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tests. (Paralleling this, nobody ever duplicated the shooting attributed to the duffer Oswald. Of all the best and professional shooters used, in tests arranged to make the shooting easier than at the time of the assassination, not one was capable of the speed and accuracy of the shooting attributed to the man the Marine Corps evaluated as a rather poor shot.) By limiting the extensive and fatal injuries to the President's head to one other single bullet, the Commission had the third bullet available to miss and to hit the curbstone. Little as James T. Tague bled from a spray of concrete or a bullet fragment, for the Commission Tague did not bleed in vain. On its part, the FBI ignored Tague as long as it could and then deprecated him and what he said. As my prior affidavits show, it also left him, his wound and the visible scar on the curbstone entirely out of its supposed definitive, *five*-volume investigative report, the one in which it solved the crime with a diatribe against Oswald while it almost entirely ignored the crime, the assassination. There are only two of the briefest imaginable references to the crime itself, so factually barren that one of the President's wounds, the one in the front of his neck and the first one reported, is not even mentioned. The FBI's "solution" has the first and third shots hitting the President and the second hitting Governor Connally. Hoover, as the exhibits reflect, insisted on this "solution," regardless of all the facts disproving it and the Commission's different "solution." The mute testimony of this Dealey Plaza curbstone is eloquent in its evidentiary destruction of both of these so-called solutions. It also is eloquent in alleging a conspiracy because, as my prior affidavits and actual photographs show, the FBI could not attribute it to one of the three admitted shots and someone undertook to patch it during the long period it was in official limbo. Of all the many spectrographic plates, the curbstone plate is the only one the FBI claims is missing. It claims, unsworn,

that this one thin plate of all the many thousands the FBI has was sacrificed to glean a fraction of an inch of file space. It is obvious that no official story is tenable when assessed against the known facts. The official story needed all the help it could get. The FBI provided this kind of help by not performing tests it should have performed and knew it should have performed, by avoiding other investigations and by hiding the results of tests that were inimical to its official preconception. Without the FBI's misfeasances, malfeasances and nonfeasances, this most subversive of crimes could not have been allocated to a lone, incompetent nut. (Tague's earlier affidavit is attached as Exhibit 36.)

213. The patching of that curbstone was as visible to the FBI as it was to me. It had capabilities I do not have and could readily determine the fact and the nature of the alteration of this vital evidence of the crime that negated an entire system of society. (As will be seen, especially in Exhibit 44, the FBI knew of and reported this alteration.) Instead, the FBI concocted fairy tales, like the theory that the washing of the streets had worn off this scar that was at the top of the curbstone's face and not in the street at all. Although the FBI has not produced any reference to it, Tague took a motion picture of the curbstone which had made him part of the nation's history and then, when ostensibly nobody knew about it, it but nothing of cash value was stolen from his home. There is no FBI report in the Commission's files reporting the existence of Tague's movie or forwarding frames from it. But, when Tague was finally deposed by the Commission, its assistant counsel, Wesley Liebeler, showed Tague what he mistakenly identified as blowups of a portion of Tague's movie. Yet from the available information, neither the Commission nor its investigators, the FBI, even knew that Tague made a movie.

214. This curbstone was already deep in the memory hole when one of the FBI's innumerable leaks perplexed Dallas Morning News photographer Tom Dillard. The leak was of the "solution" that ignored the Tague and curbstone wounding. Dillard mentioned this to the ^{then} United States Attorney, Barefoot Sanders, who alerted the Commission. Only then was the FBI sent chasing after the avoided

the scar and their pictures and thus finding that historic spot. Tague also could have been the FBI's seeing-eye dog, as it without question knew; and whether or not the FBI knew it, as it should have, Chief Criminal Deputy Sheriff Allan Sweatt and one of his assistants, Buddy Walthers, could have taken the FBI there. Both accompanied the photographers. In addition, Walthers had interviewed Tague when and at the spot where he was wounded. Disclosed FBI records report Walthers' presence, that of the policeman and the text of the police broadcast of Tague's wounding.

215. To satisfy the Commission, which could no longer avoid the curbstone and its history, after the Dallas FBI pretended it could not find the curbstone, FBIHQ dispatched its Lab photographic expert, SA Lyndal L. Shaneyfelt. Shaneyfelt was so deeply offended at what I had written about him and his career of servicing the Commission like an FBI Wrong-Way Corrigan that he cooked up the scheme to "stop" me by suing me for libel, only to abandon it once the top hierarchy, including Hoover, were aware of the sacrifice he pretended to be willing to risk to preserve the fair name and reputation of the FBI. I learned about this when we deposed Shaneyfelt in 1977. I then gave him a written waiver of the statute of limitations and offered to pay his filing costs if he would sue me. He never responded. He knew no court would find libel in accurate reporting.

216. None of the FBI people deposed in 1977 would comment on the condition of the curbstone. Shaneyfelt and Frazier asked for expert witness fees, in addition to those prescribed and already paid. Shaneyfelt, after refusing what he called expert testimony without payment of this extra fee, nonetheless had the gall to send me such a bill.

217. Since then a great amount of FBI records have been disclosed through FOIA. Among them are many pertaining to this curbstone. They provide no comfort to those still wedded to any of the official solutions to the crime. They do confirm my affidavits, in considerable detail. As will be seen from the selection of them that follows, the FBI knew that the curbstone had been altered, as I had stated; it kept that information from the Presidential Commission and

Rosen concluded by reminding Hoover that the FBI's five-volume and supposedly definitive report says "that" of the three shots fired, two hit the President and the third Governor Connally." This, of course, memory-holes the missed shot and that curbstone and makes a nonperson of Tague. Bitter-ending Hoover annotated this memo, at this point: "We don't agree with the Commission. It says one shot missed entirely. We contend all 3 shots hit. H" (Hoover underscored "it" twice.)

227. Throughout the FBI, however, it was well known that Tague was wounded during the assassination. One reflection of this is the reply, drafted for Hoover's signature, in response to the laudatory letter from a rightwing admirer who had a question about the omission of Tague from the FBI's five-volume report. (Exhibit 39) The reply, which notes that suitable rightwing Hoover materials also were sent, ducks the question entirely by saying only that "the Commission was unable to determine what struck Mr. James T. Tague in the cheek." A note added to the carbon copy states that Tague "was struck in the cheek by an unidentified object during the shooting of President Kennedy." So, while the FBI had no space for the curbstone or Tague when it had only five large volumes with which to belabor the safely dead Oswald, it was well aware of the fact that Tague was wounded during that shooting. The FBI's problem is that there is no way of limiting the assassination to a lone nut and no conspiracy if the missed shot and the wounding of Tague are publicly acknowledged. There is no other reason for the FBI's steadfast refusal to public^{ly} acknowledge the Tague wounding or the so-called missed shot.

228. Kilty was question^{ed}, pursuant to the last remand, about the curbstone, the allegedly missing curbstone spectrographic plate, his searches and other matters. This also was after his knowledge of the remand had been sharpened by Department and FBI house counsel and after his searches, which he testified

bullet, the core portion of a metal jacketed bullet, such as C1, 2, 3, a (sic) automobile wheel balancing weight or some other source of lead." This is not the same as saying that a bullet or bullet fragment caused the "smear" the FBI tested. There is an appreciable difference between an auto wheel weight and a bullet, particularly on spectrographic examination.

245. But the next page, which repeats the summary, omits what assails the belief that the curbstone as examined by the FBI is exactly as it was at the time of the assassination. What is omitted is the statement that the "smear" could have been caused by an automobile wheel weight. With more than twice as much space on this page, the omission is not from a shortage of space. And, of course, there could always have been still another page.

246. The next Lab worksheet reports an unspecified examination, not of the curbstone itself. Beginning with the assumption that any curbstone shot was fired at about Frame 410 of the Zapruder film (which is described in my prior affidavits) and, naturally, with the assumption that this shot, too, came from the so-called Oswald window, where Mrs. Kennedy was in the Zapruder film at this point is noted. There also is the conclusion that is diametrically opposite what the examination showed, "Mark made by object travelling in general direction away from TSBD." Nothing further on this examination is provided, no note, basis for calculation or basis for the assumptions. This also was not provided in this instant cause by Kilty.

247. The next worksheet is what, belatedly, was provided. It has a page with two sketches and nothing else. The second sketch shows an angle of 33 degrees. The direction is from the right or west, and toward rather than away from the general direction of the TSBD.

248. All of these worksheets also bear the notation "recorded," with

Curbstone

250. What preceding the digging up of the curbstone and the filing of this letter rather than Lab examination reports, this letter designed to mislead the Commission and to rewrite history, is indicative of intent to cover up, mislead and misinform. A variety of FBI records, from the various main files, refer to these matters. Not all are used here because of the volume of exhibits already appended.

251. In the assassination file the Commission's July 7 letter to the FBI, Shaneyfelt's July 13 letter to Dallas and the August 12 letter to the Commission are filed without any fancy X numbering, each as part of Serial 3659. But, the Lab work is not part of these records.

252. In the various files are communications in which Shaneyfelt outlined to Dallas what he wanted done. Dallas reported back, sending photographs and providing detailed descriptions of each. Until Shaneyfelt went to Dallas the mark was referred to in these records as the "nick." Once Shaneyfelt was there and saw that the nick no longer existed, he converted it to a "smear." He then conducted no investigation of the patching. For example, under date of July 17, Dallas SAs Robert M. Barrett and Ivan D. Lee filed an airtel (Exhibit 42) covering the sending of the investigation results and the photographs "concerning the nick in the curb shown in photographs" taken by Dillard and TV cameraman James R. Underwood. (Both photographs are attached to my prior affidavits.) As late as the time Shaneyfelt phoned Dallas to report he was on his way, it was still being called "the chip." (Exhibit 43) Until Shaneyfelt's alchemy, it also was referred to as a "scar." *Check on this*

253. Before Shaneyfelt could lay down the new FBI party line on the curbstone, that it had not suffered the mechanical damage quite visible in the contemporaneous news photos, the Dallas assassination investigation case agent,

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Robert P. Gemberling, spelled out that there had been an alteration. He did this in the synopsis part of the lengthy, consolidated investigative report that the FBI withheld from the Warren Commission. (Exhibit 44) With regard to "additional investigation" of the curbstone, Gemberling said, "No evidence of mark or nick now visible. Photographs taken of location where mark once appeared."

254. The FBI did not trouble the Warren Commission with the information that the scar or nick that had been visible was no longer visible. And, of course, for all his self-touted care and diligence, Kilty did not trouble the Court or me with it in this instant cause.

255. Contemporaneous crime-scene photographs present a problem to the FBI. They may record what the FBI does not want to acknowledge. The previously mentioned Bronson footage is an example. The Dallas FBI said it was valueless because it does not show the Oswald window when, in fact, it does. It also shows other things that are not congenial to the FBI's pretended solution. With the renewed interest in the missed shot and that general area, and because that area had other investigative importances, the Dallas FBI took pictures there. As is stated in the Dallas SAC's memo to files in the Oswald file (Exhibit 45, Serial 6464), "SHANEYFELT stated that he did not want those photographs in the Bureau." (In FBI lingo, "bureau" and "Seat of Government" or "SOC" mean FBIHQ.) Shaneyfelt was not taking any chance of having on file any photograph that might disprove some FBI claim.

NOTE

256. By coincidence, Tom Dillard spoke to the United States Attorney at just about the time UPI interviewed Tague and ran a story. The forwarding of Dillard's picture, as reported in my earlier affidavits, is included in another record from Serial 3659. (Exhibit 46)

257. The FBI reacts to news stories the way a weathercock reacts to the breeze, especially if the FBI sees criticism of itself or imagines that criticism may result. So, no sooner did the UPI interview with Tague hit the wire service printer than Inspector ^{J.R.} Malley was on the phone to Dallas. (Exhibit 47)

(7) Tague reported that the cigarette was shipped and that he saw what is called

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the FBI was more concerned "about whether I knew JACK RUBY." Two days later the cover-the-Bureau's-ass brigade was in operation. Rosen wrote a memo for Hoover (Exhibit 48), routed via Alan Belmont, in which, despite the fact that Tague's name did not appear in the story because he asked UPI to withhold it, Rosen refers to Tague as a publicity seeker. This, apparently, was a phrase that soothed Hoover because it was a common FBI denunciation. Rosen reported that the anonymous Tague was engaged in "an effort to obtain personal publicity." Here also, Rosen came briefly in contact with the evidence. He said that, "Based on information developed recently, it is possible that one of the shots fired by Oswald did go wild." The original FBI interview with Tague is attached. It also says "there was a chip missing" from that curbstone.

258. The Dallas FBI's response to the call from Inspector Malley is what forced Underwood's contemporaneous pictures of the chip out of the curbstone into FBIHQ files and thus to the Commission. (Exhibit 49) The FBI did not get the Underwood pictures as a result of its earlier interview with Tague. It ignored those and the Dillard pictures until, by coincidence, Dillard sent one via the United States Attorney. The Dallas office was intent upon covering itself by sending the Underwood picture. By this time the FBI covering up progressed to where it quotes Underwood as saying there was no chip, even though one is clearly visible in his pictures. Still another attachment, handwritten notes that belong with the Lab work involving the Zapruder film, is explicit. That FBI Lab agent wrote, "Nick on curb lines up w/frame 403." (This was 90 frames or about 5 seconds after the fatal shot.)

259. The FBI performed other tests in connection with the "missed" shot. So complete was the FBI's memory-holing of records pertaining to this curbstone and what happened to it that Kilty and it withheld all information about the testing of a bullet found by Rex M. Oliver. This also appears below in the section on other shots and other tests.

260. If there were any possibility that some entirely irresponsible FBI agent took it upon himself to destroy that single thin spectrographic plate