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July 10, 1964

File Breanna at Kelly's witness

RELEASED PER P.L.-102-526 (JFK ACT)

MEMORANDUM

TO: Mr. J. Lee Rankin

FROM: David W. Belin

SUBJECT: Comments and Suggestions--Chapter 3--6/26/64 Draft

1. As I wrote in my letter of July 7, and as I partially explained in my July 10 conference with you, I have great objection to the organization of chapters 3 and 4. The testimony of the eyewitnesses, as well as the witnesses on the fifth floor, loses most of its effectiveness as part of the proof that Oswald was the assassin. Looking at the case from the viewpoint of a trial lawyer arguing to a jury and from the viewpoint of an appellate lawyer arguing before a supreme court, I believe that we have overproved the "place from which the shots were fired" to the detriment of our proof on the "determination of Oswald as the assassin."

note

Belin's lobbying for Breanna

A much more effective presentation could be made by having chapter 3 limited to the examination of the Presidential automobile, the nature and characteristics of the bullet wounds, and the trajectory of the shots. There should be only brief reference to the eyewitnesses of the assassination and the ballistic evidence. These later subjects should be discussed as a part of the evidence pointing to Oswald as the assassin. Not only would this make a better case against Oswald, but we would offer a situation of each chapter reinforcing the other. In our conference this morning when I analogized to reinforcing concretely, this is the type of technique to which I referred.

There has been far too much concern about the attacks by Lane, Buchanan, and others alleging that the shots came from the overpass. We know to an absolute certainty that this is not true, and the potential weakness of our case is, not the actual standpoint of whether or not the shots came from the overpass, but, rather, who pulled the trigger of the weapon.

Finally, I would point to the first paragraph on page 2 of chapter 3, where the next-to-the-last sentence states: "The wounds on President Kennedy and Governor Connally, supported by the holes in their clothing, prove that the shots came from the rear and overhead." I believe that nothing more is needed in this chapter other than the subject matter of the examination of the automobile and all of the material pertaining to the trajectory of the shots. If these matters prove that the shots came from the rear and behind, let us then reinforce our findings with the eyewitnesses' and ballistic testimony in chapter 4, which in turn will be reinforced by our findings in the revised chapter 3.

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I would like to discuss this with you in detail when Howard Willens and Norman Redlich are present, so that we can exchange views with one another. In the meantime, I shall continue with my specific comments on the 6/26/64 draft of chapter 3.

2. On page 3, I would omit everything after the paragraph ending in the tenth line, and substitute therefor the second sentence of the last paragraph. I would omit pages 4 through 13 and the first eight lines of page 14. I would omit the last paragraph of page 16, all of page 17, the first four lines of page 18, the last six lines of page 19, all of pages 20-22, the first five lines of page 23, with perhaps some summary sentences which will merely put in enough facts to correlate the remaining portion of this chapter. This will also serve as a means of reinforcing the discussion of these omitted topics and their proper sequences in the next chapter.

My comments on the rest of chapter 3 will take the pages chronologically as they now appear, even though I suggest that the foregoing changes be made.

3. The testimony of Brennan on page 4 is stronger than what now appears in the draft. I would specifically add at the end of the third line a sentence substantially as follows: "Brennan saw this man come to the window at least two times within the five-minute period immediately preceding the motorcade."

4. On page 4, line five, I would insert after the word "moved" the word "southwesterly." My reasons have been previously stated in my comments on chapter 1: comment 4.

5. On page 4, after the sentence ending in the ninth line from the bottom of the page, we might insert a sentence along the following lines: "The rifle was pointed southwesterly in exactly the same direction as the motorcade route, so that the gunman had a straight-line series of shots."

6. On page 4, in the eighth line from the bottom of the page, the statement is made with reference to Brennan that "he remembers hearing only two shots." This is true, and without further explanation might take something away from the reliability of Brennan as an observer, which, in turn, is important in his identification of the man in the window. Thus, I think it is important to give the complete testimony of Brennan in this regard. He said that, although he heard only two shots, he thought that the first shot was the backfire of a motorcycle, and then went on to testify: "Well, then something, just right after this explosion, made me think that it was a firecracker being thrown from the Texas Book Store. And I glanced up. And this man that I saw previous was aiming for his last shot." (Vol. 3, pp. 143-144.) Then

check w/ Brennan's testimony

Did he see the man in the window?

w/ McCloy

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a few paragraphs later in this testimony, Brennan said that he did not recall a second shot, meaning a middle shot, between the first and the last noise, but went on to amplify: "I don't know what made me think that there was firecrackers thrown out of the Book Store unless I did hear the second shot, because I positively thought the first shot was a backfire, and subconsciously I must have heard a second shot, but I do not recall it. I could not swear to it." (Vol. 3, p. 144.) This verbatim quotation not only makes Brennan a more reliable witness, but it also adds to the quality of his testimony where he refuses to swear that he heard a middle shot, although he subconsciously thinks that he "must have heard a second shot." In turn, this reinforces his identification of Oswald, although I do not want to place heavy reliance upon it as a Commission finding. What I want to do, however, is to give a complete picture so that the reader can reach his own conclusion.

7. On page 4, in the sentence beginning in the tenth line from the bottom of the page, "The aim of the rifle was down Elm Street toward the underpass," the complete testimony of Brennan is that the gun was pointing about thirty degrees downward, southwest down Elm Street toward the railroad underpass. (Vol. 3, p. 144.) For the reasons stated in comment 4 to chapter 1, I think that the southwest direction of the rifle is important.

8. In the quoted portion of Brennan's testimony on page 4, he states that the man in the window appeared to be standing up. If we are going to quote this testimony, I think it is a necessity that we give the complete picture and point out that he thought that the people at the fifth-floor windows were also standing up. (Vol. 3, p. 144.) The reason for this is that anyone attacking the report could readily point out the fact that the windows are low, that our finding is that the assassin sat on a box, and that if Brennan thought that the man was standing Brennan obviously could not see anything. On the other hand, if Brennan thought that the people on both the fifth and sixth floors were standing, then it is only a situation of Brennan's not knowing that the windows are close to the floor.

9. I think that to break up the sequence of Brennan's testimony in chapter 3, and then not get back to it until pages 18 and 19 of chapter 14, is greatly detrimental to the strength of our report. Brennan is one of the key witnesses, if not the key witness, of the assassination. Anyone who has ever argued a case knows that when you get to your key witness or key witnesses you stay with them, and do not jump back and forth.

10. I object to the placement of the testimony of the witness Worrell, commencing in the last six lines of page 4 through the first portion of page 5. I would follow Brennan immediately with Buins and then the