer said that he watched closely when the sound of the shots was synchronized with the Zapruder film and said, "I thought that at the third shot you could see a head reaction by President Kennedy. We can't ignore it and we can't explain it."

Blakely said that the new evidence will perpetuate conspiracy theories but that 15 years after the shooting, the committee is not likely to be able to identify the second gunman.

THE NEW EVIDENCE, according to committee sources, throws all the work that has been done by the House panel for the last two years into confusion because until this week, the panel was clearly preparing to report essentially the same

findings made by the Warren Commission in 1964. About seven members of the committee were present when the new evidence was produced Monday night.

The \$5 million investigation comes to an end on Dec. 31.

The new evidence was especially startling because studies made by Barger, about which he testified in September, were considered highly inconclusive. Weiss and his colleagues were commissioned to try to come to a more definite conclusion.

Weiss, who had worked on the Watergate tapes of President Richard Nixon, proceeded by plotting the echo patterns of the shots heard on the police tape and tracing every building and object that could have affected the echo pattern. The work was described as exceedingly precise to the point of being able to identify the location of the police motorcycle, a box car on some railroad tracks and even the press bus that was turning the corner when Kennedy was fatally wounded.

The experts even procured an old microphone and motorcycle and conducted test firings that were virtually a replica of the sounds recorded in Dallas police headquarters over the policeman's open microphone.

The committee has the three cartridge cases found near the window of the building where Oswald's rifle was located, but there is no such evidence to support the grassy knoll shot.

An indistinct photo of an individual behind a fence with a linear object near him, has been considered inconclusive by all investigators because neither the man nor the object could be identified further.

How Warren Commission Decided 3 Shots Were Fired

Following is the the portion of the text of the Warren Commission's final report dealing with the number of shots fired in the assassination of John F. Kennedy.

The consensus among the witnesses at the scene was that three shots were fired. However, some heard only two shots, while others testified that they heard four and perhaps as many as five or six shots. The difficulty of accurate perception of the sound of gunshots required careful scrutiny of all of this testimony regarding the number of shots. The firing of a bullet causes a number of noises: the muzzle blast, caused by the smashing of the hot gases which propel the bullet into the relatively stable air at the gun's muzzle; the noise of the bullet, caused by the shock wave built up ahead of the bullet's nose as it travels through the air; and the noise caused by the impact of the bullet on its target. Each noise can be quite sharp and may be perceived as a separate shot. The tall buildings in the area might have further distorted the sound.

The physical and other evidence examined by the commission confirms the conclusion that at least two shots were fired. As discussed previously, the nearly whole bullet discovered at Parkland Hospital and the two larger fragments found in the presidential automobile, which were identified as coming from the assassination rifle, came from at least two separate bullets and possibly from three. The most convincing evidence relating to the number of shots was provided by the presence on the sixth floor of three spent cartridges which were demonstrated to have been fired by the same rifle that fired the bullets which caused the wounds. It is possible that the assassin carried an empty shell in the rifle and fired only two shots with the witnesses hearing multiple noises made by the same shot. Soon after the three empty cartridges were found, officials at the scene decided that three shots were fired and that conclusion was widely circulated by the press. The eyewitness testimony may be subconsciously colored by the extensive publicity given at the conclusion that three shots were fired. Nevertheless, the preponderance of the evidence, in particular the three spent cartridges, led the commission to conclude that there were three shots fired.

Washington Post

FRIDAY, DECEMBER 22, 1978

Experts Track Mystery JFK Bullet

By George Lardner Jr.
Washington Post Staff Writer

New scientific tests for the House Assassinations Committee reportedly show that a shot fired at President Kennedy's motorcade from the grassy knoll in Dallas 15 years ago landed in or near the presidential limousine.

According to informed sources, acoustical experts hired by the committee also fixed the velocity of the bullet at rifle-shot speed of 2,200 to 2,300 feet per second, and concluded that it ended up close to or in Kennedy's Lincoln.

"It seemed to have stopped in the presidential limousine," one source said. Another source said it would be more accurate to say that it apparently landed "in the area of the presidential limousine, plus or minus 10 feet."

With little more than a week to go before its congressional mandate runs out, the House committee is to meet in secret session today to try to assess the reliability of the new scientific evidence indicating there may have been a conspiracy behind the president's assassination in Dallas on Nov. 22, 1963.

The Warren Commission concluded that only three shots, all from behind, all fired by Lee Harvey Oswald from the sixth floor of the Texas School Book Depository, were fired in Dealey Plaza as the motorcade passed through.

The House Assassinations Committee was on the verge of reaching a similar conclusion in a 600-page final report on the Kennedy and King assassinations that it was preparing to make public to wind up its two-year, \$5.8 million inquiry.

The chairman of the JFK assassination inquiry, Rep. Richardson Preyer (D-N.C.), said yesterday that the committee will probably vote to reopen its public hearings next week for a one-day airing of the startling new study.

"I think the public would want to be able to judge it for themselves," he said.

The acoustical experts, Mark Weiss and Ernest Aschkenasy of Queens College in New York City, concluded—from extensive tests with a Dallas police radio recording of the sounds in Dealey Plaza—that a fourth shot was fired from the grassy knoll, in front and to the right of the presidential motorcade.

"It's a prima facie case of conspiracy," one well-placed source said in a

See ASSASSINATION, A8, Col. 1

terse summary of what it all means. "Everything must now be rethought." Other evidence, this source said, such as statements of eyewitnesses, shunted aside or explained away before, must now be re-examined in a more sinister light.

For instance, Forrest V. Sorrels, the Secret Service agent in charge of the Dallas office, who was riding in the lead car, told the Warren Commission that he thought the shots came from the grassy knoll "or terrace" to the right of the motorcade. So did Abraham Zapruder, the bystander with the 8-millimeter movie camera who took the famous film of the assassination.

"... That was my first thought, somebody up on the terrace, and that is the reason I looked there," Sorrels told the Warren Commission in 1964.

Acoustic expert Weiss and his colleague told the House committee in a secret briefing Monday night that there was a 95 percent or greater probability of a fourth shot from the grassy knoll. They were supported by the chief scientist for a Cambridge, Mass., firm, Dr. James E. Barger of Bolt, Beranek & Newman, who had conducted an earlier, but less intensive study of the police tape and had concluded that there was a 50-50 probability.

After Barger testified before the committee, to the exasperation of sev-

eral members, such as Rep. Harold S. Sawyer (R-Mich.), last Sept. 11, Bolt, Beranek & Newman recommended that the committee hire Weiss "to review our findings and undertake further independent analysis."

The chairman of the Massachusetts firm, Richard H. Bolt, and Weiss had worked closely together before, as members of the court-appointed panel that studied the 18½-minute gap in one of former president Nixon's Watergate tapes and found that the erasures were the result of several, apparently deliberate, manual operations.

Weiss was vice president of a New York firm known for using complex instruments to break down a sound into its component parts for analysis.

He is widely regarded as an expert in the use of techniques for reducing background noise and interference on speech recordings to increase intelligibility of underlying sounds.

The recording of the sounds of the assassination was made when a motorcycle patrolman left his microphone switch in the "On" position, deluging his transmitting channel with what seemed to be simply a lot of motorcycle noise while the assassination took place.

"The Warren Commission had this tape, as I recall, but to them it was just noise," Preyer said yesterday. "I don't believe they had the capability to do these [sophisticated studies] on it."

In the four-shot sequence that Barger had tentatively singled out, the first bullet came from the Book Depository. A second came from the depository 1.6 seconds later. A third seemed to come from the grassy knoll 5.9 seconds after that, and the final shot came from the Book Depository just a half-second after that.

Weiss and his colleague, sources said, concentrated on the noise from the grassy knoll, the one that left Barger up in the air, and performed still more sophisticated tests, filtering out the motorcycle sounds, plotting the remaining echo patterns more precisely and determining the exact location of the motorcycle radio that picked them up.

The work was so elaborate that they fixed the position of the press bus coming around the corner and discerned what seemed to be a boxcar on nearby railroad tracks.

They also concluded, "beyond a reasonable doubt," according to several descriptions, that four shots had been fired, and that the third of these came from the grassy knoll.

Weiss and Aschkenasy could not be

reached for comment, but Bolt, Beranek & Newman said in a statement last night that they concurred in the more certain findings.

"It is therefore our view that there is a 95 percent or greater likelihood that the sounds of four gunshots are present on the tape and that the third shot came from the direction of the so-called grassy knoll in Dealey Plaza, Dallas, Tex.," the Bolt, Beranek & Newman statement said.

The committee appears likely to endorse the conclusion, although several members are still leery.

"This is a new science, and I've always wondered whether there might be some flaw in it just because it is so new," said one committee Democrat. "Maybe we'll find a flaw at the public hearing, but at this point it looks like a pretty solid study."

A bigger dispute may be touched off by what appears to be the committee's inclination to conclude that the bullet from the grassy knoll missed the president's car. This would enable the panel to hold firm to its earlier conclusions and other scientific studies stating firmly that the president and Texas then-governor John B. Connally were hit by one bullet fired from the rear and that the president was killed by a subsequent shot to the head, which also came from behind.

"Kennedy was not hit from the front, but he was shot at from the front," one committee source said. "I think we've proved the 'single bullet' theory [that one bullet struck both Kennedy and Connally]. Ironically, we have also established that there were two gunmen."

Critics of the Warren Commission have contended for years that at least one of the bullets that hit the president came from the front. The only bullets and bullet fragments analyzed in the House inquiry came from Oswald's rifle, but the critics remain suspicious, pointing out that a number of bullet fragments are inexplicably missing.

FBI Aide C. I. By Court Order

Battle Orders Fingerprint Expert To Show Cause In Publicity Order

[redacted] of Washington, a senior FBI fingerprint expert, was ordered yesterday to show cause on Dec. 6 why he should not be adjudged in contempt for violation of a Criminal Court order limiting pretrial publicity in the case of James Earl Ray.

Criminal Court Judge W. Preston Battle ordered Mr. [redacted] to appear before him on that date for the contempt hearing. Judge Battle said it was impracticable to hold the hearing before Ray's trial, set for Nov. 12.

[redacted] is expected to be a key witness, giving fingerprint testimony, as the prosecution presents its case. Ray is charged with the deer-rifle slaying of Dr. Martin Luther King here April 4.

Judge Battle cited Mr. [redacted] upon the recommendation of an amici curiae committee of the Memphis and Shelby County Bar Association. The committee, headed by Lucius Burch, advised Judge Battle it believes [redacted] had actual knowledge of the aforesaid orders, decrees and injunctions issued by this court. . . . Your petitioners aver therefore that there is strong cause to believe that respondent [redacted] is in contempt."

The charge is based on an interview with Mr. [redacted] published in the Sept. 11 issue of the Wichita (Kan.) Beacon. Mr. [redacted] was quoted as saying Ray's fingerprints were found near the scene of Dr. King's murder in Memphis.

"There is no doubt in my mind that Ray at least handled the murder weapon," Mr. [redacted] was quoted as saying. He was in Wichita to speak on fingerprint identification at a police seminar.

In Washington, a Justice Department spokesman said there would be no comment before Judge Battle's contempt order reaches Washington. But he read the "Katzenback

Rule 3 says, "We do not believe department personnel should refer (publicly) to investigative procedures, such as fingerprints, polygraphs (lie detector results), ballistics or laboratory tests. Such demonstrative facts constitute evidence which should be presented publicly for the first time to the jury in a court of law.

"Disclosure of such matters to the public before trial can be deeply prejudicial without any significant addition to the public's need to be informed."

Mr. [redacted] the fifth man to be charged with contempt of Judge Battle's pretrial publicity order. Ray's chief defense counsel and an investigator employed by him and two Memphis reporters were convicted Sept. 30 of contempt with sentence deferred.

MEMPHIS COMMERCIAL APPEAL
FINAL EDITION
10/25/68
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EDITOR: FRANK R. AHGREN