

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

G. ROBERT BLAKEY,)
)
 Plaintiff)
)
 v.) Civil Action Number
) 81-2174
)
 DEPARTMENT OF JUSTICE AND)
 FEDERAL BUREAU OF INVESTIGATION)
)
 Defendants.)

AFFIDAVIT OF JOHN N. PHILLIPS

I, John N. Phillips, being duly sworn, depose as follows:

(1) I am a Special Agent of the Federal Bureau of Investigation (FBI) assigned in a supervisory capacity to the Freedom of Information-Privacy Acts (FOIPA) Section, Records Management Division FBI Headquarters (FBIHQ), Washington, D.C.

(2) Due to the nature of my official duties, I am familiar with the procedures followed in processing Freedom of Information Act (FOIA) requests received at FBIHQ.

Although I was not initially involved with the plaintiff's FOIA request, I am, however, familiar with all aspects of this request as it relates to the FBI. All information contained herein is based upon my personal review of the documents at issue in this law suit, as well as information provided to me in my official capacity.

(3) The purpose of this affidavit is to respond to Plaintiff's Cross Motion for Summary Judgement (hereinafter "plaintiff's motion") and Plaintiff's Opposition to Motion of Defendant Federal Bureau of Investigation for Summary Judgement (hereinafter "plaintiff's opposition").

(4) The adequacy of the search for the June 29, 1962 Criminal Commission report will be addressed in the affidavit of SA Douglass C. Ogden.

PLAINTIFF'S REQUEST FOR MATERIAL PERTAINING
TO THE FBI'S ACOUSTICAL ANALYSIS

(5) With regard to the adequacy of the search for records pertaining to the acoustical analysis, the following information is being provided.

(a) As a result of plaintiff's request, dated October 29, 1980, for background material on the acoustical analysis, a search of FBIHQ central indicies was conducted. This search failed to reveal any background material on the acoustical analysis which could be retrieved from the FBIHQ central records systems based upon the information provided by the plaintiff. In an attempt to provide the plaintiff with any information in the FBI central records system responsive to his request the FBI analyst processing the request took the inordinate step of personally contacting the FBI Technical Services Division Special Agent who conducted the review of the acoustical analysis. This Special Agent advised the analyst that there were no background materials. This information provided the basis for the response, provided to plaintiff by FBIHQ letter dated May 21, 1981, that there was no background material.

(b) While searching for material responsive to plaintiff's February 3, 1981 request, for "all written memoranda in connection with" the appearance of FBI personnel before the National Academy of Sciences on January 31, 1981, the two documents dated November 19, 1980 and January 14, 1981, provided to plaintiff by FBIHQ letter dated February 1, 1982, were located. Although only one of these documents, in the opinion of the FBI, contains the background material requested by plaintiff in his letter of October 29, 1980, both documents were provided to plaintiff in order to give the broadest possible interpretation to his request. For the

information of the Court, it is noted that the February 3, 1981 request was not received until after the filing of the complaint in this action.

(6) Plaintiff further alleges, on page 6 of his opposition (plaintiff's opposition), that the search which located the documents referred to in paragraph 5b, supra, was inadequate as there is "evidence that records not provided exist". Plaintiff then lists three documents, further described below, which he alleges were not provided.

(a) The first letter plaintiff alleges he has not received is a November 8, 1979 letter of Special Counsel to the Attorney General Robert L. Keuch to FBIHQ. This letter requested the FBI to conduct a review of the acoustical analysis of the Dallas Police Department tape recording. This letter contains no background material (i.e. instrumental analysis, graphs, calculations, etc.) and was not considered responsive to plaintiff's request for background material. Located with this letter, was the FBI's initial response to the Department of Justice (DOJ) stating that the review would be done. Although these documents do not contain any background material regarding the acoustical analysis and therefore are not responsive to his requests, they are being processed by the defendant in an attempt to provide plaintiff with the broadest possible disclosure regarding his various requests. The letter from DOJ to the FBI dated November 8, 1979 requesting acoustical analysis has been referred to the DOJ for a direct response to plaintiff. The FBI response dated December 10, 1979 to the DOJ request for the acoustical analysis was provided to plaintiff by FBIHQ letter dated May 18, 1982 copy attached (Exhibit A).

(b) Plaintiff also refers to an internal FBIHQ memorandum dated January 14, 1981 to Mr. Bayse. Plaintiff alleges that this memorandum refers to a January 7, 1981 "letter" from Jeffrey I. Fogel, Attorney, General Litigation and Legal Advice Section, DOJ. The FBI avers that the January 14, 1981 letter (copy attached as Exhibit B) reads,

"on January 7, 1981, Jeffrey I. Fogel...requested (emphasis added). A search of the FBIHQ central indices and a review of the appropriate date span of the JFK assassination file does not reveal any letter or other communication containing such a request. The possibility exists that the "request" referred to in the January 14, 1981 memorandum was made either personally or by telephone.

(c) Lastly, plaintiff states he has not received "any documents relating to the Bureau's comments on or response to the Department's request" of January 26, 1981. This letter requested the FBI to attend a meeting of the National Academy of Sciences (NAS) on January 31, 1981. Details of FBI participation at this meeting are contained in the memorandum dated February 13, 1981 which was withheld from plaintiff under a claim of exemption (b)(5). However, since the NAS has now released their report, this document was released to plaintiff by letter dated May 19, 1982 with the (b)(7)(C) exemption cited for the names of Special Agents only.

(7) The preceding paragraphs outline the steps taken by defendant in its attempt to respond to plaintiff's request regarding the acoustical analysis. The defendant has taken all of the required steps necessary to adequately respond to plaintiff's request. Furthermore, defendant's have taken several inordinate steps to assure that plaintiff is given the broadest disclosure compatible with our responsibilities and the exemptions allowed under the FOIA.

PLAINTIFF'S FEE WAIVER REQUEST
FOR JFK ASSASSINATION RECORDS

(8) Plaintiff alleges that there is a copy of the John F. Kennedy assassination records at FBIHQ which could be provided to him for the price of postage only. This presumption is unfounded. Ten copies of the John F. Kennedy assassination records were made, since at the time of release, there was a large public interest in the materials and it was expected that all ten copies would be purchased by individuals. However, only 8 copies were purchased by

requesters and after a number of years, but prior to plaintiff's request, the two remaining copies were destroyed. Duplication costs were incurred in the making of these copies at the time they were produced. Therefore, even if a copy was still available the costs incurred in providing it to plaintiff would not be limited to postage alone. Plaintiff also states that by providing him with a copy the FBI would save storage costs. There were no storage costs involved in maintaining the extra copies. Additionally, if plaintiff were given a fee waiver, several other requesters who paid for the material, intending to use it for purposes similar to plaintiff's could logically request a refund of fees. Specifically, Southeastern Louisiana University which requested the material for the same ultimate purpose as plaintiff, i.e. to place in University Library could request a refund.

EXPLANATION OF HOW ADDITIONAL DOCUMENTS
REGARDING PLAINTIFF'S REQUEST ARE LOCATED
BASED UPON ADDITIONAL INFORMATION PROVIDED BY PLAINTIFF

(9) The General Indices of the FBI gives access to the files of the Central Records System through index cards on various subject matters including the names of individuals and events. Not every item in a document is indexed for retrieval. The items marked for indexing are done so by the Special Agent handling the case, or the Supervisory Agent at FBIHQ, if the agent feels it would be necessary to retrieve the information for future use. Since the material requested by plaintiff was not indexed (i.e. acoustical analysis) it is not possible to locate the material requested by plaintiff through a search of the indices. When plaintiff provides additional specific information (i.e. date of document, who the document is addressed to and from whom) that is available to him however, the documents can be located either through a search of the indices or a physical review of the file. (See paragraph 6, supra).

PLAINTIFF'S REQUEST FOR MATERIAL
REGARDING ROGELIO CISNEROS

(10) Plaintiff, by letter dated April 14, 1980, had requested any material regarding Rogelio Cisneros. The plaintiff was provided, by FBIHQ letter dated August 21, 1980, with the material regarding Mr. Cisneros in connection with the Kennedy assassination. Plaintiff was advised in this letter that additional material regarding Mr. Cisneros in other investigations if any exist, would not be provided to plaintiff without the written notarized authorization of Mr. Cisneros. To reveal any additional material on Mr. Cisneros would result in an infringement of his privacy which outweighs the public's need to know.

John N. Phillips
JOHN N. PHILLIPS
Special Agent
Federal Bureau of Investigation
Washington, D.C.

Subscribed and sworn to me this 3rd day of June, 1982.

Pauline C. Demmensen
Notary Public

My Commission expires My Commission Expires January 31, 1987

MAY 18 1982

Mr. James H. Lesar, Esq.
Suite 900
1800 Wilson Boulevard
Arlington, Virginia 22209

Dear Mr. Lesar:

Reference is made to the request of your client, G. Robert Blakey, for material pertaining to the FBI's review of the acoustical analysis which is currently the subject of litigation in civil action number 81-2174.

Two documents were located as a result of information provided in your opposition to motion for summary judgment recently filed in the above litigation. These documents do not contain "data and calculations" as requested by Mr. Blakey, however, they do pertain to the FBI's review of the acoustical analysis. Therefore, in order to give the broadest interpretation possible to your clients request, and since one document was referred to by you in the above-referenced motion, these documents are being processed.

One document was referred to the Department of Justice for direct response to your client. The other document is enclosed herewith. Excisions were made to this document in order to protect material which is exempt from disclosure pursuant to the following subsection of Title 5, United States Code, Section 552:

- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would:
 - (C) constitute an unwarranted invasion of the personal privacy of another person.

EXH A

search for the records requested; (2) whether the FBI has produced the June 29, 1962 FBI report 'The Criminal Commission' requested by plaintiff". In order to address these issues accurately, a brief explanation of the FBI's Central Records

Mr. James H. Lesar, Esq.

The reason these documents were not located previously will be fully explained in the FBI's affidavit due May 28, 1982, in the above litigation.

Sincerely yours,



James R. Hall, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division

Enclosure

- 2 -

search for the records requested; (2) whether the FBI has produced the June 29, 1962 FBI report 'The Criminal Commission' requested by plaintiff". In order to address these issues accurately, a brief explanation of the FBI's Central Records



Exec AD Adm.
 Exec AD LES
 Asst. Dir.:
 Adm. Serv.
 Crim. Inv.
 Ident.
 Intell.
 Laboratory
 Legal Coun.
 Plan. & Insp.
 Rec. Mgmt.
 Tech. Serv.
 Training
 Public Affs. Off.
 Telephone Rm.
 Director's Sec'y

To : Mr. Bayse *WJ/B*

Date 1/14/81

7C
 From [Redacted]

Subject : ASSASSINATION OF PRESIDENT
 JOHN F. KENNEDY
 11/22/63
 DALLAS, TEXAS

PURPOSE: To respond to the Department of Justice's (DOJ) request to provide background information on the FBI's review of the acoustical reports published by the House Select Committee on Assassinations.

DETAILS: On 1/7/81, Jeffrey I. Fogel, Attorney, General Litigation and Legal Advice Section, DOJ, requested the Technical Services Division (TSD) to provide background information on the TSD's 11/19/80, Review of the acoustical reports published by the House Select Committee on Assassinations [Redacted] to Bayse memorandum dated 11/19/80, captioned as above. Mr. Fogel stated that the background material would be forwarded to the National Academy of Sciences, who are also reviewing the acoustical reports of the House Select Committee. *(18)*

Enclosed is an addendum to the 11/19/80 review. Mr. Fogel has previously been provided with a tape copy of the public hearings before the House Select Committee on 12/29/78.

16
 ENCLOSURE

Enclosure

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. Monroe
- 1 - Mr. Young
- 1 - [Redacted]
- 1 - [Redacted]
- 1 - [Redacted]
- 1 - [Redacted]

10/10/0 - 8192

- 7C 1 - [Redacted]
- 1 - Mr. Bayse
- 1 - [Redacted]
- 7C 1 - [Redacted]
- 1 - [Redacted]
- 1 - [Redacted]
- 1 - [Redacted]
- 1 - [Redacted]
- 1 - [Redacted]

JAN 19 1981

CONTINUED-OVER

8 JAN 29 1981

EXH B

FBI/DOJ

search for the records requested; (2) whether the FBI has produced the June 29, 1962 FBI report 'The Criminal Commission' requested by plaintiff". In order to address these issues accurately, a brief explanation of the FBI's Central Records

70 Memorandum [redacted] to Mr. Bayse
RE: ASSASSINATION OF PRESIDENT
JOHN F. KENNEDY
11/22/63
DALLAS, TEXAS

This matter has been coordinated with SA [redacted] of
the Criminal Investigative Division.

RECOMMENDATION: That personnel of the Criminal Investigative
Division review and make appropriate
dissemination of the enclosure to Mr. Jeffrey I. Fogel,
Department of Justice.

JBO
Rec'd
Ful

CPM/LL

was/for

search for the records requested; (2) whether the FBI has
produced the June 29, 1962 FBI report 'The Criminal Commission'
requested by plaintiff". In order to address these issues
accurately, a brief explanation of the FBI's Central Records

January 14, 1981, Addendum to the FBI Review of
Acoustical Reports Published by the House Select Committee
on Assassinations

1. In reference to pages 3 through 12 of the FBI Review:

All information was quoted or summarized, as accurately as possible, from a recording of the public hearing before the House Select Committee on December 29, 1978, and from the "Investigation of the Assassination of President John F. Kennedy; Appendix to Hearings before the Select Committee on Assassinations of the U. S. House of Representatives, Ninety-Fifth Congress, Second Session; Volume VIII, Acoustics, Polygraph, Handwriting and Fingerprint Reports, March 1979," pages 3-127.

2. In reference to pages 13 through 20 of the FBI Review:

The information in this section is based on the extensive expertise and experience of FBI experts in the fields of forensic acoustics, forensic signal analysis, tape recorder and microphone theory, radio communications, RF propagation, FM receivers and antennas, and forensic firearms and ballistics.

In reference to page 15 of the Review, the gunshot in the GREENKIL matter was recorded at the scene on a Sony BVM-100 Video Recorder. The original video recording was played back by the FBI on a Sony VO-2850 Video Recorder and the soundtrack was recorded on a Nagra IV-SJ recorder at 15 inches per second on the left channel (1/2 track). A time code signal (IRIG "B") from a Systron Donner model 8154 Time Code Generator was recorded on the right channel.

The GREENKIL gunshot and the time code signal were then played back on the Nagra IV-SJ into a Honeywell 2112 Visicorder, dual channel, at 500 cm/sec onto 12-inch wide paper (Kodak Linagraph direct print paper, type 2167). See Figure A for a copy of the waveform. The waveform peaks were then measured in reference to the muzzle blast, both manually and with a Decscope terminal model VT-52 connected to a Digital Equipment Corporation PDP 11/70 computer. See Figure B for table of measured waveform peaks. Peaks below the line on Figure A were not used since they were too wide to be useful.

62-7-1066 - 8192
ENCLOSURE

search for the records requested; (2) whether the FBI has produced the June 29, 1962 FBI report 'The Criminal Commission' requested by plaintiff". In order to address these issues accurately, a brief explanation of the FBI's Central Records

The gunshot waveform from the GREENKIL matter was then compared to the waveform examined by Weiss and Aschkenasy on the Dallas Police Department (DPD) recording. Figure C is a table of the GREENKIL gunshot peaks, the DPD waveform peaks, and the peaks predicted by Weiss and Aschkenasy. One of the nonmatching DPD peaks used by Weiss and Aschkenasy could not be accurately determined by the FBI.

Weiss and Aschkenasy compared the 18 DPD peaks to their 11 predicted echoes and the muzzle blast using a plus or minus 1 millisecond window, and found 11 matches. Using the binary correlation coefficient of 0.75 (11 divided by the square root of [12 x 18]), Weiss and Aschkenasy state that "at levels greater than 0.7 with a coincidence window of plus or minus 1 millisecond, the statistical probability was 95 percent or more that the sequences represented the same source--a sound as loud as a gunshot from the grassy knoll."

The FBI first compared the 18 DPD peaks to the 14 peaks and the muzzle blast on the GREENKIL gunshot using plus or minus 1 millisecond windows, and found 12 matches. The binary correlation coefficient of 0.73 (12 divided by the square root of [15 x 18]) resulted in a statistical probability of 95 percent or more that "the sequences represented the same source--a sound as loud as a gunshot from the grassy knoll."

The FBI then narrowed the coincidence window to plus or minus 0.9 millisecond and found that Weiss and Aschkenasy's binary correlation coefficient dropped to 0.54 (8 divided by the square root of [12 x 18]), or a probability of only 44 percent that the sound pattern on the DPD recording would match the predicted echo sequence from the grassy knoll. Whereas, the GREENKIL binary correlation coefficient remained at 0.73, or a 95 percent or better probability of matching.

search for the records requested; (2) whether the FBI has produced the June 29, 1962 FBI report 'The Criminal Commission' requested by plaintiff". In order to address these issues accurately, a brief explanation of the FBI's Central Records

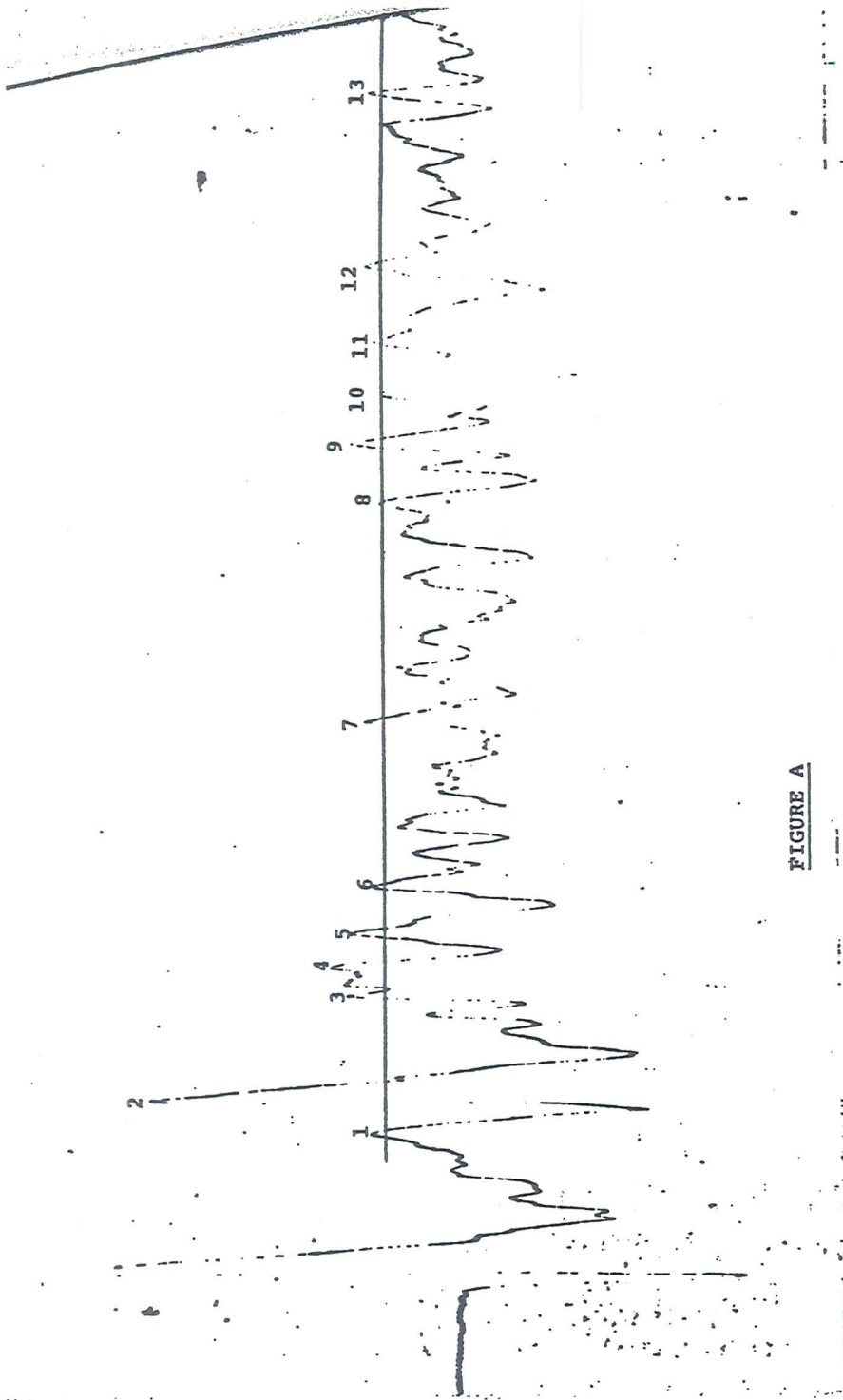


FIGURE A

search for the records requested; (2) whether the FBI has produced the June 29, 1962 FBI report 'The Criminal Commission' requested by plaintiff". In order to address these issues accurately, a brief explanation of the FBI's Central Records

FIGURE B

<u>GREENKIL Peak</u>	<u>Measured Time (in milliseconds)</u>
1	5.2
2	6.5
3	10.2
4	11.2
5	12.3
6	14.0
7	20.0
8	27.9
9	30.0
10	31.8
11	33.6
12	36.3
13	42.5
14	45.6

search for the records requested; (2) whether the FBI has produced the June 29, 1962 FBI report 'The Criminal Commission' requested by plaintiff". In order to address these issues accurately, a brief explanation of the FBI's Central Records

FIGURE C

All numbers listed below are in milliseconds.

<u>DPD Peaks</u>	<u>Weiss and Aschkenasy Predicted Peaks</u>	<u>Weiss and Aschkenasy Deviation</u>	<u>GREENKIL Peaks</u>	<u>GREENKIL Deviation</u>
Muzzle Blast	Muzzle Blast	0.0	Muzzle Blast	0.0
3.4*		NM		NM
6.3	6.5	0.2	6.5	0.2
10.5	10.9	0.4	10.2	0.3
14.7	15.1	0.4	14.0	0.7
19.3	18.8	0.5		NM
20.1	21.1	1.0	20.0	0.1
22.5*		NM		NM
27.4	28.4	1.0	27.9	0.5
30.3	29.3	1.0	30.0	0.3
31.6	31.2	0.4	31.8	0.2
34.1	34.7	0.6	33.6	0.5
37.1*		NM	36.3	0.8
40.5*		NM		NM
42.8*		NM	42.5	0.3
45.4	45.6	0.2	45.6	0.2
48.7	48.2	0.5		NM
**		NM	Unknown	Unknown

*Computed from sound pattern shown in Weiss and Aschkenasy's Report.

**One of the DPD peaks not matched by Weiss and Aschkenasy could not be accurately determined.

NM - No Match

search for the records requested; (2) whether the FBI has produced the June 29, 1962 FBI report 'The Criminal Commission' requested by plaintiff". In order to address these issues accurately, a brief explanation of the FBI's Central Records

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

G. ROBERT BLAKEY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action Number
)	81-2174
DEPARTMENT OF JUSTICE, et al.,)	
)	
Defendants.)	
)	
)	

AFFIDAVIT OF DOUGLASS C. OGDEN

I, Douglass C. Ogden, being duly sworn, depose and say as follows:

(1) I am a Special Agent of the Federal Bureau of Investigation (FBI), assigned in a supervisory capacity to the Freedom of Information-Privacy Acts (FOIPA) Section, Records Management Division, FBI Headquarters (FBIHQ), Washington, D. C.

(2) Due to the nature of my official duties, I am personally familiar with the procedures followed in processing Freedom of Information Act (FOIA) requests for information located within the files maintained at FBIHQ.

(3) This affidavit addresses Plaintiff's Opposition to Motion of Defendant for Summary Judgement concerning the processing of plaintiff's FOIA request, specifically, reports captioned The Criminal Commission, dated June 29, 1962, and La Cosa Nostra, dated July 19, 1965, in addition to the affidavit of SA James C. Felix, dated February 18, 1982.

(4) Plaintiff has raised the issue, among others, of "(1) whether the FBI has conducted a thorough, good faith search for the records requested; (2) whether the FBI has produced the June 29, 1962 FBI report 'The Criminal Commission' requested by plaintiff". In order to address these issues accurately, a brief explanation of the FBI's Central Records

System and General Indices must be given, followed by a discussion of the actual processing of plaintiff's request.

EXPLANATION OF THE FBI CENTRAL RECORDS SYSTEM AND GENERAL INDICES

(5) Access to the FBI Central Records System is afforded by the General Indices, arranged in alphabetical order, consisting of index cards on various subject matters. The Central Records System contains administrative, applicant, personnel, general and investigative files compiled for law enforcement purposes. The records system consists of a numerical sequence for classifying of files broken down according to subject matter. The subject matter of a file may relate to an individual, organization, company, publication, activity or foreign intelligence matter.

IDENTIFICATION OF RECORDS WITHIN THE SCOPE OF THE PLAINTIFF'S REQUESTS

(6) Plaintiff's request for FBI reports, The Criminal Commission, dated June 29, 1962, and La Cosa Nostra, dated July 19, 1965, were specific enough that these reports were located in the general file captioned "The Criminal Commission" also known as "La Cosa Nostra." For the information of the Court, the subject titled "The Criminal Commission" was changed in FBI files to include it as also being known as "La Cosa Nostra," and was filed under the same main file number.

An Agent in the Criminal Investigative Division (CID) furnished the only general file number for this organization to the FOIPA Section employee who was assembling the material responsive to plaintiff's request for processing. Therefore, since the General Indices consists of alphabetized index cards containing file numbers for each subject matter, and the FOIPA Section employee had already obtained the only general file number telephonically for this organization, no search of the general indices was required, (see paragraph 5, supra). Even if a search of the General Indices had been conducted, no additional information would have been located.

Plaintiff was provided copies, with deletions made

therein, of two reports from this general file, specifically, reports captioned, "The Criminal Commission", dated June 29, 1962 and "La Cosa Nostra", dated July 19, 1965. These reports were provided to plaintiff in good faith, based on the information the plaintiff furnished this Bureau with only the captions and dates for the reports requested. Plaintiff accepted the reports furnished without protest or notification of appeal until Plaintiff's Opposition to Motion of Defendant for Summary Judgement was filed. Until that time, the FBI was without knowledge of plaintiff's belief that the material furnished in the Criminal Commission report dated June 29, 1962, was material other than that requested.

Subsequent to the filing of Plaintiff's Opposition to Motion of Defendant for Summary Judgement, a review of the pertinent file was again conducted. This review revealed an additional report entitled "The Criminal Commission", dated June 29, 1962. The description of this second report is identical to the report described in Plaintiff's Affidavit dated March 17, 1982.

(7) This report has been processed for the plaintiff, however, due to the nature of the information contained in this report, it is necessary for the CID to review this report prior to its release. Upon completion of this review, pages which can be released pursuant to the FOIA, will be forwarded to plaintiff.

Douglas C. Ogden

DOUGLAS C. OGDEN
Special Agent
Federal Bureau of Investigation
Washington, D. C.

Subscribed and Sworn to before me this 21st
day of May, 1982.

Pauline C. Remmensen
NOTARY PUBLIC

My Commission expires My Commission Expires January 31, 1982.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

G. ROBERT BLAKEY,)	
)	
Plaintiff,)	
)	
v.)	
)	
DEPARTMENT OF JUSTICE)	Civil Action No. 81-2174
)	
and)	
)	
FEDERAL BUREAU OF INVESTIGATION,)	
)	
Defendants.)	
_____)	

DECLARATION

1. I am Jeffrey I. Fogel, an attorney in the Criminal Division of the United States Department of Justice.
2. Government counsel in this case has called my attention to paragraph 13 of plaintiff's affidavit dated March 17, 1982, the pertinent part of which states: "A Bureau memorandum of January 14, 1981, makes reference to a letter of January 7, 1981 of Jeffrey I. Fogel, a copy of which, according to my records, I have not yet received."
3. I attach hereto a copy of a Bureau memorandum, dated January 14, 1981, to Mr. Bayse (with deletions made by the Federal Bureau of Investigation). In pertinent part, the memorandum states: "On January 7, 1981, Jeffrey I. Fogel, Attorney, General Litigation and Advice Section, Department of Justice, requested the Technical Services Division (TSD) to provide background information" (Emphasis added.) Although plaintiff quotes the memorandum as referring to a "letter," the memorandum merely states that I "re-quested"


4. At that time, Robert L. Keuch served as Special Counsel to the Attorney General, dealing with matters pertaining to assassinations. Although my regular assignment was in the Criminal Division, I spent much of my time during the approximate period of 1978 to 1981 detailed to work with Mr. Keuch in his capacity as Special Counsel. (Mr. Keuch's regular position was Associate Deputy Attorney General. Neither the Special Counsel nor Associate Deputy Attorney General position was in the Criminal Division.)

5. During the relevant time period, it was not my practice to send letters or memoranda, for example, to the Federal Bureau of Investigation, under my own name. I would draft letters or memoranda for the signature of someone else, such as Mr. Keuch. The practice of staff drafting communications for superior officials is a common and well known one both in and out of government.

6. I have not been able to locate a copy of any letter or memorandum of January 14, 1980 such as the one referred to as a "letter" in plaintiff's affidavit.

7. It would appear to me, based on all the circumstances I have detailed above, that the request was, in all likelihood, made over the telephone.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 4, 1982.


JEFFREY I. FOGEL

Memorandum



Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Insp. _____
 Laboratory _____
 Leg. Coun. _____
 Plan. & Insp. _____
 Rec. Mgmt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

5117

0615

To : Mr. Bayse *WJC/CS*

Date 1/14/81

7C
from [redacted]

Subject: ASSASSINATION OF PRESIDENT
 JOHN F. KENNEDY
 11/22/63
 DALLAS, TEXAS

PURPOSE: To respond to the Department of Justice's (DOJ) request to provide background information on the FBI's review of the acoustical reports published by the House Select Committee on Assassinations.

DETAILS: On 1/7/81, Jeffrey I. Fogel, Attorney, General Litigation and Legal Advice Section, DOJ, requested the Technical Services Division (TSD) to provide background information on the TSD's 11/19/80, Review of the acoustical reports published by the House Select Committee on Assassinations [redacted] to Bayse memorandum dated 11/19/80, captioned as above. Mr. Fogel stated that the background material would be forwarded to the National Academy of Sciences, who are also reviewing the acoustical reports of the House Select Committee.

Enclosed is an addendum to the 11/19/80 review. Mr. Fogel has previously been provided with a tape copy of the public hearings before the House Select Committee on 12/29/78.

1- ENCLOSURE
 Enclosure

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. Monroe
- 1 - Mr. Young

7C

[redacted]
 [redacted]
 [redacted]
 (17)

-101610-8192

- 7C 1 - [redacted]
- 1 - Mr. Bayse
- 1 - [redacted]
- 7C 1 - [redacted]
- 1 - [redacted]
- 1 - [redacted]
- 1 - [redacted]
- 1 - [redacted]
- 1 - [redacted]

62 JAN 19 1981

CONTINUED-OVER

8 JAN 29 1981

C.A. 81-2174

Attachment to Fogel Affidavit

FBI/DOJ

70

Memorandum [redacted] to Mr. Bayse
RE: ASSASSINATION OF PRESIDENT
JOHN F. KENNEDY
11/22/63
DALLAS, TEXAS

This matter has been coordinated with SA [redacted] of
the Criminal Investigative Division.

RECOMMENDATION: That personnel of the Criminal Investigative
Division review and make appropriate
dissemination of the enclosure to Mr. Jeffrey I. Fogel,
Department of Justice.

JBO:
Rally/
Ful

CPM/K

WOB/K

January 14, 1981, Addendum to the FBI Review of
Acoustical Reports Published by the House Select Committee
on Assassinations

1. In reference to pages 3 through 12 of the FBI Review:

All information was quoted or summarized, as accurately as possible, from a recording of the public hearing before the House Select Committee on December 29, 1978, and from the "Investigation of the Assassination of President John F. Kennedy; Appendix to Hearings before the Select Committee on Assassinations of the U. S. House of Representatives, Ninety-Fifth Congress, Second Session; Volume VIII, Acoustics, Polygraph, Handwriting and Fingerprint Reports, March 1979," pages 3-127.

2. In reference to pages 13 through 20 of the FBI Review:

The information in this section is based on the extensive expertise and experience of FBI experts in the fields of forensic acoustics, forensic signal analysis, tape recorder and microphone theory, radio communications, RF propagation, FM receivers and antennas, and forensic firearms and ballistics.

In reference to page 15 of the Review, the gunshot in the GREENKIL matter was recorded at the scene on a Sony BVM-100 Video Recorder. The original video recording was played back by the FBI on a Sony VO-2850 Video Recorder and the soundtrack was recorded on a Nagra IV-SJ recorder at 15 inches per second on the left channel (1/2 track). A time code signal (IRIG "B") from a Systron Donner model 8154 Time Code Generator was recorded on the right channel.

The GREENKIL gunshot and the time code signal were then played back on the Nagra IV-SJ into a Honeywell 2112 Visicorder, dual channel, at 500 cm/sec onto 12-inch wide paper (Kodak Linagraph direct print paper, type 2167). See Figure A for a copy of the waveform. The waveform peaks were then measured in reference to the muzzle blast, both manually and with a Decscope terminal model VT-52 connected to a Digital Equipment Corporation PDP 11/70 computer. See Figure B for table of measured waveform peaks. Peaks below the line on Figure A were not used since they were too wide to be useful.

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ENCLOSURE

The gunshot waveform from the GREENKIL matter was then compared to the waveform examined by Weiss and Aschkenasy on the Dallas Police Department (DPD) recording. Figure C is a table of the GREENKIL gunshot peaks, the DPD waveform peaks, and the peaks predicted by Weiss and Aschkenasy. One of the nonmatching DPD peaks used by Weiss and Aschkenasy could not be accurately determined by the FBI.

Weiss and Aschkenasy compared the 18 DPD peaks to their 11 predicted echoes and the muzzle blast using a plus or minus 1 millisecond window, and found 11 matches. Using the binary correlation coefficient of 0.75 (11 divided by the square root of $[12 \times 18]$), Weiss and Aschkenasy state that "at levels greater than 0.7 with a coincidence window of plus or minus 1 millisecond, the statistical probability was 95 percent or more that the sequences represented the same source--a sound as loud as a gunshot from the grassy knoll."

The FBI first compared the 18 DPD peaks to the 14 peaks and the muzzle blast on the GREENKIL gunshot using plus or minus 1 millisecond windows, and found 12 matches. The binary correlation coefficient of 0.73 (12 divided by the square root of $[15 \times 18]$) resulted in a statistical probability of 95 percent or more that "the sequences represented the same source--a sound as loud as a gunshot from the grassy knoll."

The FBI then narrowed the coincidence window to plus or minus 0.9 millisecond and found that Weiss and Aschkenasy's binary correlation coefficient dropped to 0.54 (8 divided by the square root of $[12 \times 18]$), or a probability of only 44 percent that the sound pattern on the DPD recording would match the predicted echo sequence from the grassy knoll. Whereas, the GREENKIL binary correlation coefficient remained at 0.73, or a 95 percent or better probability of matching.

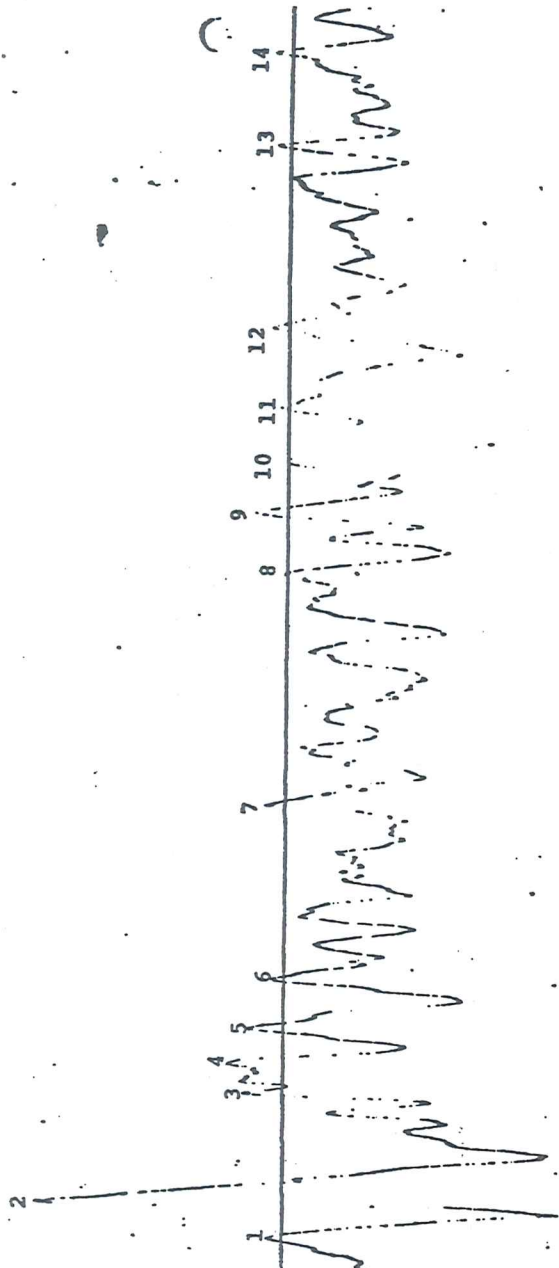


FIGURE A

FIGURE B

<u>GREENKIL Peak</u>	<u>Measured Time (in milliseconds)</u>
1	5.2
2	6.5
3	10.2
4	11.2
5	12.3
6	14.0
7	20.0
8	27.9
9	30.0
10	31.8
11	33.6
12	36.3
13	42.5
14	45.6

FIGURE C

All numbers listed below are in milliseconds.

<u>DPD Peaks</u>	<u>Weiss and Aschkenasy Predicted Peaks</u>	<u>Weiss and Aschkenasy Deviation</u>	<u>GREENKIL Peaks</u>	<u>GREENKIL Deviation</u>
Muzzle Blast	Muzzle Blast	0.0	Muzzle Blast	0.0
3.4*		NM		NM
6.3	6.5	0.2	6.5	0.2
10.5	10.9	0.4	10.2	0.3
14.7	15.1	0.4	14.0	0.7
19.3	18.8	0.5		NM
20.1	21.1	1.0	20.0	0.1
22.5*		NM		NM
27.4	28.4	1.0	27.9	0.5
30.3	29.3	1.0	30.0	0.3
31.6	31.2	0.4	31.8	0.2
34.1	34.7	0.6	33.6	0.5
37.1*		NM	36.3	0.8
40.5*		NM		NM
42.8*		NM	42.5	0.3
45.4	45.6	0.2	45.6	0.2
48.7	48.2	0.5		NM
**		NM	Unknown	Unknown

*Computed from sound pattern shown in Weiss and Aschkenasy's Report.

**One of the DPD peaks not matched by Weiss and Aschkenasy could not be accurately determined.

NM - No Match

CERTIFICATE OF SERVICE

I hereby certify that a copy of defendant FBI's memorandum of Points and Authorities, statement of genuine issues, Phillips and Ogden affidavits and proposed order was mailed to plaintiff's counsel, James H. Lesar, Esquire, Fensterwald & Associates, 1000 Wilson Boulevard, Suite 900, Arlington, Virginia, 22209 this 7th day of June, 1982.



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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

G. ROBERT BLAKEY,
Plaintiff,

v.

DEPARTMENT OF JUSTICE
and
FEDERAL BUREAU OF INVESTIGATION,
Defendants.

Civil Action No. 81-2174

O R D E R

This matter having before the Court on the Motion of Defendant Federal Bureau of Investigation for Summary Judgment and plaintiff's cross motion for summary judgment, and the Court having considered the memoranda supporting and opposing the motions and the entire record, and it appearing to the Court that there is no genuine issue as to any material fact and defendant is entitled to judgment as a matter of law, it is by the Court, this ____ day of _____, 1982,

ORDERED that defendant Federal Bureau of Investigation's motion for summary judgment is granted and this action is dismissed with prejudice; and it is further

ORDERED that plaintiff's motion for summary judgment is denied.

BARRINGTON D. PARKER
United States District Judge