

30 November 1969

Dr. John Nichols
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Dear John,

Thank you for your letter of the 22nd with the four legal documentary enclosures, which I return herewith as requested. I appreciate your offer to let me have the final brief together with the other documents, to keep, at some later date, and am grateful for the opportunity to keep my files as complete as possible.

Let me start with a few trivial spelling corrections in the first draft of your brief of rejoinder to defendants' pleadings. On page 3 and subsequent pages, the Governor's name should be given as Connally. On pages 4, 5 and 6, the name of the Archivist should be Rhoads (also in the title, top of first page). On page 1 of the draft dated 11/18/69, reference to ownership of "the gun," should be clarified to specify whether it is the rifle or the revolver. On page 2, it should be Dr. Kemp Clark and Parkland Memorial Hospital. On page 3, the car had been dismantled and rebuilt.

= Two minor points of substance: On page 6, and also on page 2 of the 11/18/69 draft, it might be advisable to delete references to Jim Garrison entirely, since he stands discredited in most eyes after the collapse of his grandiose claims, and to refer only to the State of Louisiana vs Shaw. Second, in the 11/18/69 draft, top of page 3, the statement is made that "...Warren has advised that the case is closed." I don't believe that he said such a thing, at least, not in those words. I seem to recall also that upon publication of the Warren Report, the FBI said in response to questions by the press that they did not consider the case closed, and were keeping the file open, with the intention of following up any new leads that might come to light in the future.

As to the main lines of argumentation in the first draft of your brief, it is a generally effective rebuttal of the defendants' motion and memorandum. It would benefit, I think, by a more schematic presentation including appropriate headings and subheadings in the body of the brief to identify and separate the individual arguments or rejoinders. The brief might elaborate and emphasize somewhat more than it does the fact that there was no petition to Burke Marshall as representative of the Estate of the late John F. Kennedy to secure prior agreement to the viewing of the autopsy photographs and X-rays by the Russell Fisher "medical panel" of 1968 (nor, indeed, for the Humes-Boswell-Finck viewing of 1967). Further, the brief could point to the central contradictions between the "official" undated autopsy report which is published as an appendix to the Warren Report, and the "findings" of the 1968 Fisher medical panel, as a legitimate and important added reason for expert examination of these items by a qualified pathologist not hand-picked by the Government.

The draft brief does not seem to deal with the report on the spectrographic examination of bullet fragments or the affidavit of Roy H. Jevons of the FBI which is appended to the Motion to dismiss by the defendants. In lay terms (which may not have legal force), the situation appears to me as follows. The FBI conducted on behalf of the Warren Commission various laboratory tests--ballistics, fingerprints, handwriting, neutron activation of paraffin mask, and spectrography. In each

instance except the last, the entire record was made part of the public domain in the published Commission Exhibits and/or the Commission Documents open to examination in the Archives, and in the published transcripts of testimony of the FBI expert witnesses (Frazier, Cunningham and Nicol on ballistics; Stombaugh on hair and fibers; Latona on fingerprints; Cadigan on handwriting; etc.). For unstated and unknown reasons, the spectrographic report was apparently not transmitted by the FBI to the Warren Commission, nor demanded by the Commission, so far as is known, as an inherent and vital link in its chain of evidence, although the spectrographic report is clearly and indisputably within the same class, source, and category as fingerprints, handwriting, etc.

Moreover, the Commission accepted hearsay evidence of a distinctly ambiguous nature (if not actually of a nature contraverting its conclusions) as to the spectrographic findings, from Robert Frazier. The spectrographic examination was performed, however, by FBI expert John Gallagher, who presented testimony on another subject and was not questioned about his spectrographic findings.

Whatever the technical excuses invoked by the FBI in the Jevons affidavit, the fact is that the report on the spectrographic tests have been capriciously and arbitrarily withheld, in the first instance from the Warren Commission which failed in its obligation to secure, study, and publish the findings, and to take sworn testimony from John Gallagher authenticating the document and the results set forth therein; and in the present instance, from the public, which has the same right of access to this laboratory report as to all related and accessible documents (fingerprints, handwriting, etc.). The spectrographic report has no possible implications of national security, damage to the reputation of innocent persons, or other guidelines under which certain Warren Commission documents remain classified. The FBI should not perpetuate the situation created by administrative oversight or negligence in its relations with the Warren Commission by continuing to withhold the spectrographic report but should place it, as it belongs, with the other declassified documents in the Archives. Since there is no conceivable legitimate reason for its suppression, the FBI should not be permitted to enjoy an immunity which arises from oversight or negligence and which is purely technical, arbitrary and without merit. It is a violation of the freedom of information statutes which is particularly mischievous since inevitably the impression is created that the nature of the spectrographic findings are so incriminating to the Government that the most transparent and specious grounds are cited and arbitrary decisions are made in order to ensure concealment.

I hope that these comments are of some usefulness, and will look forward to developments in your suit against the federal authorities. A successful outcome could be the most important breakthrough in a long, long time. You may be sure that you have my fervent good wishes, and any assistance which I can give.

Yours sincerely,

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