

published in 1953, states:

The method is based on registering photographically the spectrum of each of the samples compared as well as blank and calibration spectra on the same plate under conditions as nearly identical as is practical. When the plate is developed all spectra have identical development and will be strictly comparable regardless of other conditions. If two samples yield identical spectra in all observable particulars they have identical composition regardless of what the composition may be. . . . it does allow the operator to state that one sample has closely the same, more or less of a metal than another sample. . . . if the samples have actually different origins there will almost invariably be differences in some of the constituents of such magnitude as to be readily discovered. [pp. 274-275]

5. An even older standard text is Forensic Chemistry and Scientific Criminal Investigation, published in 1935. In discussing "projectiles" [pp. 265-267], it illuminates the importance of scientific analyses with a series of illustrative cases. In the first a nightwatchman suspected of killing another escaped conviction "because the projectile did not agree with the composition of the slugs in the cartridges with which he was supplied." In the second, a man suspected of wounding another was found innocent "because the shot from a cartridge seized in his house was found on chemical analysis to differ in composition from the shot extracted from the wounded man."

6. The Warren Commission concluded that three shots had been fired at President Kennedy, all allegedly from one rifle in one set of hands and with one type of ammunition: copper-alloy, full-jacketed military bullets. When I completed Whitewash in February, 1965, it was apparent to me that spectrographic analysis of any of the bullets, bullet fragments, or items of evidence allegedly

struck by them could destroy the conclusions of the Warren Report. That my early discussion of the significance of the spectrographic analyses is completely accurate has now been confirmed by the limited materials delivered to me by the FBI as a result of this lawsuit. Thus, on page 160 of Whitewash, I wrote of the so-called "missed" shot--which missed by about 260 feet--that "the curbstone reflects the mark of one of the other types of bullets the Commission declined to consider even though it knew--but did not report--they were readily available in Dallas."

7. The Warren Commission's expert ballistics testimony was taken from FBI Agent Robert Frazier. In regard to the so-called nonfatal shot [CE 399--see Exhibit A] which the Commission said inflicted a total of seven wounds on Kennedy and Connally, Frazier testified of this bullet and the fragments allegedly recovered from it no more than that their lead was "similar," not that it was "identical". [See paragraphs 38-40]

8. Five bullet fragments were recovered from the President's limousine. Frazier told the Commission that the two fragments found on the front seat could not be identified as coming from the same bullet as the three fragments found on the rug under the jump seat on which Mrs. John Connally sat. With respect to the scrapings from the part of the windshield struck by a bullet fragment, Frazier's testimony was only of "similarity". But unless all five fragments found in the car and the fragment which hit the windshield all come from a single bullet, the fatal shot which struck President Kennedy in the head, there has to have been another shot, another assassin, and the crime is unsolved.

9. In short, Frazier's testimony before the Warren Commission was vague to the point of meaninglessness. None of his testimony was precise and he in no way made positive determinations

that the scientific analyses proved the Warren Commission's theories.

10. According to the Warren Commission's account, the non-fatal shot, bullet 399 [Exhibit A], transited the President's neck, in some mysterious way avoiding any bone; struck Governor Connally in the right side, smashing four inches of his fifth rib; exited Governor Connally's chest, whence it proceeded to demolish the relatively heavy bones in his right wrist; after which it attached itself to his right thigh bone so firmly that when it later in some magical fashion dislodged itself, a fragment refused to leave with it. This fragment was not removed during surgery.

11. Bullet 399 is an unutilated, virtually pristine bullet. Frazier testified that even course cloth or leather could leave marks on a bullet. In view of this, it is simply astounding that bones from three parts of Governor Connally's body left no marks on bullet 399.

12. Even the normal testing of bullet 399 for the residues of human tissue was not made. Nor was there interest in the fact that prior to examination this bullet allegedly had been wiped clean. By indirection Frazier testified that there remained deposits which could have been examined in bullet 399 had the history attributed to it. Nonetheless, an examination for tissue was not made, as Agent Frazier himself confirmed to me during our March 14, 1975 conference.

13. While testifying before the Warren Commission about the tests performed on the basic items of evidence, Frazier identified the spectrographer as FBI Agent John F. Gallagher. Agent Gallagher was the last witness to testify before the Commission. He testified on September 15, 1964, one week before the Warren Report

went to press. He was not asked a single question about these scientific tests.

14. The FBI did not volunteer its scientific work to the Commission, nor did the Commission ask for it. Instead the Commission omitted it from its own record--26 massive volumes and some 300 cubic feet of files--and contented itself with the assurance that these tests are "a part of the permanent record of the FBI".

15. When Attorney General Ramsey Clark issued an executive order on October 31, 1966, under which all the evidence was to have been transferred to the National Archives, I went to the Archives and asked for the results of these analyses. None were transferred. When Mr. Marion Johnson of the Archives' staff phoned FBI Agent Courtland Cunningham for me and asked about these test results, Cunningham referred us to a single FBI lab report which does not and could not include these results. It is the unsigned lab report of November 23, 1963, addressed to then Dallas Chief of Police Jesse Curry.

16. My interest in the absence of these most basic proofs from the Commission's enormous record was increased by the fact that everyone of the Dallas doctors who testified on Governor Connally's wounds said that bullet 399 could not have done what the Warren Commission said it did. Thus, during questioning by Commissioner Allen Dulles, Dr. Robert Shaw indicated the impossibility of bullet 399 having caused all of Governor Connally's wounds:

Dr. Shaw: . . . and we still do not know which bullet actually inflicted the wound on Governor Connally.

Mr. Dulles: Or whether it was one or two wounds.

Dr. Shaw: Yes.

Mr. Dulles: Or two bullets?

Dr. Shaw: Yes; or three.

17. All three of the autopsy doctors also testified opposite to the Warren Report's conclusion that it was possible for bullet 399 to inflict seven wounds on President Kennedy and Governor Connally and emerge unmutilated and virtually pristine. Commander James J. Humes used such words as "most unlikely" and "do not understand how it could have" and "I think it extremely unlikely" and "I can't conceive" when he testified with that bullet in his hand. Asked about this testimony, Commander J. Thornton Boswell and Colonel Pierre J. Finck agreed. When Colonel Finck, a wounds ballistics expert, was asked if he would "modify" Humes' testimony on this "in any way," Finck responded bluntly, "No."

18. That the expert medical evidence actually was opposite the Commission's conclusion makes these missing scientific tests more important. This testimony makes it virtually certain that the tests, if fully and honestly made and interpreted, have to prove the Report and its conclusions false. Otherwise, all the credible expert evidence is wrong.

19. J. Edgar Hoover was well aware of this. Within 24 hours after President Kennedy was murdered, President Johnson put Hoover in direct charge of a "special investigation" into the assassination. Because President Johnson wanted a report from the FBI as quickly as possible, Hoover had about 150 men working on the report. Hoover was very familiar with the work of this enormous task force. He testified: "I have read and signed all the replies that have come [sic] to the Commission. In addition, I have read many of the reports that our agents have made." Further, "I myself go over these to see that we haven't missed anything or haven't any gap in the investigation so it can be tied down . . ."

20. This definitive FBI report totaled five bound volumes. It became the Warren Commission's first file, identified as CD 1 (for "Commission Document 1"). This report is a massive propaganda job on Lee Harvey Oswald which makes virtually no reference to the actual assassination.

21. Hoover's five volume report created two immediate problems for the Warren Commission. The first stemmed from the FBI's having reached conclusions about the assassination before the Commission had begun its work and before the FBI had really begun its own investigation. Thus, Hoover had the Warren Commission boxed in, foreclosed from any real investigation because it depended on the FBI for most of its investigators and all its laboratory work.

22. The Warren Commission knew this. At the Commission's secret meeting on January 22, 1964, called to discuss reports that Oswald had worked for the FBI and/or CIA, the Commissioners noted that while it is the FBI's undeviating practice to say that it does not "evaluate," in this case "the FBI is very explicit that Oswald is the assassin or was the assassin, and they are very explicit that there was no conspiracy, and they are also saying in the same place that they are continuing their investigation." But "they have not run out all kinds of leads." "They would like to have us fold up and quit." "This closes the case . . ." "They found the man. There is nothing more to do. The Commission supports their conclusions, and we can go home and that is the end of it."

23. Hoover's report created a second problem: its conclusions disagreed with and refuted those reached by the Commission. Hoover's report contains only two references to the actual assassination. The first states: "two bullets struck President Kennedy and one wounded Governor Connally." This is the same con-

clusion reached by the Secret Service in a report ignored by the Warren Commission: "President Kennedy . . . was shot. Immediately thereafter Governor Connally . . . was shot once. The President was then shot a second time."

24. Hoover's second reference states:

Medical examination of the President's body revealed that one of the bullets had entered just below his shoulder to the right of the spinal column at an angle of 45 to 60 degrees downward, that there was no point of exit . . ."

This directly disputes the Commission's conclusion that one bullet, which entered the neck rather than "just below his shoulder," inflicted the seven nonfatal wounds of President Kennedy and Governor Connally.

25. This makes full disclosure of all the scientific tests which I have requested a matter of paramount importance. Hoover's references to the medial and ballistics evidence also give the FBI a clear motive for continuing to suppress the information I seek. When Hoover made the statements quoted above he had in his possession the spectrographic analyses which I seek in this suit. He did not say that these scientific tests proved that the same bullet hit both Kennedy and Connally. He did have the bullet which allegedly inflicted all these wounds tested, and also a fragment from Governor Connally. With these results in his possession, Hoover said the opposite, that separate bullets caused the nonfatal wounds on both victims. The Secret Service said exactly the same--that two bullets, not one--caused the nonfatal injuries.

26. The date of this formerly suppressed Secret Service report is November 28, 1963, five days after the FBI gave the head of the Secret Service the results of the initial scientific testing. The Directors of the FBI and the Secret Service are experts.

Both are in fundamental disagreement with the Warren Commission in a manner that refutes the Commission's entire Report and after both had this still-suppressed scientific evidence. Both agencies, however, entirely ignored the so-called "missed" bullet while accounting for all three allegedly possible shots.

27. The best experts the Warren Commission could get could not begin to duplicate in time or accuracy the shooting attributed to Oswald, who was evaluated by the Marines as a "rather poor" shot. So nobody could admit that more than three shots were fired.

28. Even three shots made an impossible story. This problem was made acute by the wounding of James T. Tague, a bystander whose cheek bled as the result of a bullet which missed the presidential limousine and struck the curb on the south side of Main Street. Within minutes Dallas Patrolman L. L. Hill radioed, "I have one guy that was possibly hit by a ricochet from the bullet off the concrete." Tague had immediately reported his injury to Deputy Sheriff Buddy Walthers. Photographs of the point of impact were taken by a newspaperman and a TV cameraman.

29. Tague was no less explicit than Walthers in describing the point of impact of the bullet which caused his injury. Walthers said "it appeared that a bullet had hit the cement" and Tague that "There was a mark. Quite obviously, it was a bullet, and it was very fresh."

30. The Warren Commission felt it could not get away with the Hoover solution, which was to ignore the wounding of Tague, as the Secret Service also did. So the Commission attributed Tague's wound to a bullet which missed the presidential limousine and struck the curb. This was the Commission's third bullet.

31. Hoover, who knew what the existing evidence could and could not bear, had to ignore more than the shot that wounded

Tague. Hoover also ignored the known and reported wound in the front of the President's neck. His supposedly definitive account--the result of the intensive work of 150 agents--after he had read every word passed on to the Commission, including the above quoted evidence--makes no reference at all to this anterior neck wound. But had Hoover not tried to stonewall it this way, he knew that he would be admitting what the facts make beyond question, that there had been a conspiracy, whether or not Oswald was part of it and whether or not Oswald had done any shooting.

32. All officials were horrified at the thought that there had been a conspiracy. This is made transparent by the transcript of the Warren Commission's January 22, 1964 executive session which was recently disclosed as the result of a Freedom of Information Act request by me. Former Solicitor General J. Lee Rankin, who as General Counsel ran the Warren Commission, told the Commissioners at that meeting about reports that Oswald had served the FBI and/or CIA. Rankin then expressed the thought which terrified the Commission: ". . . if . . . it ever came out and could be established, then you would have people think that there was a conspiracy to accomplish this assassination that nothing this Commission did or anybody could dissipate." Other members of the Commission reacted in horror. Dulles: "Oh, terrible." Boggs: "The implications of this are fantastic." Dulles: "Terrific."

33. Five days later the same subject with its "terrible" and "terrific" implications came up again. In the transcript of this January 27, 1964 executive session, obtained by me as the result of civil action No. 2052-73, Rankin did not charge the Commission with the responsibility to get to the bottom and disclose the truth, whatever it might be. Rather he told the Commission that

170. I was aware that death had eliminated Dallas County Sheriff J. E. (Bill) Decker, his Chief Criminal Deputy Alan Sweatt and Deputy Sheriff Eddy Raymond (Buddy) Walthers. Deputy Walthers was killed while I was in Dallas on an earlier visit and planned to interview him after having spent much of a day with then Chief Criminal Deputy Sheriff Sweatt. Mr. Sweatt was openly contemptuous of the FBI's and Commission investigation. He told me that, although he had been in charge of the sheriff's investigation of the assassination, he had not been interviewed by the FBI and was not a witness before the Commission. He was not a witness. (R498, List of Witnesses) His name is not mentioned in the text of the Warren Report. It is mentioned on one occasion only in the Appendix. That page (R809) fails to state what Mr. Sweatt told me, that Commission Counsel Specter refused to permit Mr. Sweatt to be present in his own polygraph room even as the guard the Sheriff required for Mr. Ruby. That page avoids this by stating that the Sheriff had "announced his intention of having" his own polygraph expert present when Ruby was examined. The crime committed by Ruby was a local, not a federal, crime. This Appendix to the Report gives no explanation for the absence of Mr. Sweatt. The account is so meager it does not state who the supposed polygraph experts were. Mr. Sweatt told me that when he was ejected from his own polygraph room it left no expert there, that the FBI agents who operated the polygraph were inexperienced with it.

171. However, it is this same Chief Criminal Deputy Sweatt who supervised the taking of the initial affidavits that were, without his identification of them, included in the Warren Commission's evidence. The same is true of the first available photographs.

172. Mr. Sweatt told me that he still possessed these photographs. He showed me where he had them stored. We discussed other elements of evidence in the absence of Deputy Walthers. When Mr. Walthers was murdered while I was there, I devoted myself to other lines of investigation, partially set forth herein, because of the financial limitations that restricted the time I could then spend in Dallas.

173. Mr. Sweatt is not alone among those with "personal knowledge of events" I had interviewed on those occasions when in the past it had been possible for me to get to Dallas. He also is not alone among those who do not hide their disbelief in the official account of the assassination. In addition to those doctors already quoted, among officials only this open disbelief extends to the then chief of police, who after admitting his disbelief to me did so in his cited book, and the District

Attorney, Henry Wade, who is also a former FBI agent. Mr. Wade has believed from the first, as have the others for varying reasons, that the crime was beyond the capacity of any one person. Mr. Wade greeted me on the morning of June 14, 1977, with, "Well, when are you going to give me a case to take to court?" I believe the foregoing is relevant to explaining the resistance of the government in this instant cause as I have experienced this resistance to disclosure, going back to 1966. I believe it also is relevant to the existence or nonexistence of the records sought and to whether or not they should exist.

174. Having been in touch by phone and by mail with the other man injured during the assassination and knowing that he and others still possessed the "personal knowledge" of the appeals court's language, I went to Dallas on June 10, 1977.

175. In October 1975 I was hospitalized for what was diagnosed as acute thrombophlebitis in both legs and things. I have been informed that the damage is extensive and irreversible. One of the consequences is a steady diminution of my physical capabilities. Following that trip I required further medical attention. Since then I have been under added medical limitations. Initially I was permitted to walk only about a hundred feet at a time. As of the time of the preparation of this affidavit, whether or not surgery will be required is an existing question of which my doctors have informed me. This medical situation has delayed and interfered with my preparation of this affidavit.

176. While I do not attribute this medical reverse I have suffered or its potentially serious consequences to this Court, the trip to Dallas was required of me because of this Court's choking off of Dean Wigmore's engine before I could get it running.

177. While in Dallas I learned from Mr. Tague that he had made a contemporaneous record relating to himself, his observations, his minor injury and to others who also had personal knowledge. He also recalls the part of these unusual and historic events in which he was involved.

178. In his affidavit Mr. Tague states it was a mystery to him why all official Washington-based investigators ignored him, the fact that he was slightly wounded and what he knew about the so-called "missed" shot and its impact on the curbstone near which he was standing.

179. One of those I then sought out seeking evidence relevant to the existence or nonexistence of records sought in this instant cause is Tom Dillard, Dallas Morning News photographer. Mr. Dillard was in the motorcade from which he took

several other pictures used as Warren Commission evidence. The next day he and James Underwood, a television cameraman, accompanied by Mr. Tague and Deputy Sheriff Walthers, went to that point and took photographs of what all existing records of the period describe as a "chipped" place on the curbing or in similar language reflecting that some concrete was missing. An electrostatic copy of the brief account and of a picture Mr. Dillard then took are attached to Mr. Tague's affidavit instead of the less legible copy he had preserved. These copies were made for me at the Dallas Morning News from its library clipping. The caption is headlined "CONCRETE SCAR." The brief text reads, "A detective points to a chip in the curb on Houston (sic) Street opposite the Texas School Book Depository. A bullet from the rifle that took President Kennedy's life apparently caused the hole." The contemporaneous words I underscore are "scar," "chip" and "hole". Two photographs provided to the Warren Commission by the FBI, obtained from the Archives, and two its photographer took for me are attached as exhibits to the deposition. The FBI prints are those of one frame of the Underwood footage and the best of Mr. Dillard's three pictures.

180. Because the same picture as provided to the Warren Commission by the FBI's photographic expert Lyndal L. Shaneyfelt is badly overexposed, which means deliberately overexposed, I asked Mr. Dillard to prepare a clear print for me from his negative. Mr. Dillard searched for quite some time without finding that negative. He found two others of which he did make copies for me. Of the missing negative Mr. Dillard said, "I guess the federales never returned it."

181. Mr. Dillard, too, was aware of the apparent lack of official Washington interest in the evidence held by this scar or chip or hole caused by a bullet or part of a bullet during the assassination. His explanation may account for the end to the long delay in the Warren Commission's expressing an interest to the FBI and asking the FBI to make the investigation the FBI avoided making on its own initiative. This was not until the eighth month after the assassination. Mr. Dillard told me he had met Barefoot Sanders, the United States Attorney for Dallas, at a function. Mr. Dillard asked Mr. Sanders why nothing had been done to investigate this mark of ballistic impact during the assassination. Mr. Sanders had his assistant, Martha Joe Stroud, write the Warren Commission. As recently as the National Archives' June 29, 1977, letter to me it claims not to have that letter. It has records referring to the letter.

182. After correspondence back and forth that followed further communications from Mr. Sanders' office the FBI in Dallas said it could not find this mark on the

curbstone. It attributed the disappearance of this scar, chip or hole to the erosions of weather and street-cleaning equipment. As a result, S. A. Shaneyfelt was sent from Washington to retrieve that wounded curbstone. His means of locating it were simple. He obtained the help of Mr. Dillard, Mr. Underwood and their pictures and with the further assistance of background intelligence he did locate that spot. He then had this section of the curbing cut out and flown to the FBI lab in Washington. There, this late in the investigation, it was subjected to microscopic and spectrographic analysis. I have been given no report on either. On deposition Mr. Shaneyfelt testified to personally taking macrophotographs of that piece of curbing. The National Archives reports there are no such photographs there. The FBI has provided none. Mr. Johnson was present during that and the other depositions during which the curbing was used. His then verbal assurance to me has on my request been repeated by the Archives in writing. There are no enlargements of the damaged area of the curbing.

183. All the former FBI personnel questioned during the depositions refused to describe the appearance of that spot on that curbing as of 1977. I examined it shortly after the issuance of the Executive Order of October 31, 1966. During these depositions it appeared as it had then. That condition is depicted in other pictures Mr. Shaneyfelt took and that were published by the Warren Commission. In the presence of my counsel, Mr. Lesar, and of Mr. Johnson in May 1975 I supervised the taking of two photographs of this same curbing so that they might be as clear as possible and so that they would include rulers by which distances could be measured.

184. Mr. Shaneyfelt also photographed it in Dallas preparatory to removing it to the FBI Laboratory in Washington.

185. There now is no scar, chip or hole in Mr. Shaneyfelt's and subsequent pictures. By photographic intelligence and precise measurements set out impressively for the Commission, Mr. Shaneyfelt did locate and did obtain the right piece of curbing. It now has no chip, scar or hole. To my personal observation it had no chip, scar or hole when I first examined it toward the end of 1966. Where this visible damage was, at exactly the point the Dillard and Underwood photographs show a portion of concrete missing and show the lighter color of the previously unexposed concrete, there now is a perfectly smooth surface. It is smoother to the touch and darker to the eye rather than lighter. It is not of the same shape. It is unblemished. That this repair had been made by July 1964 is visible in the photographs Mr. Shaneyfelt took then.

186. Mr. Tague's deposition taken by the Warren Commission's counsel Wesley J.

Liebeler states that prior to this deposition the mark had disappeared. Mr. Tague states this was in May 1964. He swore to the Warren Commission that when he went back to photograph that mark to show his parents when he was about to visit them the mark no longer existed. The Warren Commission also knew that Mr. Tague had taken photographs. Knowing that the mark had disappeared and that Mr. Tague had taken photographs, neither the FBI nor the Commission asked Mr. Tague for his photographs. They have since disappeared.

187. Mr. Tague testified to his surprise when Warren Commission Counsel Liebeler was aware of his having taken these pictures. It was more surprising still when Mr. Liebeler asked Mr. Tague if a picture he then showed Mr. Tague is one that Mr. Tague had taken. As he testified, Mr. Tague did not know that anyone knew he had taken these pictures.

188. As noted above, once the curbstone was in Washington it was subjected to scientific testing. The work order specifies microscopic and spectrographic. If there is such a thing as an FBI "formal report" on either examination, none has been provided in this instant cause.

189. What was provided is copies of records printed by the Warren Commission in which Mr. Shaneyfelt emphasizes over and over again that the witnesses said there was no mark of any kind, only what he called a smear, and the few sentences of meaningless comment referred to above on the Jarrell-Ash testing. That Mr. Dillard did not say there was no mark of any kind is apparent from the above-quoted caption on his published picture, the negative of which "the federales" did not return. This is also apparent from Mr. Dillard's taking the initiative in calling that entire matter to the attention of the then United States Attorney in Dallas. That the letter prompted by Mr. Dillard's initiative also has suffered a mysterious disappearance from the Archives and that no effort to replace it has been made is not consistent with the testimony of the Archivist on his practices when he appeared before a House of Representatives committee toward the end of 1975. Although this letter is among the records to have been delivered in this instant cause and although its existence is disclosed in other records, I was not even informed of its mysterious disappearance until I asked for it.

190. Mr. Tague and others with personal knowledge were not interviewed by Mr. Shaneyfelt. He produced no personal statements. He does not report asking for or obtaining any evidence from the police or the sheriff's office despite the existence of FBI records establishing that sheriff's personnel did have personal knowledge.

Mr. Shaneyfelt's long experience as an FBI agent did not prompt him to ask the Dallas newspapers for any contemporaneous accounts of the appearance of the point of impact on that curbstone when all the records disclosed a visible mechanical damage Mr. Shaneyfelt then argued about rather than investigating. An obvious example is the wording of the caption on Mr. Dillard's picture, quoted above, as compared with Mr. Shaneyfelt's representation of what Mr. Dillard allegedly said. At the time in 1964 Mr. Shaneyfelt made his representations, there was every reason to believe they would remain secret. There was no "Freedom of Information" Act. My examination of the Warren Commission executive session transcripts discloses that the Commission had decided against publication of its evidence until pressure from the White House compelled it to.

191. The FBI lab worksheet brief note quoted in full above also says "(see attached for location)." As provided to me by the FBI there is an attached sheet of paper on which there are two sketches. The upper one fails to orient the spot from top to bottom. It does not identify the curve of the curbing where it bends from Vertical to horizontal. It does locate the spot by measurement from each end of the curbing and by the measurements of the spot, three-quarters of an inch in the vertical direction and an inch in the horizontal dimension. No shape is indicated. This gives the impression that it is of regular shape if not rectangular. It required no microscope for so incomplete a sketch. (The entire worksheet was introduced into evidence during the depositions.)

192. The lower sketch represents direction and angle. At the end of the line indicating the angle from the horizontal surface of the curbing, there is an arrow to show direction. The angle is given as 33 degrees. If this were projected backward in the direction from which Oswald is alleged to have fired all the shots, he would have had to have been suspended in the air, twice or more as high above the street as the roof of that building.

193. However, the direction shown by the FBI's sketch is the opposite direction. For this to represent the origin of the shot that caused the scar, chip or hole depicted in the contemporaneous picture, it had to have originated from somewhere inside the sturdy structure of the Triple Underpass. That structure is solid enough to carry a wide expanse of railroad trackage and all that crosses on it.

194. The piece of curbing Mr. Shaneyfelt removed to Washington is not identical in appearance with the piece depicted in the contemporaneous pictures Mr. Shaneyfelt had.

195. Going along with the visible alteration of the "scar" on the curbstone, the FBI's own sketch showing the opposite from the supposedly correct direction, the detecting of only two of the nine elements in the bullet's core and the total absence of any reading on those two elements detected on the spectrographic examination, which in turn is not compared with the readings made of those elements in the other samples tested, there is no report on the meaning of all these facts when combined. Each individually is from an FBI record. Each individually rebuts a basic part of the official accounting of this assassination. Collectively, if they do not tell the full curbstone/Tague story, they are an overwhelming rebuttal of the Warren Commission's accounting of the "missed" shot. As shown above, the FBI early in the investigation took a different course. It ignored this missed shot. It ignored Mr. Tague. It filed its supposedly definitive five-volume report ordered by the President without mentioning either this missed shot or one of the President's known wounds. That it now represents it did not prepare any report on this set of facts or any part of them is as horrendous a self-accusation as the FBI can make.

196. As the FBI knew that the Dallas doctors had stated that the President was shot from the front before it dispatched the ludicrous November 23, 1963, letter to Chief Curry now represented as the only "formal report," so also did it know before then of the Tague wounding and of the Dillard picture. The Tague wounding was immediately broadcast, first by Patrolman L. L. Hill on the police radio prior to subsequent news broadcastings. (In fact, the FBI transcribed the recordings of the police radio broadcasts for the Warren Commission.) The Dillard picture was transmitted by the wire services. From the very first the FBI knew that Mr. Tague was wounded and that the probable cause was a chipped-off piece of concrete. Mr. Tague attests that it never sought him out. Now we are also to believe, contrary to a vast amount of evidence in the FBI's own files, that when Mr. Shaneyfelt and the FBI Dallas Field Office could find no missing piece of concrete this was not the subject of any kind of testing. We must also believe there was not any kind of regular or scientific report to account for the filling in of a very obvious hole in the concrete. We are also to believe from the absence of any reports that when the FBI had supposedly satisfied itself that there was no concrete missing and thus there was not this explanation of how Mr. Tague was wounded, there was no real investigation to determine how he was wounded. Aside from my own examinations of Warren Commission records, and for the early stages of the investigation they were diligent, regular and persistent, I have been assured by the Archives that there is no such record. In this instant

cause the FBI has provided none. One does not need the training and indoctrination of FBI agents to know that this does not represent an investigation of any kind, less that of the assassination of a President.

197. From what I have received from the FBI in this instant matter, it is necessary to believe that all the bullets fired in the assassination were magic bullets. The one that injured the curbstone has to have been magical in more than atoning for this with a concrete bandaid. It also has to have possessed the great magic of divesting itself entirely of the copper-alloy jacket in which it was encased. Considering that there was nothing but air between its alleged point of firing and its point of impact, this is not an inconsiderable feat of magic. From the time it was fired it had about a fifth of a second for this marvel before it was compelled to practice other magic on the concrete curbstone. It would seem that if the FBI Laboratory could file no scientific reports on all its scientific examinations, the least it could do was report on this magic.

198. There is other magic relevant on this point. There is no Warren Commission record, no record provided by the FBI reporting that in May 1964 Mr. Tague did take home movies of the once-scarred curbstone. Mr. Tague swore to the Commission that he did not know that anyone knew he had taken such pictures. How the Warren Commission knew remains as mysterious as the healing of the concrete and the disappearance of Mr. Tague's movies.

199. Faced with a failed memory, arrogance and obduracy during the depositions following more than a decade of plain stonewalling by the FBI, it became apparent to me, prior to the time this Court shut down the evidentiary engine before I could get it running, that other means of bringing information to light were necessary. These had to be within the financial and medical limitations by which I am restricted.

200. My interpretation of the expression of the court of appeals in C.A. 75-2021 is that I am to seek to establish whether or not the records sought exist. My counsel confirmed this interpretation to me.

201. From prior experience I believed this Court would be unmoved by the further proof of FBI false swearing in the depositions. It had been unmoved by earlier proofs, except to admonish my counsel and me that we could be sued for stating this truth. At the calendar call of July 15, 1975, rather than heeding the proof of official false swearing, this Court stated, "you might get yourself faced with a lawsuit." (Transcript p.12) Among what I take to be other than expressions of detachment and believe can be

taken as disclosure of bias, this transpired at the close of the first calendar call of May 2, 1975:

THE COURT: I assume Mr. Weisberg, at least for the time being, has other means of support, doesn't he, Mr. Lesar?

MR. LESAR: Well, his financial circumstances are not good, but that is a situation I do not expect to change, in any event.

THE COURT: Good enough to hire you.

MR. LESAR: He has had my services without any fee.

THE COURT: All right. Okay. May 21..... (Transcript p.12)

202. That I have engaged in this long and unpaid labor for commercial gain and that from this instant cause any remuneration is possible for me is gratuitous and baseless. It is also entirely contrary to fact, if it were in any way material. Most use of FOIA is by commercial interests, as the Department of Justice has testified recently. As of May 2, 1975, I had lived almost a dozen years in debt from this work and was still in debt from it. When this Court so spoke of me I was ill with pneumonia and pleurisy and was unable to be in the courtroom. I have never been in the courtroom in a suit I purchased myself. For years I have worn and was able to wear only those given to me by others when they went out of style.

203. Confronted with the realities set forth above and the need to seek to establish the existence or nonexistence of tests and the reports on tests and having long personal experience with the FBI's unfaithfulness to fact, I undertook another means of seeking to establish whether or not other tests should have been performed and whether or not they should have been the subject of reports. Of necessity this involved the relevant fact of the crime.

204. The effort I made was possible because of the controversy swirling around the House of Representatives committee on assassinations. Despite this Court's contrary assumptions and statements about it and me, I have been public critical of this committee, based upon its record of other than serious methods, its irresponsibility and its publicity methods that are repugnant to me.

205. Earl Golz is an experienced investigative reporter on the staff of the Dallas Morning News. I knew him. I phoned him and suggested several interviews, lines of questioning and the probable answers to these questions. Mr. Golz did as I suggested. He also interviewed others with first-person knowledge of fact of the assassination of the President that is relevant to whether or not there should have been tests and reports on those tests. One of his news accounts, attached as Exhibit 14, received nationwide attention, including in Washington, after it appeared the morning of April 21, 1977. This was the day before the status call of April 22.

206. Mr. Golz interviewed Dr. Robert Shaw, one of Governor Connally's surgeons,

as set forth above. He asked Dr. Shaw questions not asked of him by Commission Counsel Specter as well as some that had been asked and answered only to be disregarded in the Report.

207. In Dr. Shaw's expert opinion, Governor Connally was not struck by any bullet that struck the President. Here I note this is what the initial investigative reports of both the FBI and the Secret Service state as quoted above.

208. Dr. Shaw stated that the bullet that had been displayed to him, Bullet 399, "was not consistent with" what he would expect from his knowledge of Governor Connally's wounds.

209. What he knew had happened to Governor Connally's wrist he stated "would have deformed a bullet badly." His expert opinion of Bullet 399 is that it "just didn't seem to have lost enough of its metal substance."

210. He recalled that the Commission "never questioned me about" his belief that Bullet 399 had not inflicted all of Governor Connally's wounds and that it had not first hit President Kennedy and then inflicted all of the Governor's wounds. (In fact, Dr. Shaw and his colleagues had suggested this voluntarily when not asked it directly, as set forth below.) He stated that this single-bullet theory "was being pushed very hard by a young lawyer" who "evidently was able to sell this thing."

211. In stating that "from the standpoint of the governor's wounds I never felt the single bullet theory was not a good one," Dr. Shaw offered his own belief, that those two fragments found in the Presidential limousine where Governor Connally had fallen over on his wife probably came from the shattering of a bullet that did strike the governor.

212. My review of the testimony of the doctors before the Warren Commission, made after the appearance of this story, confirms what Dr. Shaw said. It is in the testimony that the Commission ignored, testimony I believe should have caused detailed testing and the stating of results by the FBI.

213. All the doctors testified they did not credit the single-bullet theory. All the Dallas surgeons in their testimonies said what Dr. Shaw told Mr. Golz, they had seen more metal in the governor's wounds than could be accounted for as having come from Bullet 399.

214. Dr. Gregory testified exactly as Dr. Shaw stated about the bullet that caused the governor's wounds not having first struck the President. "I would believe that the missile in the Governor behaved as though it had not struck anything but him."

(6H103) Twice on one page Dr. Gregory testified to disbelief in the single-bullet

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theory. (4H173) On succeeding pages Dr. Shaw testified that, on the basis of weight loss alone, Bullet 399 was disqualified from its conjectured career. (4H113,114)

215. When Mr. Dulles asked Dr. Shaw if "two bullets" could have wounded the Governor, Dr. Shaw testified, "Yes; or three."

216. The three pathologists who performed the autopsy on the President confirmed the Dallas doctors' testimony on the fragments and Bullet 399. The phrase used by Dr. Humes is "I cannot conceive." (2H376) His testimony was confirmed by Drs. Pierre Finck and J. Thornton Boswell.

217. Dr. Gregory had, in fact, testified in accord with Dr. Shaw's opinion that fragmentation of a bullet that wounded Governor Connally accounts for the two fragments recovered from where he was seated. Dr. Gregory testified, "Here was our patient with three discernible wounds and no missile within him of sufficient magnitude to account for them, and we suggested that someone ought to search his belongings and other areas where he had been to see if it (sic) could be identified, or found rather." (4H125) The Governor's clothing had an entirely different history that follows below.

218. In support of Dr. Shaw, Mr. Golz also interviewed the nurse who was in charge of the operating room on November 22, 1963, Audrey N. Bell, and a Texas State Police officer who guarded Governor Connally, Charles W. Harbison. Neither is mentioned in the Warren Report. Neither was a witness before the Commission in any form, not even by reference to newspaper stories.

219. Nurse Bell earlier told Mr. Golz that, instead of the three fragments recovered from Governor Connally's body in the official account, her recollection is of four or five fragments being held in a container. Mrs. Bell did state this is her recollection after 13 years and that she now has no proof of her recollection.

220. Following appearance of this story, Mr. Golz heard from Trooper Harbison. His recollection is of being given a second set of Connally fragments and of personal delivery of them to an FBI agent in the hospital doorway.

221. There are no records produced in this instant case bearing on what this policeman guard or the operating-room supervisor say. If their recollections are correct in any degree, there are unaccounted fragments delivered to the FBI and no results of any testing of any such fragments. There are no worksheets yet provided making any reference to any such fragments.

222. There are references to two of these fragments only and to Nurse Bell's alleged role in conveying them in a series of FBI paraphrases of interviews of November 22, 23 and 29, 1963, in seven consecutive pages of the Commission's fifth numbered

file, CD 5, pp.152-8. (Attached as Exhibit 15) In no single instance are any of these FBI FD-302 form paraphrases accompanied by a first-person statement by the witness.

223. From long and extensive experience with such FBI methods, I state unequivocally that the FBI has an abhorrence of first-person statements and that in its investigations of the assassinations of the President and Dr. King, when it was compelled to obtain such statements, the agents, not the witnesses, wrote them out. From this extensive personal examination of FBI records I estimate to total 50,000 pages and of which I have considerably more than half this number in my possession, I further state that these statements are commonly angled to eliminate what the FBI did not want and are not uncommonly so erroneous that on reading them the less timorous witnesses corrected them. A relevant illustration is the case of Mrs. Carolyn Arnold, in which the FBI stated a time other than she gave. It later wrote out a statement for her in which it again gave the wrong time. She corrected it. Mrs. Arnold, who was not a witness before the Warren Commission as those confirming witnesses she named also were not, placed Oswald other than in the alleged sniper's nest at the time of the crime. The alteration of the time she specified altered the meaning of her evidence, which tended to be exculpatory.

224. The infidelity of these CD 5 FBI records does relate to one possible explanation of the absence of what is sought in this instant cause: an instant FBI cover-up and nonperformance of the responsibilities imposed upon it by the President and expected of it by the nation.

225. On page 152 of this unpublished file the then administrative assistant to the Governor is represented as saying the impossible. He is also represented as having knowledge he did not have and could not have. What would confound any further inquiry by other than the FBI is the adding to this of an entirely wrong location of one of the Governor's wounds, "the governor's left shoulder." The direction of the shot that caused that wound, "from the rear," is outside this assistant's knowledge. It describes the bullet that caused this wound as "the spent bullet," although a considerable added career is attributed to it by the FBI.

226. The wound was actually under the right armpit. Mislocating it on the left side is consistent with the allegation that this wound came from a bullet that exited the President's neck.

227. This page is not alone among these FBI reports in stating that only a single fragment was recovered from the Governor's body by his surgeons. It next identifies still another Texas Highway Patrolman as the one to whom a fragment was

given for delivery to the FBI. It does not even give this police officer's full name, identifying him merely as "Nolan." (It was Bobby N. Nolan of the Tyler district.) Next it begins the construction of the "single-bullet" theory by stating that this same bullet wrecked the Governor's wrist. However, it does report what the doctors did state, that only "a piece" of a bullet "came to rest in the governor's left thigh."

228. Although this FD-302 is only two dozen lines long, it was not dictated and typed until the next day. On the next day (p.153) the same FBI agent, J. Doyle Williams, "corrected" an error not included on page 152. He also does not refer to having made any error. Instead, in less than 10 full lines of typing, he "notes" that his FD-302 "reflected the metal fragment in question removed from the Governor's body was lodged in the Governor's left thigh." At no point had he reported the fragment as coming from the thigh. He then reiterated that there was but a single fragment "in question," that it "was actually removed from the Governor's right arm according to Dr. Gregory and Nurse Bell and that no surgery was performed in connection with the left thigh." The latter statement is both untrue and misleading. But it advances a "single-bullet" theory.

229. There was surgery there, but not to remove that fragment. Page 154, by the same agent on November 23, quotes Dr. Gregory incompletely and inaccurately on this: as having said only that "no surgery was performed to remove same," this fragment, and that X-rays only "indicated the possibility of a small fragment imbedded in the left thigh." The "disposition" of the allegedly single metal fragment is attributed to "Supervisor Audrey Bell" by Dr. Gregory. This at least confirms her account of having had "custody" and responsibility, as she states.

230. The FD-302 of an interview with her (p.155) limits her personal knowledge to an undescribed part of the surgery, "performed" by Drs. Gregory and Shires only. This unnecessary imprecision is complicated by attributing to this unidentified surgery the removal of a single "right arm" fragment. Dr. Shires was the surgeon on the thigh, Dr. Gregory on the wrist. The operations were performed at the same time. This brief FD-302 concludes by stating "Miss Bell stated she did not know of her own knowledge of any other metal fragment which have been removed from the Governor's body during surgery." It is not only the recent statements of the avoided witness Miss Bell that characterizes this statement - it is the admitted existence of the three fragments removed during the surgery when she was the supervising nurse and the custodian of these fragments.

231. FBI Agent Williams interrupted the rewriting of history while it was

happening to leave no chain of possession in this sequence of reports on even that solitary fragment. His page 156 quotes Trooper Nolan as having turned this single fragment over to the Dallas police.

232. Next there are two pages (157 and 158) of the FD-302 on what was delayed for a week, until November 29, the obtaining of "a copy of an X-ray negative ... which reflects an X-ray of the left thigh of Governor Connally which was taken on November 22, 1963." (sic) With it was a written report by the hospital administrator. The report is quoted, not attached. The administrator provides a precise locating of the actual fragment, not the mere possibility of it attributed to Dr. Gregory on the day after the X-raying and the surgery. This location and description begin with reference to more than "an X-ray." There were at least two. It states the reading is of "AP and lateral films of the distal portion of the left thigh." "AP" means anterior-posterior. "There is," the administrator wrote, "one density that remains constant in both films." It is located to decimals of a centimeter. After referring to the difficulty of "precise measurement," it estimates "that the greatest length in the AP projection is about 3.5mms and the greatest width about 1.3 mms. Measurements of the density in the lateral projection reveal the greatest length to be about 2 mms and the greatest width to be about 1.5 mms. The long axis of the metallic object is oriented generally along the axis of the femur." SA Vincent Drain concludes by reporting that "This copy of an X-ray was delivered to the FBI Laboratory on November 30, 1963."

233. Having memory-holed one of these X-rays the FBI also memory-holed all the evidence both X-rays held. It is not beyond the skill of the FBI to fashion a fragment of bullet core of this approximate dimension and weigh it. The problem with providing proof that this was done is simple - the entire official account of the assassination of the President would be jeopardized if not destroyed by it.

234. I have been given no FBI Laboratory reports that include any estimate of the weight of the fragment remaining in Governor Connally's chest or of the one in his thigh. Yet there were only a few grains of metal said to have been missing from Bullet 399. I believe it is apparent that any serious and complete investigation of such a homicide in which there was no positive eyewitness identification of an assassin and in which all indications are that the crime was beyond the capacity of any one man required such FBI Laboratory procedures. These procedures also could be helpful in evaluating close questions that might present themselves in other FBI Laboratory work. One of these is whether or not the various items of evidence did have or could have had common origin. These kinds of tests also have long-established and court-recognized

definitiveness as negative evidence. Truth also requires negative evidence be known.

235. One of the other facts set forth in the medical reading of these X-rays is that the length of the fragment was parallel with the thigh bone and that its greatest measurement was also parallel with the thigh bone. With the later theorizing that Bullet 399 went into the Governor's leg backward only, as it also allegedly made a shambles of his wrist while smashing it backward only, there is no FBI record of any nature produced in this instant proceeding demonstrating how this was possible or how a fragment 3.5 mm long could be accounted as having come from the length of Bullet 399. Other evidence proves this is impossible.

236. To now I have received no single record relating to any FBI testing of any nature based on or caused by any of the established medical facts, those obtainable or obtained from the medical witnesses and not avoided as well as those obtained and then avoided.

237. The previously mentioned Dallas Police General Offense Report on the shooting of Governor Connally (Exhibit 11) states that after the wrist was damaged "A fragment continued, entered the interior portion of the left thigh causing a flesh wound." This report of the immediate local police investigation is identical with what Dr. Perry had not been asked and what he told me, that this wound was caused by a fragment, not by an entire bullet. Exhibit 15 also so states.

238. The Warren Report gives the dimensions of the Governor's thigh wound as "two-fifths of an inch in diameter." (R93) It does not go into treatment, which is set forth in the hospital's Operative Record on this surgery. This November 22, 1963, operative report states that "the bullet tract was explored." Then "the necrotic fat and muscle were debrided down to the region of the femur." After this surgery to remove matter from the wound, it was washed and closed. This is consistent with what Dr. Perry, who was not questioned about this, told me.

239. The FBI stated there was no surgery in this wound (Exhibit 15)

240. More questions relating to this evidence dealing with the Governor's wounds, to the possibility of FBI withholding evidence and to whether or not there should be tests and results not yet supplied are raised by existing FBI correspondence. The depositions show that letters signed by Director Hoover were often drafted by the laboratory agents involved. On April 16, 1964, the Director signed such a letter about the damage to Governor Connally's clothing. (Attached as Exhibit 16) There is no real description of the holes in the back of the Governor's shirt in this letter. This letter states (p.2) what in fact is not true: "the holes corresponding to the

three holes referred to above were found in the shirt." These three holes "above" are in the coat, one in the back, one in the front, one at the edge of the right sleeve.

241. The Commission had the Governor's clothing. It says of the back of the shirt, "An examination of the Governor's shirt disclosed a very ragged tear five-eighths of an inch long horizontally and one-half of an inch vertically on the back of the shirt near the right sleeve 2 inches from the line where the sleeve attaches. Immediately to the right was another tear, approximately three-sixteenths of an inch long."

(R94) This clearly states there were two holes in the back of the shirt but only one in the coat. Because two holes in the shirt do not "correspond" with one at that point in the coat, this letter does not represent fact faithfully.

242. According to all the Commission's evidence, the Dallas medical personnel were experienced in gunshot wounds. What is represented by these many evidentiary questions like the two holes in the back of the shirt and only one at that point in the jacket troubled the Governor's doctors, as set forth above. But instead of the FBI launching the immediate search for bullets and fragments of bullets, it totally ignored these urgings of the doctors. For an experienced police agency, it did not require doctors to tell them "that someone ought to search his belongings and other areas where he had been," as Dr. Gregory testified. This long and deliberate avoidance of the clothing accounts for both the destruction of some of the evidence it held as well as the long delay, from November 22, 1963, to April 1, 1964, for the examination of the clothing.

243. In contrast, the President's clothing was flown to Washington and examined immediately by the FBI.

244. Other evidence establishes that it was no secret that hospital personnel gave the Governor's clothing to Congressman Henry Gonzalez when nobody else wanted it. It was then in an ordinary bag. This clothing remained in the Congressman's closet for months, until he gave it to Mrs. Connally. Not unpredictably, when Mrs. Connally saw these bloody garments she "cleaned" them, the word of this Hoover letter.

245. Also not unpredictably, as a result of more than four months of FBI avoidance of this essential evidence, "Nothing was found to indicate which holes were entrances and which were exits. The coat, shirt and trousers were cleaned prior to their receipt in the Laboratory, which might account for the fact that no foreign deposits of metal or other substances were found on the cloth surrounding the holes." (Exhibit 16, p.2) In all my search through thousands of records and in what has been provided

in this instant cause I recall no single reference to any effort by the FBI to locate and/or obtain the Governor's clothing.

246. If in unaltered state it was known that the clothing held precious evidence.

247. This deliberate avoidance of essential evidence did not, however, destroy all the evidence held by the clothing. There remains, for example, the fact that, coinciding with two holes in the shirt, two bullet fragments were found, in the words of Dr. Gregory's findings, "where he had been" - exactly where he had been when hit. Here it is noted that the Hoover letter, Exhibit 16, does not refer to two holes in the back of the shirt.

248. Mr. Hoover gives the size of the hole in the back of the coat as 1/4" by 5/8". His avoidance of the evidence remaining in the shirt is so careful he provides no dimensions of what is represented as a single hole in its back.

249. The hole in the coat is exactly half the size of the larger of the two holes in the shirt. (R94) Neither corresponds in size with the size of the wound itself. This is not given by the Commission, which merely refers to it as of "small size." (R92, attributing this to Dr. Shaw) Dr. Shaw's measurement of this wound in his two-page "Operative Report" is "3 cm." This is one and a quarter inches - not "small" compared with a bullet having a diameter of about a quarter of an inch or the holes in the shirt and the coat.

244. No FBI report of any kind has been provided in which it explains, reconciles or in any manner addresses these differences in the sizes of the holes in the garments, between them and the size of the wound, and the presence of two holes in the shirt where there is but a single hole in the coat and a single wound in the body.

250. For all the boasted intensity and extent of the FBI's investigation of this crime, in the Report and all 26 appended volumes, and in all my searchings of the estimated 300 cubic feet of records in the National Archives, I recall no addressing or explaining of the disparity between two holes in the shirt and a single wound and a hole in the coat. I recall no explanation except the one recently provided by Dr. Shaw. It is the result of my prompting of Mr. Golz in an effort to assist this Court and to seek to establish whether or not other reports should or do exist.

251. In this connection I note the language of the remand decision the last paragraph of which states that this Court should make "detailed findings as to what the evidence adduced establishes." While this Court was sufficiently explicit in refusing to hear any evidence, and this at a time when it did not have all the depo-

sitions, I nonetheless regard the presentation of evidence by whatever means remains possible for me as my obligation in response to the quoted language of the remand decision. No Laboratory or other report addressing the immediately preceding paragraphs, the simple arithmetic, two fragments equal two holes, has been provided in this instant cause.

252. However, the day after Dr. Shaw's opinion became known this Court foreclosed me from taking other evidence in court and by deposition as it is within my capabilities. (Calendar call of April 22, 1977)

253. Further bearing on this and the immediately preceding paragraphs I note that other and related disparities exist with the angles attributed to this shooting and these holes and the Governor's wounds. There is no laboratory or other report in which the extreme and significant differences are reconciled, analyzed, examined or reported in any way.

254. In Exhibit 16, over Mr. Hoover's signature, the FBI reports that "It was determined from the locations of the holes in the coat and shirt that a bullet entering the back, passing undeflected through the body and leaving the front, would have passed through Governor Connally at an angle of approximately 35 degrees downward from the horizontal and approximately 20 degrees from right to left if he was sitting erect and facing forward at the time he was shot."

255. In validation of this "determination" no laboratory report or report of any other kind has been produced. Aside from the vertical angle, which is addressed below, the Governor was sitting directly in front of the President. The bullet is alleged to have been going toward the left as it allegedly exited the President's neck. If Governor Connally "was sitting erect and facing forward at the time he was shot," there simply is no means by which a bullet already to the left of the center of Governor Connally's chest could have entered it at its right extreme.

256. There is no FBI report presented to establish the conjecture of this letter, that the alleged bullet was "undeflected." All the evidence is to the contrary, that it smashed an appreciable portion of his fifth rib from the inside and then exited from the other side.

257. While measurements from the clothing alone cannot be definitive, this FBI conjecturing of angle is in conflict with all other evidence, including that of the FBI. There is no Laboratory or other report that reconciles, examines or in any way explains these considerable differences or relates them to the existing evidence.

258. Buffet 399 is also alleged to have been undeflected as it transited the President. The vertical angle as given by the Commission is just under 18 degrees, whereas that through the Governor is given at over 25 degrees. (R107) Nothing but a few inches of air separated the two bodies. Mr. Frazier testified to a 35-degree angle. (5H72) Other federal agents represented this same angle as of 45 degrees. (Commission Exhibit 689, 17H346) The correction made by Dr. Shaw of still another angle in another chart made by federal agents is in Commission Exhibit 680. (17H337) On that chart the agents placed the point of entry too high and that of exit too low, Dr. Shaw testified. His correction, measured with a protractor, differs from all other attributed angles. Once again there is no FBI report, from the Laboratory or of any other origin, explaining, reconciling or authenticating any of this.

259. The angle of 45 degrees, obviously wrong, coincides with what the FBI initially stated (Exhibit 1), that the angle through the President was not less than 45 degrees. On page 18 the FBI states, as of December 9, 1963, more than two weeks after the crime, that "Medical examination of the President's body revealed that one of the bullets had entered just below his shoulder to the right of the spinal column at an angle of 45 to 60 degrees downward, that there was no point of exit, and that the bullet was not in the body." (This explanation magically coincides with the appearance of the magic bullet.)

260. As represented by other unnamed federal agents in Commission Exhibit 689 this knowingly incorrect angle is projected to show an alleged possibility of hitting the Governor's thigh. With Dr. Shaw's correction in Commission Exhibit 680, the "undeflected" conjecture of the Hoover letter is without basis. This bullet could not have come close to the Governor's thigh and his thigh wound is unexplained.

261. There is no FBI Laboratory or any other report or analysis of any kind setting forth how a bullet leaving the Governor's chest at an angle of 25 degrees could dip and then turn, first going downward to his thigh and then changing course inside it to run parallel with it as is required by the operative report.

262. There likewise is no FBI Laboratory or any other report or analysis of any kind showing how an undeflected bullet could leave the President's body at an angle of 18 degrees and then assume an angle of 25 degrees into, through and out of the Governor's body.

263. Bearing on the existence or nonexistence of records and on Exhibit 1 herein as quoted above, there is an unpublished FBI report in the Warren Commission's records.

(attached as Exhibit 17) It quotes the Naval Hospital pathologists as stating that "this bullet worked its way out of the victim's back during cardiac massage performed at Dallas hospital prior to transportation of the body to Washington." Then, after noting the delivery of what became identified as Bullet 399, it states, "The above information was received by communication from the Baltimore Office, dated November 23, 1963. I have never been able to obtain a copy of this "communication."

264. While the Warren Commission was to conclude this was an error in the original belief of the autopsy doctors, I know of no record in which the FBI has retreated from its statements that the bullet found under never-established conditions at the Dallas hospital, Bullet 399, did not go through President Kennedy's body. This, of course, presents even more persuasive reason to believe there has to have been other and very careful and extensive testing and comparisons of the available evidence and explicit and comprehensible reporting thereon because it leaves the President's anterior neck wound and all of Governor Connally's wounds without any explanation at all.

265. The original FBI locating of this wound below the shoulder in opposition to that of the Warren Commission, which placed it in the neck, is not without substantial support in records that were withheld for years. The Warren Commission never had the official death certificate referred to above. In it the President's own physician, Admiral George B. Burkley, states this "wound occurred in the posterior back at about the level of the third thoracic vertebra." (Exhibit 7) This is about six inches down on the back. At this point it coincides perfectly with the holes in the back of the President's coat and shirt.

266. The death certificate changes all conjectured angles. It makes impossible any of the FBI and Commission conjectures relating to the Governor's wounds. No FBI Laboratory, "formal report" or any other kind of report has been produced in which the Laboratory agents or any others address either the meaning of the death certificate as it applies to the tests the results of which are sought, to any tests required by it or to what it does to all the conjectures represented as the solution to this crime.

267. Under any circumstances the investigation of the assassination of a President would not be an easy investigation. It is the most sensational of crimes. By its nature a crime of this magnitude is certain to foster suspicions and rumors without end, often without reason. From these considerations alone the standards imposed upon its investigators exceed the exacting requirements of justice in ordinary homicide cases. This became an even more difficult investigation in many ways. In turn, this

required the observing of still higher standards in obtaining, evaluating and reporting on the essential evidence.

268. One of the causes of greater difficulty is the fact that with hundreds of onlookers there is no single person who could identify any shooter or any weapon.

269. The FBI immediately complicated its problems by what in my extensive inquiries, which include exceptionally extensive examination of many thousands of FBI and other once-suppressed records, is its normal practice in crimes that are certain to attract major attention. It craves favorable attention and it seeks it. It immediately seizes control of the investigation and then it withholds evidence - from even the United States Attorneys and the Department.

270. When the President was killed Texas law only was violated. The FBI immediately took possession of all the evidence possible. This includes items of evidence the results of the testing of which are sought in this instant cause. The degree to which it did this is illustrated by the post-midnight demand of November 27, 1963, by FBI Agent Vincent Drain on Chief Curry. The FBI Headquarters wanted Oswald's property and the one remaining empty rifle shell the Dallas police had held for its own investigation. (7H404)

271. The FBI moved immediately - when it had no authority - to freeze out the Secret Service. Among federal agencies the Secret Service alone then had legislated jurisdiction and responsibilities. An illustration of this not in the Warren Report or its 26 appended volumes has to do with the purchase of the alleged assassination rifle. The FBI beat the Secret Service to the company that sold it. The FBI then ordered the officials of that company to talk to no one. It took much of the day after the crime for the harried Secret Service to learn that the FBI had seized this evidence, yet had not shared it. (Secret Service Chicago Office report of 11/23/63)

272. This FBI domination extended to the Secret Service being foreclosed from investigating leads bearing on the possibility of Lee Harvey Oswald having had associates in New Orleans. My personal investigations of this produced information not in the available official records. This information can lead to the FBI, to which they do point.

273. Limiting myself on this to the official records in my possession originated by the Secret Service, I state that the FBI New Orleans Field Office, on learning of the Secret Service investigation of Oswald's literature and its source, foreclosed the New Orleans Secret Service. The FBI in New Orleans phoned the FBI in Washington.

The FBI modestly refers to its Washington headquarters as SOG, representing Seat of Government. FBI HQ, claiming exclusive jurisdiction, then was able to direct the Secret Service headquarters to order its New Orleans office to suspend this investigation.

274. As one result relevant, simple and easily performed investigations do not exist in the official records.

275. Further related to this literature noninvestigation, the FBI never told the Warren Commission the identification of a fingerprint other than that of Lee Harvey Oswald lifted from some of Oswald's literature the FBI obtained from the New Orleans police. There thus remain this and other mysteries relating to who besides Lee Harvey Oswald was giving out "his" literature, a handbill he did not obtain personally from the local printer. When the New Orleans Field Office indicated Oswald had not obtained this literature from that printer (Commission Exhibit 1410) these field reports were rewritten into a Dallas FBI memorandum. It said exactly the opposite with such persuasiveness the Warren Commission repeated it. (R291)

276. In New Orleans Oswald also used what had been the address of an anti-Castro group organized and financed by the CIA. The Commission was never able to obtain a copy of this use of that address from the FBI. In the last moment it obtained a copy from the Secret Service.

277. Many similar illustrations are available. In recent years open grumbling by local authorities is less uncommon. The thrust is that the FBI moves in to grab the publicity. In the most recent case of this of which I know from being in that studio, the Governor of Tennessee told a nationwide TV audience on June 15, 1977, that the capture of James Earl Ray, who had escaped jail, was jeopardized by the publicity-seeking FBI agents who moved in and did seize nationwide attention. In fact, the FBI had nothing to do with the recapture of Mr. Ray.

278. Once the FBI takes this control as in the investigation of the assassination of the President, it assumes added obligations. This is especially true where it preempts local authority as it did in Dallas and in Memphis. In neither case did it provide local authority with all the information it had. In both cases it withheld deliberately. This also is true of the prosecution of Jack Ruby, to my personal knowledge. With special reference to test results of the kind sought in this instant action, what it did supply did not provide either the basis for a competent direct examination of the expert witnesses nor even by any remote suggestion any means by

which the local prosecutors could confront cross-examination. I state this also from personal knowledge, from thousands of pages of once-secret records in my possession.

279. What this means in such cases is that nobody but the FBI knows what the scientific evidence means or can mean. In practice this means that all others are dependent on the FBI and the FBI controls what can be testified to or known. An illustration of this is the previously cited case of the ballistics evidence in the King assassination, where a competent independent expert testified that Robert Frazier's sworn statement is not true. He was not challenged or even disputed by the FBI or anyone else.

280. In the Presidential assassination we are now told that required tests were not made and thus there are no reports. In the King assassination the FBI did not even test-fire the alleged murder weapon. This is an ordinary, easy and inexpensive procedure. The FBI's supposed explanation is that no point would have been served. This has been directly disputed in open court by a qualified technical expert, as stated in the paragraph immediately preceding.

281. In the Presidential assassination and relevant in this case, we know that the shells from which all the bullets in the crime were allegedly fired had all been chambered on earlier occasions and not only in this weapon. We have been given no report on the comparisons of these shells with each other and the intact bullet, Q8.

282. We are told on deposition that some tests were not made to preserve the historic value of a cartridge. Not a tiny smidgeon, one of microscopic size, could be removed for the performance of tests the results of which we do not have. Yet at the same time the historic specially built vehicle in which the Presidential party rode into this great tragedy was rebuilt in haste. This destroyed the evidence it held and eliminated its use in the essential reconstruction of the crime. It was a unique vehicle. Dubious as are the official claims relating to that one bullet of all those gyrations and its causing all seven nonfatal injuries, giving these claims any possibility of credibility depended on this unique vehicle to the exclusion of all others being used in that reenactment.

283. To my personal knowledge and from my personal experience, the record of the FBI in these matters and in this instant cause is one unworthy of presumptions of truthfulness or of good faith. It lies, sometimes under oath. I have obtained under court action in another case internal records in which on the highest levels it is reported that ignoring my requests under FOIA had been ordered. Earlier it had assured that court it had no record of my relevant requests. When the initial request

involved in this instant cause reached the FBI, it also was not complied with. It reached Mr. Frazier, among others. On deposition, he testified to knowledge of it and to ignoring it. When I then filed an FOIA complaint, a Laboratory agent with no first-person knowledge swore to an assortment of disasters that would befall the FBI if it complied with the Act. These included destruction of FBI law-enforcement capabilities and the exposure of its informers. All by making available the results of nonsecret tests. A total defense would have been an affidavit swearing that the records sought did not exist.

284. Those agents of first-person knowledge who retired after the filing of the request in this instant cause then had not retired. As no affidavit was supplied by them in the first case, so also was no affidavit supplied in this case until after all had retired. This is not a record justifying trust. It is a record in which the FBI's sworn word, where responsive, is commonly untrue. We thus have three contradictory sworn versions relating to the testing of the specimen Q15, two contradictory ones from the same agent and a third version from a retired agent. There are other such sworn contradictions.

285. From extensive personal experience in examining so many thousands of FBI records not previously examined by other than officials, I am familiar with its creating a "deniability" posture in which the wrong person executes an affidavit despite the existence of records alleged not to exist. From records I received recently in another case I have both the false affidavit by the wrong affiant and the records proving this false swearing. FBI HQ wanted the false affidavit filed and it was filed.

286. In this affidavit I have sought to show this Court that there is proof of the making of tests reports on which have not been supplied; that other tests of which we have been given no results were required to have been made; that known repositories of such reports, including the field office of origin, have not been searched at all; that some of the records provided as test results are ludicrous; that reasons given for not performing certain tests simply cannot be believed; and that it can reasonably be expected that if the FBI met its obligations after the President was killed it performed many more tests than indicated and that if anyone outside the FBI lab were to use the results of those tests reports had to have been supplied.

287. I have also provided proofs of the destruction of evidence that admittedly was the subject of tests on which we have no reports. Two examples are the unknottling of the tie, where the knot was the essential part of the evidence; and the curbstone, which had its wound repaired during the months the FBI avoided it, leading to a

meaningless representation of a test of the scab, not the wound.

288. I have produced new evidence that required the making of tests and the stating of results. One example is the misrepresentations of the FBI regarding the injuries to Governor Connally and the damage to his clothing, together with other relevant medical evidence ranging from the reading of the X-rays, on which no reports have been provided, to the medical opinions, on which no reports have been provided, where individually and together tests and the stating of the results of those tests were required in a real investigation..

289. I have produced new evidence relating to the Governor's thigh wound. This shows it was not caused as alleged, requiring stated tests and reports not provided.

290. I have produced new evidence regarding all of the President's wounds, all requiring the explicit stating of the results of those tests that were made and also requiring tests of which there has not been any record provided.

291. I have produced new evidence of the crime itself with regard to the President's wound in the front of the neck, the one the FBI originally tried to ignore. I have produced new evidence that the damage to the front of the President's shirt and the damage to the tie were not from a bullet. I have produced proof of the ordering of tests relating to this, yet I have received no record of these tests, neither worksheet nor report. The tests now known for the first time to have been made of those areas of this clothing required further reports also not provided. (The FBI is the only apparent culprit in the destruction of the knot of the tie after it removed the sample of cloth for testing.)

292. I have produced new proof relating to the fatal wound showing it was not where officially represented. Relating to this I have produced a receipt the FBI signed for "a missile" it obtained for testing. I have received no report - not even a worksheet.

293. I have produced new proof of a large fragment of bullet in the President's head not referred to in any FBI record I have ever seen or had provided in this instant cause. It is the only large fragment that can with certainty be said to have caused the President's death, even to have been in his body. Again there is no report on any testing of it. No worksheet, no report. Whether or not it is the aforementioned "missile" of which the FBI seized possession and of which not another word has ever been heard. This assumes even more significance when considered with the proof that without a single piece of evidence to be tested that was proven to

have been inside either body the FBI failed to test any of the recovered ballistics samples for human residues.

294. Use of the FBI's work in the investigation of the assassination of the President was not by the FBI. It was for a Presidential Commission. Reports were essential to this Commission's functioning. The absence of such reports as are sought in this instant cause can be taken to mean that the FBI set out to prevent the functioning of the Commission; to control what the Commission could and could not do; and to ordain its conclusions.

295. The Commission came to recognize and to fear this very early. When I finally obtained the long-withheld transcript of the executive session of January 22, 1964, it showed that the Members stated this. It also stated that the FBI wanted them to adopt without question what the FBI said and that if they raised questions the FBI would tell them it was none of the Commission's business. Then the Members decided to destroy this secret record of their fears and incapacities.

296. This is the real FBI in its relations with a Presidential Commission.

297. One issue before this Court is whether this will be the real FBI in perpetuity.

298. My personal experience with it in numerous other FOIA matters is that my easily met requests going back to 1969 have not yet been complied with. From my personal experience any compliance with the Act by it in such political cases can be expected only under compulsion and then with difficulty and endless delay.

299. The absence of reports is not because the FBI went on an economy binge when the President was killed. It also is not because the FBI avoiding making records. I have personal knowledge of the amount of paper the FBI generates. It astounded me to learn that any agency of the responsibilities of the FBI would waste so much time in utterly useless record-making. Its practices in this regard are clear in my recent examination of about 20,000 pages of to now withheld records in another matter. When an irrational or unreasonable letter was written to the Director, it was not ignored. There was a searching of the FBI's files to determine if there was a record on that person. These records made and kept extend to the saving of earlier irrational or unreasonable letters from the same person. No letter at all friendly to the Director went without response, but not until after consultation with the files. Only then was a written recommendation made on whether or not to respond. When newspaper clippings reflecting opinion were sent to Washington, as they were in great volume,

each contained a comment on the prior attitude of the paper and/or the writer toward the Bureau and/or the Director. The FBI keeps files on all kinds of writers. Recently I obtained from it a copy of a minor article of a decade ago about me in a minor weekly paper published near where I lived. It keeps files that enable it to give the Director an instant reading on writers and publications and publishers. Once again written memoranda on whether or not a letter should be sent, and why. When messages were received from the field offices containing information deemed worthy of consideration by higher FBI echelons, those messages were needlessly but regularly rewritten to appear to come from one of higher rank. It also was not uncommon for there then to be no change in the language of these memos from the language that reached Washington. From the sheer volume of the pointless and useless records that were the practice of the period in question, if there are not reports that are relevant in this instant cause and that remain withheld, it is not because the FBI was reluctant to make records.

300. Such records should exist. It was the obligation of the FBI to inform the Presidential Commission. The manner of informing is by providing written reports. The reports sought in this instant cause are the basis for the beginning of any real investigation. They are essential to the establishing of the body of the crime. Without such reports as a beginning point, no real investigation was possible.

301. Whether or not others agree with my opinion, based on an investigation duplicated by nobody else in time or depth or the information it has yielded, I believe that the official solution to the assassination of the President is no longer tenable. There is no question but that an overwhelming majority of Americans, by every known measurement, including repeated polls, are not satisfied with either the solution or the investigation. I believe from my experience and my knowledge of the investigation and of the evidence it produced that the real reason the reports sought in this instant cause have not been produced is because they do not support the official account of the crime.

302. This is a suit for public information, for records. The Act under which it is brought requires a good-faith search with due diligence. The subject matter is the results of scientific tests as incorporated in reports. The defendant unilaterally opted a substitute, the so-called "raw materials," work-papers and the like. Few worksheets have been produced, fewer than are referred to. In all of this I have not received a single piece of paper than can fairly be called a report. Unless

Mr. Frazier swore falsely to the Warren Commission, there were reports of the nature sought in this instant cause. Yet not one has been produced.

303. By far the greatest percentage of records produced are those for which I did not ask. They were then represented as compliance and misrepresented to present me as somehow ungrateful. They relate mostly to the neutron activation testing of paraffin casts of Oswald's hands and face made by the Dallas police. However, if they are a fair sample of the amount of paper generated by such testing, then as they relate to what I did request under FOIA it should require file cabinets to hold all that paper.

304. For years the government failed to file an affidavit stating on the basis of first-person knowledge that the records sought did not exist, a total defense under the Act. The government has not once stated that the records I seek should not exist. Between the sworn assurances of Mr. Frazier to the Warren Commission and the absence of any claim that the records sought should not exist, there remains the presumption that from my long experience in such matters is a reasonable presumption, such records do exist and are not provided. One of the possibilities is that they are not filed in the Laboratory but are elsewhere. Dallas, the office of origin, is an example. On deposition Mr. Frazier testified all reports were sent there. No affidavit has been supplied stating that the Dallas files have been searched. This alone is ample proof of the opposite of good faith or due diligence.

305. I have not designed this affidavit to try the facts of the Kennedy assassination. To the degree I appear to have done this, it was forced upon me by the government. In this very proceeding it has accredited me as it has accredited no other person of whom I know, as knowing more about the assassination investigation than anyone employed by the FBI. I have drawn upon this knowledge and expertise to present evidence of the crime that addresses the need for the making of tests, whether or not such tests should have been or were made and reports incorporating the results prepared.

306. Based on the expertise the government itself has voluntarily bestowed upon me, I offer the opinion that if the representations of the government in this matter are true, if in the face of all the need for tests to establish the basic fact of the most terrible of crimes, and if in the face of the facts set forth in this affidavit the FBI prepared no such reports, the name of our capital is Byzantium, not Washington.

307. Prior to the filing of all the transcripts of the depositions and only

two days after the last of those permitted was taken, this Court ended my taking of depositions, as I was directed by the court of appeals. This Court did so despite proffers of proof by my counsel. (Transcript pp.1-3) It then interrupted my counsel to entertain the government's unsworn, unsupported and factually incorrect representation of what the depositions show. (Transcript pp.3-8) When my counsel sought to present testimony under oath, this Court refused. (Transcript pp.3,12) Instead, it confessed a prejudgment against me reached without having received all the existing evidence: "My temptation was to enter a 60-day order of dismissal, giving you 60 days to come in and reopen if you could show good cause." Instead, it accepted the government's proposal and gave it "30 days to file a dispositive motion, and assuming that will conclude the case, you will have an opportunity again to relitigate in the court of appeals, which you have successfully done in the past." (Transcript pp.12-13)

308. The government was to provide an affidavit. (Transcript p.6) It has not.

309. It was to "itemize" those "documents which the FBI has produced." (Transcript p.7) It has not.

310. When my counsel offered testimony on the existence of tests the results of which have not been provided, this Court refused that, saying I could do it in an affidavit. (Transcript p.14)

311. Without all the evidence before it, while refusing other evidence and prior to the affidavit it stated I could supply, this Court held "we have reached the end of the rope in this case." Having found evidence unnecessary and irrelevant, this Court then addressed repeated false swearing and the more than a decade of official stonewalling in these words, "the Government has gone out of its way, as far as I can see, to accommodate you and Mr. Weisberg." (Transcript p.12)

312. The Court was even-handed in closing all off. It thanked government counsel only. (Transcript p.14)

313. Despite this Court's aspersions, I am neither a man of means nor in a position to profit from this case, were it my intention, as it simply could not be when it represents more than a decade of officially frustrated effort.

314. The cost of the depositions was burdensome for me. I am without regular income. If this Court had told me in advance that it would rule without the depositions and without permitting me to complete them, I at least would have been able to consider whether the costs and time of proceeding could be justified for me.


315. When I did not know if I could pay the costs of taking the depositions,

I could not in good faith specify all in advance. However, after the first calendar call following the remand, my counsel and I did discuss this with the Assistant United States Attorney, at his request. We did indicate that, depending on factors beyond our control, we would be wanting to take more depositions than we have. Those my counsel identified to this Court on April 22 are among them. The Assistant United States Attorney then did not object.

316. My work is little understood. It is not like that of those who seek cheap sensations and pursue whodunits. My work is a large study of the basic institutions of our society in time of great stress. It is the lamentable thrust of my work that our institutions have failed in those great stresses that have been the subject of my studies. I regret that a federal district court has not provided an exception to this tragic if not dangerous rule.

317. At my age, in my medical and financial conditions, from experiences both painful and extensive and with the decade-long history of this case, telling me that I "have an opportunity" to "re-litigate in the court of appeals," to which I have been three times already, is a Catch-22.

318. There is another part of my work, explicit only on the few occasions of my being before collegiate audiences. I encourage the young to strive for rectification when society's institutions fail, regardless of the apparent odds. Although there are times I can barely drag myself around, this Court having given me a choice between accepting institutional failure and dragging myself still again, I will not accept or become part of institutional failure.



HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 28th day of July 1977 deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires July 1, 1978



NOTARY PUBLIC IN AND FOR George D. Basford
FREDERICK COUNTY, MARYLAND

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