

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

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curbstons. 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.

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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.

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193. 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.

194. 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 asserts 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