

# Contrary Data Withheld From Assassinations Panel

## Staff Failed to Advise Lawmakers of Information Disputing Evidence of Conspiracy in Kennedy Death

BY JERRY COHEN and MIKE GOODMAN  
Times Staff Writers

WASHINGTON—The staff of a House committee that recently ruled that John F. Kennedy probably died as a result of a conspiracy withheld from congressmen information that runs counter to their finding.

The conclusion by the Select Committee on Assassinations that two gunmen fired at the President was based almost solely on a type of acoustics experiment tried only once before. It was recommended by the staff to the congressmen who approved it late in December by a 5-2 vote, with five members absent.

The committee's two-year investigation cost about \$6 million.

The committee's conclusion that there was a 95% probability that two

gunmen fired at President Kennedy reversed a preliminary draft prepared two weeks earlier that contended that Lee Harvey Oswald acted alone.

At least two sources informed the staff before the vote that they could repudiate the basic premise of the acoustics work—that a "stuck" motorcycle microphone behind President Kennedy's limousine recorded shots in Dallas' Dealey Plaza 15 years ago.

The staff ignored one of the two challenges and discredited another contained in a critical report by raising a question with which the report did not even deal, a Times investigation disclosed.

G. Robert Blakey, chief counsel and staff director, denied that any information was mishandled. He added that the contradictory information was not presented because of its "irrelevancy" and because it was received in the late hours of the committee's life.

Attempting to squeeze it in would have created "confusion," Blakey told The Times.

"We would not have clarified anything—we would have raised more

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questions," Blakey said. "I would have been putting in collateral information."

After the December vote, six committee members told The Times they never were told that information was available to the staff that cast doubt on the acoustics tests.

The information suggests, among other things, that the open microphone was not in Dealey Plaza at the time of the assassination but more than two miles away.

A seventh congressman who was not present for the vote, Rep. Harold S. Sawyer (R-Mich.), said he became aware of the contradictory information before the conspiracy finding only because its source informed him of its existence. Sawyer issued a dissenting report Thursday disagreeing with the committee's conclusion.

"We were pushed to a conclusion," Sawyer maintained in a recent Times interview. "We were just fed part of it and not fed the contrary . . . Taking it all on balance, I do not accept it (the conspiracy finding) . . ."

"I can't agree with the three acoustical experts. There is strong evidence to the contrary. It (the acoustics work) looks like a precise thing but it all started with a pure assumption out of the air (an open microphone in Dealey Plaza) which gives it an aura of scientific accuracy.

"I now have the feeling that Blakey wanted us to come to a conclusion that there was a conspiracy. Otherwise, why couldn't we have gotten the contrary information?"

One congressman who voted for the staff recommendation, Rep. Samuel L. Devine (R-Ohio), now says he is also preparing a dissenting opinion.

Devine called the conspiracy finding "an assumption based on an assumption," and he said results of the acoustics experiment provided "circumstantial evidence, yes, but conclusive, no."

Devine called attention to an article he wrote for a newspaper in his hometown, Columbus, in which he disputed the committee's conclusion that:

While Lee Harvey Oswald fired from the Texas School Book Depository the bullets that killed the President, a second gunman fired a single rifle shot from a grassy knoll in Dealey Plaza that went awry.

Wrote Devine:

"First, standing alone, the opinion of the acoustics experts that a third shot came from the grassy knoll is simply their opinion. Unless supported by other evidence, it is not sufficient to establish conclusively there was indeed another shot, another shooter, or a conspiracy."

One of two congressmen who voted against the con-

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spiracy finding, Rep. Robert W. Edgar (D-Pa.), maintained that the committee . . . "jumped" to its conclusion with a haste he called "irresponsible," and he said:

"There is no question there were pieces of information that we congressmen did not have."

He was so concerned, he said, about the weight being given the opinions of three acoustics experts that he asked three other scientists to listen to the testimony during the committee's final public hearing.

Edgar said all three of the scientists he invited to the hearing were dubious about what they heard. They are Dr. Francis Davis, dean of science at Drexel University; Dr. Arthur Lord, a Drexel acoustical expert, and Dr. Marvin Wolfgang, director of the Center for Studies in Criminology and Law at the University of Pennsylvania.

Both Davis and Wolfgang later sent written critiques to Edgar.

In the critiques, both expressed sharp skepticism about the committee's finding. Each focused especially on its conclusion of a "95% probability" that a second gunman fired a shot.

Based on testimony he had heard and read, Davis wrote, "I certainly think that 95% confidence is grossly exaggerated and it would take considerably more scientific evidence to convince me and most other scientists that their conclusions were valid . . . There are still many other analyses that need to be done before one can take their conclusions seriously."

David added:

"All this is not to say that the consultants did not do a good job as far as they went but rather to say that they did not go far enough. Theirs is a first approximation, so to speak; necessary, but not sufficient."

Wolfgang wrote to Edgar:

"I think the work of (James E.) Barger and of (Mark) Weiss and (Ernest) Aschkenasy (the three acoustical consultants to the committee) have been exciting from a scientific perspective . . .

"However, I think it is premature and inappropriate for a federal group, like your committee, to make a major policy decision on the basis of their findings . . . In none of the testimony I read or heard has there been a single straightforward answer given about what a 95% probability means."

However, skepticism over the acoustics experiment reached the ear of committee investigators long before the

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scientists delivered their opinions to Edgar. They first surfaced as early as late last summer or early fall—four months before the committee issued its finding.

It followed September testimony by acoustics expert Barger, who had just completed re-creation of gunshots fired during the assassination. The re-creation involved the firing of rifle shots in Dealey Plaza from the Texas School Book Depository and the grassy knoll, with mikes strategically placed to record the gunfire.

What Barger sought was to match the test shots with "impulses" he had already discovered on a Dallas Police Communications Center's Dictabelt that had recorded sounds and conversations the day Kennedy was killed.

Barger thought some of the "impulses" might have resulted from gunshots, and, if more than three were found, the discovery would indicate another gunman besides Oswald fired at the presidential limousine.

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The man primarily responsible for the acoustics research is James E. Barger, chief scientist of the prestigious Cambridge, Mass., firm of Bolt Beranek & Newman, Inc.

In an interview with The Times, he declined to address himself to the challenges raised by Bowles and Pellicano because, he said, they were outside the scope of his work.

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Given the assumption that one or more shots were fired from the grassy knoll and that the open mike was in Dealey Plaza, Barger began his assignment.

"It was perfectly clear these sounds (of gunfire) were not audible," Barger said when he first testified before the committee in September. He told congressmen that, nevertheless, he hoped by a filtering process to detect "impulsive sounds of gunfire."

"And he scored," Blakey told The Times.

Barger explained that what he was able to detect on the Dictabelt were "manifestations of gunfire," and he added: "You can't hear gunfire, there is an auditory impression of gunfire. There is a distinction you have to be aware of, there are manifestations of gunfire but they don't sound like gunfire . . . The auditory impression is a crackling."

"Why were gunshots not recorded on the Dictabelt or heard by Dallas police dispatchers at the time of the assassination? Because, said Barger, the radios on motorcycles at that time had an upper limit to the loudness they faithfully record. Louder sounds are chopped off."

Dispatchers heard the gunshots fired during the experiment last year because of better radios and quieter motorcycle engines, Barger said.

Barger conceded that his research for the committee was a pioneering feat, tried only once before during his investigation of the Kent State shootings and during which he worked with equipment of greater fidelity and under different circumstances.

While Barger's scope was limited, the committee staff's was not. Why, then, did the staff not brief congressmen about the Bowles and Pellicano challenges?

Capt. Bowles told The Times he

never was contacted after he told a staff investigator he could repudiate the open-mike-in-Dealey-Plaza theory.

Not only was there Bowles' conversation with the investigator, but evidence of the stuck mike on Stemmons Freeway, more than two miles from Dealey Plaza, appears clearly on the Dictabelt that was so highly critical to the acoustics finding.

And knowledge about the stuck mike on the freeway was common among Dallas policemen, virtually all of whom were interviewed by staff investigators, according to Gary Cornwell, counsel for the subcommittee that focused on the Kennedy assassination. (Another subcommittee concentrated on the Martin Luther King murder.) It also is contained in the Warren Commission Report, a starting point for the House Assassinations Committee's review.

Asked about challenges from Bowles and others, Blakey said the committee staff made an effort to talk to everyone who approached the committee with information to "find out what their ideas were."

As for the Pellicano material, Cornwell maintained that it was the "only substantial piece of contradictory evidence at the time" of the final public hearing.

Pellicano told The Times he began communicating with the committee staff in early fall. Blakey, he said,



G. Robert Blakey, chief counsel to assassinations panel.

AP photo

sent him a letter, dated Nov. 7, asking for details about his findings and techniques, a letter in which Blakey wrote:

"Time seems to be our chief enemy though. I recognize we can't expect to ultimately resolve these issues, only set them on a course well designed to

contribute to the process of truth finding."

Pellicano said he was "put in touch with Gary Cornwell" and he told the subcommittee counsel that "Barger was definitely wrong." Cornwell asked Pellicano to put his conclusions in writing.

"Gary Cornwell convinced me that I should submit it (a written report to the staff)," Pellicano added, explaining that he wrote it "in language that ordinary people would understand . . . So that I didn't go into a great acoustical analysis . . . or any of the mathematical stuff that Dr. Barger used."

Pellicano said Cornwell told him he wanted the report "immediately" because time of the final public hearing was nearing. Pellicano said he put the report on an airplane for Washington and also told Cornwell he planned to send copies to congressmen members of the House committee.

"And he (Cornwell) said, 'No, no. Just send me that report and I'll make sure they get it,'" according to Pellicano, who added:

"And he said he was going to present my report to the committee on Monday. Well, I found out he did not do so. I called him on Tuesday and asked him, why not? He said that he planned to do with it as he saw fit. And he said that I would be called (to testify). I was going to be called if the committee was going to have another open hearing."

Pellicano recalls that he "was suspicious at the time. At the time, I thought to myself, 'Well, it seems to me that he is suppressing my report.' So I began calling a few congressmen on the committee."

None of the congressmen with whom he talked, he added, knew of the existence of his report.

A final open hearing was held but Pellicano was not summoned to testify.

Cornwell insists he never told Pellicano he would be called to testify and that he told the Chicagoan not to send his report to individual con-

gressmen because "they did not have time to see things piecemeal."

Blakey branded the Pellicano report "scientific nonsense."

Yet, Cornwell said, "We submitted it as an exhibit in the hearings and we asked questions based on it."

But the brief allusion to the Pellicano report had no bearing on the thrust of the report itself, which was that the open microphone could not have been in Dealey Plaza.

It occurred during the questioning of Barger. He was asked by a staff attorney if an open microphone on a motorcycle 300 feet behind then Dal-

as Police Chief Jesse Curry would have picked up the sound of the chief's siren.

In a recent interview with The Times, Cornwell insisted that that question was central to the "basic premise of the Pellicano report."

But in the Pellicano report there was no mention of an open mike on a motorcycle 300 feet behind the chief's car picking up the sound of his siren. In other words, the "fact" that Barger was asked to discredit never appeared in the Pellicano report.

The salient details of the Pellicano report were never heard by congressmen attending the final public hearing and the report itself was a mystery to them.

"They sidestepped my whole report," Pellicano said later.

Another witness called during the final public hearing, Dallas police officer H. B. McLain, said his testimony before congressmen was distorted for two crucial reasons. The committee staff suggested to the congressmen that McLain's motorcycle probably was the one that carried the open microphone in the motorcade.

McLain said if he had been asked if he immediately turned on his siren after he heard gunfire, his response would have been yes. He said he kept his siren on all the way to Parkland Hospital and, if his had been the supposed open mike in Dealey Plaza, his siren would have drowned out all other sounds on the Dictabelt.

Asked why McLain was not asked the question, chief counsel Blakey said: "I don't know."

McLain also said he was never asked to listen to the recording of both Channels 1 and 2 while in Washington. He said that when he listened to both on his return to Dallas, he recognized nothing on Channel 1. Conversations and events were familiar to him on Channel 2, however, meaning he was tuned to Channel 2 at the time of the assassination.

Asked why McLain did not listen to the recording of both channels before or during his testimony, in the interest of verification, Blakey replied: "He never asked to."

McLain was called to Washington because Rep. Louis Stokes (D-Ohio), committee chairman, and Richardson Preyer (D-N.C.) wanted photographic evidence to bulwark the acoustics findings that an open mike was about 120 feet behind the presidential limousine. "Stokes and I insisted that you get us a picture of the motorcycle or it puts everything in doubt," Preyer recalls.

With only days left before the public hearing, a search for such a photo began.

Richard Sprague, a former photo consultant to the House committee and himself an assassination buff, was,

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*Helen - For Sylvia - please and Thankyou. Rose*