

PROBE

Magazine. The truth is in here.

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Citizens for Truth about the Kennedy Assassination

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Judge Brown Slams Memphis Over the King Case

The following is a transcription of Judge Joe Brown's remarks made on the 30th anniversary of the assassination of Martin Luther King on April 3, 1998 at the Centenary Methodist Church in Memphis. The remarks were transcribed by author Dick Russell who will be writing an article for High Times this fall on this conference. Russell is also the author of the current book Black Genius which was published by Carroll and Graf earlier this year. Our thanks to Dick for letting us share this transcription with our readers.

In this case involving James Earl Ray, I found one morning that it was on my calendar. I had been totally unaware of that until the prosecutor in this case, Mr. Campbell, came to attempt to approach me and discuss this case off the record which is, of course, improper. I declined to do this. That was the first of a number of *ex parte* approaches by the state to engage in what are basically improprieties. In any event, I was ultimately confronted with a question: with the application of modern scientific methodology, is this in fact the rifle? As the rifle was excluded from the [unintelligible] of being the murder weapon, does this fact alone—based on an assessment of the entire body of evidence—cause James Earl Ray to be innocent, therefore mandating a new trial? In other words, if the weapon was excluded, I was to conduct an analysis and an evaluation of the entire case—and then write an opinion relative to my assessment.

James Earl Ray, even in the event that the rifle [had] been excluded, might have still been found legally guilty of being an accessory, an aider and abettor, or a conspirator. I won't touch upon that. But I do know what I saw in terms of the hard evidence, in terms of what's in that file relative to those things that the untrained might never notice. I would remark initially upon the category of so-called

INSIDE THIS ISSUE

The Return of Gerald Posner: He's Baaaack!
Clinton, RFK and Indonesia

"experts" that everyone has been relying upon in this case. The level of expertise, if they had any such, was extremely low. They had long histories of being able to look at bullets under a microscope and using relatively primitive technology to make an analysis subjectively as to whether in their opinion such-and-such a bullet matched a sample that they were attempting to compare it with. That was the extent of their expertise. They had very little knowledge—if any—about rifles and firearms in general.

They found me with the knowledge that I just happened to have had as an individual. Amongst other things, I have read in the record the big to-do about the mark in the window sill at the boarding house where the rifle was supposed to be fired. Well, let's talk about the rifle. It's a 760 Remington Gamemaster, a pump action, just like a 12 gauge pump shotgun. There is very little call for this weapon in any other part of the country other than the eastern seaboard, where certain states forbid the use of semi-automatic weapons for deer hunting. It's a fast action but it's not as powerful a weapon. There's a peculiar thing about this weapon. If you do not rest, if you're attempting to use a rest when you shoot it—the weapon does not shoot where it is sited in. Any hunter will tell

you that if you are attempting to use a rest to shoot game, you put your coat, your hat, your pack, something under the rifle barrel—and you do not allow the rifle barrel to touch hard wood, rock or anything else because your weapon will not shoot where you have sited it in to shoot. Assuming you've sited the weapon in. If anyone placed the weapon on that window sill, sufficient to cause an indentation in the window sill, you can guarantee that whatever they were shooting at would not have been hit. Because the weapon would not have hit where it was sited in to hit.

Now Preston Battle, the honorable late initial judge who handled this case, said this on the record. He was firmly convinced that if James Earl Ray in fact did the killing, he did not act alone. Now James Earl Ray in the record is said to have gone to a gunshop and purchased a .243 caliber weapon. It says he was told by others that this was not a suitable

continued on page 28

In This Issue...

Letter from the Chairman	2
Clinton, RFK, and the Fall of Suharto	3
Michael Paine and his \$300,000 Trust Fund	6
The White House Tapes: Something is Missing?	8
The Official Story	9
Gordon Novel	10
The Return of Gerald Posner	12
Jeremy Gunn at Stanford University ...	18
Notebook	35
Bookshelf	36

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KENNEDY ASSASSINATION**

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From the Chairman's Desk:

In this issue, we are happy to present transcriptions of two officials involved in contemporary investigations of the assassinations of the sixties. First, we present Judge Joe Brown's comments spread over two nights in Memphis during the commemoration for the thirtieth anniversary of Martin Luther King's murder. We think you will agree with us that they form quite a strong indictment over what was going on behind the scenes in the year long controversy over that case. In May, the Director and chief counsel of the Review Board, Jeremy Gunn, gave a long and detailed talk at Stanford University. Gary Aguilar taped that talk and we had it transcribed by Paul Ruiz. This is probably the clearest and most detailed explanation of what Mr. Gunn felt the mission of the Board was and also his personal views on his experience so far and what it was like to deal with certain executive intelligence agencies over a nearly four year period. This talk makes us anticipate what will be in the Board's final report scheduled for release this fall.

As readers of *Probe* know, one of the most ignored changes in foreign policy made after the Kennedy assassination was the U.S. relationship with Indonesia. We have tried to educate our readers on this very important point, most notably through three long and interesting articles focusing on the CIA, Freeport Sulphur (today Freeport McMoRan), and that company's influence in Cuba and Indonesia. The tumultuous events in May marked how important the aforementioned change in foreign policy was. If you were only watching TV or reading the newspapers, you didn't get the whole story. We try and give it to you here.

In her third and concluding installment, Lisa Pease probes more deeply into the mysterious Gordon Novel as revealed through his own words in a long deposition for his libel case against Jim Garrison. Gordon reveals his ties to both Bud Fensterwald and Walter Sheridan, the latter taking us even deeper into the subterranean intelligence net meant to ensnare Garrison. In a sidebar, Gordon reveals just how deeply he was wired into Garrison's office as early as the first week of March, 1967.

Don Gibson examines some peculiar editing of the Johnson White House phone transcripts as assembled by Michael Beschloss in his 1997 book. As Gibson notes, he wrote a landmark article on this particular subject for *Probe* which pretty much nailed the origins of the Warren Commission. Readers of the Beschloss book will remain partly in the dark on that topic. Finally, Barbara La Monica pulls back one more curtain on the true status and pedigree of Ruth and Michael Paine. We certainly hope that Mr. Gunn finds the time to depose this extremely intriguing duo before his statute runs out. If not, many people, including me, will be very disappointed.

What is CTKA?

Citizens for Truth about the Kennedy Assassination was organized as a result of the April 1993 Chicago *Midwest Symposium on Assassinations*. At the end of that conference, it was generally decided that the time had come to create a political action group, which would urge the executive branch of our government to reopen the unsolved assassinations of the 1960s—i.e., the murders of President John F. Kennedy, Senator Robert F. Kennedy, and Dr. Martin Luther King. CTKA endeavors to ensure that the Review Board fulfill its mandate to release *all the remaining records* pertaining to the JFK assassination; to amend the current Freedom of Information Act to render future covert actions more difficult to hide; and to urge the American people to discover the truth about their history.

If you are not already a member of CTKA, please consider supporting our efforts with a subscription to *PROBE* or a donation to help cover the hidden costs of running a not-for-profit organization.

Thanks to all of you who are already CTKA supporters. Let's continue to work together to get the truth out about our collective past.

Clinton, RFK, and the Fall of Suharto

By Jim DiEugenio

In May, Bill Clinton had blood on his hands. In June, on his visit to China, he had it under his feet. On May 21st, President Suharto of Indonesia was forced to resign under pressure from student demonstrations and labor riots. In the second week of May the demonstrations resulted in the killing of six students in Jakarta. There were reports that the three previous months of smaller demonstrations had resulted in several "disappearances" and abductions. By mid-May, the riots and bloodshed had spread outside Jakarta to other major cities. These culminating riots seemed primed by the death of the six students. On May 15th, things had gotten so bad that Suharto had to cut short his trip to Egypt to return to Jakarta. Consider the lead of the May 15th *Los Angeles Times*:

Mobs of poor, young Indonesians rampaged unchecked through downtown streets here Thursday, looting, burning and pushing this capital of 10 million to the edge of anarchy. They torched cars, banks and department stores, targeting businesses owned by ethnic Chinese and members of the ruling family. Plumes of smoke billowed over Jakarta from every direction.

Incredibly, even at this point, the United States still did not call for Suharto's resignation. Yet on this same day, the *Los Angeles Times* did. In an editorial they made no bones about the fact that Indonesia could not survive much longer with the dictator at the helm. When Clinton is behind the major media in calling for a brutal tyrant to step down, something is remiss somewhere.

The next day, American businesses began closing plants and offices, evacuating workers, and pulling even more capital out of the country. The students still controlled the streets as Suharto tried to move the army into the capital as he had done in the sixties in his covert, then overt ouster of Indonesia's first president Sukarno. But by May 19th, even some of Suharto's political allies inside his own party were asking for him to resign. The estimates of the dead at this time ranged from 500-900 due to the riots. Suharto could barely come out of his palace. Thousands of students had circled the parliament building. In a mild surprise, the army decided not to fire on the demonstrators and did not even interfere with their fiery theatrics and polemics against the longstanding dictator, including their hanging him in effigy. By the 19th, these student demonstrations had spread throughout West Java where thousands of students shouted slogans in front of a mock coffin symbolizing the death of democracy. Finally, under relentless violent pressure, Suharto announced he would step aside at a future indefinite time. This did not quell the demonstrators. On May 20th,

the *Christian Science Monitor* wrote about the "largest anti-Suharto protest ever" at Gadjah Mada University where 50,000 students and faculty demanded that Suharto resign immediately. In the city of Yogyakarta, the entire range of demonstrations included as many as 500,000. At the university, the 150-yard long phalanx of activists pulled a casket decorated with Suharto's picture. In the face of the spiraling unrest, Suharto finally got the message. On May 21st, he announced his immediate resignation. The reins were turned over to his vice-president B. J. Habibie. Thus ended the reign of the world's longest running dictatorship, save Fidel Castro's.

The immediate causes of Suharto's downfall did not occur just in

May. They began with the collapse of the Indonesian currency, the rupiah, which has been falling since last year. When it appeared that the rupiah's fall could affect other Asian economies, the International Monetary Fund began negotiating a deal with Suharto to offer a multi-billion dollar bailout. This seemed crucial since Indonesia is the fourth largest country in the world and the pivotal state in southeast Asia. Large banks in Korea, Japan, and Singapore have heavy holdings in the nation. In fact, in January, one Hong Kong bank had already fallen because of a bad loan to Indonesia. But the IMF deal stumbled when Suharto demanded a dollar for rupiah fixed exchange rate to stabilize the national currency. Many commentators thought that Suharto wanted a fixed, instead of the usual floating exchange rate, so that he and his family could cash in rupiahs for dollars and then send the dollars abroad. For a man worth billions, this was too much even for the IMF. With this power struggle going on

in public, prices continued to rise, the rupiah continued to fall, and the social consequences spilled over into the streets, eventually carrying Suharto with them.

In the wake of Suharto's collapse, it is interesting to note how far behind the curve the present administration appeared to have been. In two articles in 1996 (*Probe* Vol. 3 #6 and Vol. 4 #1), we reported on the earlier social unrest in that country, and we noted Bill Clinton's ties to some of Indonesia's ruling elite. We also noted that Clinton had broken a previous precedent by consenting to appear in public with Suharto who had been shunned by much of the Western liberal community because of his horrendous human rights atrocities. Yet at the time of the earlier demonstrations, mostly sponsored on behalf of

continued on page 4

Incredibly, even at this point, the United States still did not call for Suharto's resignation. Yet on this same day, the *Los Angeles Times* did. In an editorial they made no bones about the fact that Indonesia could not survive much longer with the dictator at the helm. When Clinton is behind the major media in calling for a brutal tyrant to step down, something is remiss somewhere.

Clinton, RFK and Indonesia

continued from page 3

Sukarno's daughter Megawati Sukarnoputri, most of the American media ignored the crackdowns by the military—and the resulting deaths—against her and her supporters. The major media, e.g. the *New York Times*, seemed to take the “side of stability”, which meant Suharto and his storm troopers. Many of the commentators praised the “economic progress” made by Indonesia and how this had led to a rising standard of living for most Indonesian workers. Suharto's massacres and political oppression were either whitewashed or dodged as an inescapable outcome of the imposition of stability on the chaos of the later, leftist Sukarno regime of 1963-65.

What virtually all of these pundits left out of these stories was that the foundation of the so-called economic progress and social stability was built on a foundation of sand. Suharto and his backers had assembled a Potemkin village model for most of the willingly gullible American press to swallow. At the same time Indonesian workers were making \$3.50 a day manufacturing Reebok tennis shoes, the Suharto family had become one of the richest in the world by arranging deals with American and British corporations to exploit the country's prodigious natural resources and cheap labor. Keeping the peonage in place was one of the prime functions of the Indonesian army, a large and notorious part of which was controlled by Suharto's son-in-law, Lt. Gen. Prabowo Soemित्रo Subianto. The economic pillaging of the country had become so obvious that a popular joke during the May demonstrations was that Suharto's idea of family planning was to make sure that all six of his kids got rich through state sanctioned monopolies.

That the royal oligarchy was one of the main causes of economic concentration that led to collapse became clear even to the *New York Times*. On March 12th, two months before his fall, *Times* columnist A. M. Rosenthal began to make Suharto-style jokes about President Clinton:

When the emissaries of President Clinton visit the president of Indonesia to talk about his country's economic disasters and how we can bail it out, do they ever ask him if he knows that his sons, daughters, in-laws and dearest friends stole the country bare and blind.

Rosenthal was quick to add that, of course Suharto knew about it. He helped set it all up. The Suharto family owns part of every state regulated monopoly in Indonesia including banks, airlines, agriculture, automobile, and power plants. On top of that, the family devised ways to avoid the problem of paying taxes on all these holdings. As Rosenthal also pointed out, when Suharto grants a monopoly license to a friend, it is with the stricture that one of his children gets a share of the business. Since Indonesia is an extraordinarily wealthy nation, corporations are willing to pay the piper. So the trickle-down scheme, praised by the *Times* in 1996, came crashing down in 1997. When the media could not avoid the steaming mess, they joined the Indonesian students in finally exposing Suharto. Which is something the Clinton administration did not do.

The drumbeat against the aging tyrant began as early as January. When it became apparent that Suharto would run for another rigged election in March, the *Los Angeles Times* profiled two challengers to Suharto, Muslim leader Amien Rais, and the aforementioned Megawati. On February 4th, the same newspaper headlined a story “Suharto is Asian Policy Albatross for U.S.” The writer, Jim Mann, then compared the Reagan administration's attempt to divorce itself from Ferdinand Marcos of the Philippines—which hurried his fall—to Clinton's seeming inability to do the same with Suharto. (When a Democratic president is compared to Ronald Reagan in the field of promoting

international democracy, and comes in second, it does not speak well for his legacy or the future of his party.)

Throughout the months long recent crisis, both in its formative stages last year, and in its violent, overt phase in May, the Clinton administration basically took a “stand and watch” stance—in public. Even in the week before the fall, the strongest statement issued by Secretary of State Albright was to urge “more dialogue” between the government and its citizens. Even during his *last two days in office*, the White House resisted pleas from human rights groups and Senators like Paul Wellstone to take a stronger stand on the need for Suharto to go. Both Wellstone and Senator John Kerry urged the White House to do just that. The ostensible excuse rendered was that the U.S. had little influence inside the country and anything they did could backfire. This, of course, is hogwash. The U.S. is the prime mover behind the IMF upon which Suharto was reliant upon to bail out his country and save his regime. American corporations form perhaps the single biggest bloc of investors in the nation. By publicly denouncing him and then withholding IMF funds, Clinton could have forced Suharto out much earlier without the riots and the inevitable blood on the streets. Another excuse used by the White House was the lack of a “strong alternative” to Suharto. This is another chimera. What political experience or strength did Corazon Aquino have in Manila politics in 1986? Her lack of “political experience” (in that milieu, read as corruption) was a huge plus in rallying an angry populace toward her in the wake of voter fraud.

There may be a deeper reason why the White House took its weak and rather humiliating stand during Suharto's final days. These both have to do with the Pentagon and who really controls the Indonesian economy. In January of this year, Secretary of Defense Bill Cohen began a tour of Asia. According to the *Los Angeles Times* (1/12/98), Cohen's aim was to show these governments that the U.S. was their friend “in good times and bad” i.e. even with the economic instability caused by the collapse of the rupiah. One of the nations he visited was Indonesia. Cohen was intent on assuring these governments that despite the economic crisis, the U.S. was going to keep the arms flowing into the military forces. The article stated that the Pentagon will explore with U.S. defense companies how “to make sure their security needs are met and programs continue.”

The significance of Cohen's visit (and Albright's tepid denunciations of Suharto and plea for “more dialogue”) was perhaps revealed by Cohen's visit to KOPASSUS headquarters while in Indonesia (*The Nation* 3/30/98). KOPASSUS is the rough equivalent of the U.S. Green Berets or Navy Seals. This special operations group has been trained in recent years by the Marines in counterterrorism, small weapons mastery, reconnaissance, and surveillance. KOPASSUS was helmed by the aforementioned Suharto son-in-law Gen. Prabowo. Prabowo also commands KOSTRAD, the strategic reserve unit anchored in Jakarta. It was this unit that Suharto called out in 1965 to quell the so-called communist rebellion as he used KOSTRAD to pull the rug out from under Sukarno. In other words, they helped install him as eventual dictator. In March, one American official told reporter Allan Naim that regardless of Suharto's fate, U.S. policy was aimed at maintaining control of what happens inside Indonesia through its ties to the army. In fact, one reason that the White House would not back Megawati is that she probably would not accept a vice-president approved by KOSTRAD. Naim also states that all this military aide had been approved by the State Department i.e. Albright. Prabowo, until his recent release, was backed by the U.S.-Indonesian Society, a pro-Suharto front group composed of U.S. corporations and former Pentagon and CIA officials. Cohen reportedly watched KOPASSUS maneuvers for three hours by Prabowo's side.

Cohen probably did not ask Prabowo about some of his troops

more controversial actions in the province of West Papua. KOPASSUS has been accused of torture and murder in that region on behalf of Freeport McMoRan, formerly Freeport Sulphur. Longstanding readers of *Probe* will recall Lisa Pease's milestone articles and Donald Gibson's follow-up on this infamous company (Vol. 3 Nos. 3, and 4, Vol. 4 No.1). One of Suharto's best friends, Mohammed "Bob" Hasan, is a business partner of Suharto's eldest son with Freeport. As Lisa Pease pointed out, Freeport holds the rights to the world's two richest mines, both in West Papua. In 1967, when Suharto's U.S. backed removal of Sukarno was complete, the dictator agreed to give Freeport sole mineral exploration rights in West Papua, along with tax and royalty exemptions. Those rights included the Grasberg and Erstberg copper and gold mines. The estimated metal assets from those rights is 60 billion dollars. Freeport pays the workers at these mines poverty level wages. As a result, though West Papua is probably the wealthiest island in the entire archipelago, its citizens remain among the poorest. At any sign of protest among Freeport workers, KOPASSUS has moved in to snuff out the resistance immediately. In fact, as *World Watch* (May/June 1998) has reported, there is no real line between Freeport security and KOPASSUS. They wrote that, "Freeport security guards, many of them, are also military personnel." Furthering this integration, Freeport has helped fund a base for a Navy Unit Force in the region. Freeport can afford such largesse for its mercenaries. Freeport paid CEO James R. Moffett 41 million in compensation in 1997. Moffett has two staunch allies on Freeport's board: former Secretary of State Henry Kissinger and former Louisiana Senator J. Bennett Johnston.

We think the above does much to explain the restraint of the Indonesian military in the face of the student demonstrations. There seemed to be a split in the ranks between those who backed Suharto until the end (Prabowo), and those who felt Suharto had become a public li-

ability. The latter backed General Wiranto who wished to switch to Habibie, a former Suharto crony. In fact, Naim later reported that Wiranto made it clear to the students that he wished them out of the parliament building when Suharto resigned, or else there could be "another Tianamen Square". Evidently Wiranto did not wish it to appear too obvious that the students had cowed Suharto. They may have thought they could have then installed Megawati. Afterwards, when Prabowo also left, it then appeared that Wiranto, with U.S. backing, was actually managing the behind the scenes actions so that "people power" did not get too democratic. One can only suspect that Wiranto's caution was behind the keep-the-brakes-on stance of the Clinton administration.

But there is one group in Washington backing the natives of West Papua against Freeport. That is the Robert F. Kennedy Memorial Center for Human Rights. On May 27th, that group sent a letter to the new president Habibie, asking him to explore the military's role in the suppression of political freedom in Papua and other areas of Indonesia. The plea specifically mentioned the role of KOPASSUS under Prabowo in support of Freeport's mining operations. The Center mentioned the reported killings, disappearances, torture and detention carried out in Freeport's Grasberg mine area. The letter stated that many of these abuses were carried out in the name of protecting the mining business of Freeport in Indonesia. The letter went on to cite Bobby Kennedy's historic role as his brother's representative in freeing West Papua from the Netherlands in 1962. It ended by asking that RFK's daughter, Kerry Kennedy Cuomo, be allowed to visit the area to study the hu-

FREEPORT SULPHUR COMPANY

R. DUFFY WALL
PUBLIC RELATIONS ASSISTANT

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ADDRESS CORRESPONDENCE
P.O. Box 61520

March 7, 1972

Mr. Clay Shaw
424 Barracks St.
New Orleans, Louisiana 70116

Dear Mr. Shaw:

Thank you for accepting our invitation to be guest speaker at the Press Club of New Orleans Newsmaker Luncheon on Monday, March 27, at noon.

We would like for you to discuss the riverfront development project in which you are involved. Our format for the Luncheons is to allow the speaker about 20 minutes for prepared remarks and then open the meeting for questions from members of the working press.

We look forward to having you with us and if you have any additional questions, please give me a call.

Sincerely,

Duffy Wall

RDW: cbc

Guy Banister's files revealed that Clay Shaw and David Ferrie were flown to Cuba by Freeport Sulphur. Jim Garrison discovered that a Vice President of Freeport was plotting to kill Castro. Freeport lost a valuable nickel plant in Cuba after Castro came to power.

man rights conditions there.

Don't expect much support from the White House to sponsor Kerry Kennedy's visit. Clinton has now become the first president to visit Tianamen Square since the massacre of students there in 1989. He did so in the name of stability and economic progress as a means of helping mold a country's evolutionary path toward democracy. Funny, that sounds like what the *New York Times* was saying about Suharto in 1996. ♦



MICHAEL PAINE AND HIS \$300,000 TRUST FUND

By Barbara LaMonica



The FBI document at right represents part of the background check on Michael Paine conducted during the period of the Warren Commission. The investigation of Michael's finances shows that he was a comparatively wealthy man in 1963, and that once again Lee Harvey Oswald managed to establish himself in an aristocratic circle of patrons.

A trust fund was established for Michael by his maternal grandmother Elise Cabot Forbes, mother of Ruth Forbes Paine Young, Ruth, as we know, was Michael's mother (and a friend of a lover of Allen Dulles'). In addition to being related to the Cabots, Ruth is a great-granddaughter of Ralph Waldo Emerson. The Cabot family, part of the "Boston Brahmin" lineage, is of course the same family as Henry Cabot Lodge, former Senator, Ambassador to the UN, and at the time of the assassination, ambassador to South Vietnam.¹ The Cabot family traditionally held the senate seat from Massachusetts until Henry Cabot Lodge was defeated by John F. Kennedy in 1952. Lodge, the British Brahmin, did not call the young Irishman to congratulate him the night of his upset victory.

Michael had several Cabot cousins including Thomas Dudley Cabot, a former president of the United Fruit Company, and in 1951, a director of the State Department Office of International Security Affairs. In the early sixties, Cabot was president of the Gibraltar Steamship Corporation, which leased land on an uninhabited mound of guano near Honduras named Swan Island. It was on Swan Island, through the Gibraltar Steamship Corporation, that David Phillips established "Radio Swan", a CIA radio station broadcasting to Cuba, Mexico and Central America. During the Bay of Pigs invasion, Radio Swan broadcast instructions in the art of sabotage

in the hopes Cubans would rise up against Castro.

In addition to marriage ties, the Cabot and Forbes families have longstanding commercial ties. Part of the Boston shipping tradition, they originally made their fortunes together in the infamous "triangle trade" of slaves, sugar and rum.² Then in the nineteenth century, these families increased their fortunes through the Chinese opium trade. William H. Forbes, Michael's great-grandfather, was a close associate of the British East India Company, and joined the Board of Directors of the Hong Kong and Shanghai Banks. He later founded the American Bell Telephone Company. Michael's grandfather, Ralph Emerson Forbes, left a fortune of over two million dollars at his death in 1937.

With their commercial ties firmly established in the Near and Far East, the Forbes family became involved in foreign service. William C. Forbes, a great-uncle of Michael Paine, served as Secretary of Commerce and Police, then Vice Governor, and finally Governor General of the Philippines. He was finally removed in 1913 after a stormy administration. One of his more controversial acts was the deportation, without trial, of a large and prosperous group of Chinese merchants who had long been established in Manila. But Cameron Forbes lived to serve another day. In 1914 he was sent back to Manila by President Warren Harding as part of the Woods-Forbes mission to study possible independence for the Philippines. Their final report vetoed a grant of independence. In 1930, Forbes became ambassador to Japan, and in 1935 he was chairman of the American Economic Mission to the Far East. Prior to his death in 1959 he joined his Cabot relatives on the board of United Fruit.

As the reader can see by the accompanying FBI document, Michael Paine was the beneficiary of one trust fund worth \$269,000, quite a sum in 1963. According to another FBI document, Michael and his brother Cameron were left a trust fund of thirty thousand dollars by their paternal grandmother, Clara May Paine. The Paine family goes back to colonial Massachusetts. Michael's great-great-great-grandfather was Robert Treat Paine, speaker of the Massachusetts House of Representatives in 1777 and attorney general of the state from 1778 to 1790. He was actually one of the signers of the Declaration of Independence.

Considering the above gourmet pedigree of both money and politics, it should come as little surprise that the Warren Commission failed to ask Michael Paine any difficult questions about a) what a man with today's equivalent of a million dollar trust was doing living in a lower class suburb of Dallas-Fort Worth, or b) what a Forbes-Cabot heir was doing chumming around with an alleged itinerant Marxist agitator. †

Notes:

1. An example of these families' financial dominance is this popular Boston rhyme:

Hooray, hooray for Boston;
The home of the bean and the cod;
Where the Cabots speak only to the Lodges;
And the Lodges speak only to God

2. From the 1700's to the early 1800's these New England shipping merchants would acquire slaves from Africa, then sell them in the Caribbean where they would buy sugar and molasses. The sugar and molasses would be brought into the states where they it was made into rum which was then brought to Africa to purchase more slaves.

FEDERAL BUREAU OF INVESTIGATION

Date 4/1/64

Mr. DAVID C. FORBES, an Attorney with J. M. Forbes and Company, Property Managers, 199 Washington Street, Boston, Massachusetts, an uncle of MICHAEL RALPH PAINE, furnished the following information:

MICHAEL PAINE inherited money from his maternal grandmother, ELISE CABOT FORBES, who died in 1960. Under the terms of her will, each of her fifteen grandchildren was to receive equal shares of a fund when they reached twenty-one years of age.

The appraised value of MICHAEL PAINE's share of this fund as of January 1, 1963 was \$269,000.00. The fund is held in the name of J. M. Forbes Company who serve as agents under the power of attorney.

Mr. FORBES stated that MICHAEL's money has been reinvested in securities and that the accumulated interest from his account as of January 1, 1963 was \$5500.00 and as of January 1, 1964 was \$3900.00.

During the year, 1963, MICHAEL withdrew \$285.00 a month from his accumulated interest on this account which was paid to him by check drawn on the New England Merchants Bank of Boston where J. M. Forbes Company maintains a checking account. He stated that MICHAEL PAINE has access to this entire account and may withdraw funds at any time he desires.

He also advised that from time to time, MICHAEL PAINE requests additional payments from his account, in which case J. M. Forbes Company as agents will draw additional checks payable to MICHAEL PAINE or to the Irving Bank and Trust Company of Irving, Texas.

He also advised that MICHAEL PAINE is the beneficiary under the terms of a trust fund set up by some other relative on his father's side of the family which pays him around \$500.00 a year and which is handled by FRANCIS H. CUMMINGS as Trustee, who is located at 111 Devonshire Street, Boston, Massachusetts.

He stated he was not aware of any other income accruing to MICHAEL PAINE.

On 4/1/64 at Boston, Massachusetts File # BS 105-10942
By SA DARREL B. CURRIE/maj Date dictated 4/1/64

The White House Tapes: Something Missing?

By Donald Gibson, Ph. D.

In 1997, Simon and Schuster published *Taking Charge: The Johnson White House Tapes, 1963-1964*. Editing and commentary are by Michael R. Beschloss. The book presents transcriptions of White House tapes beginning on the day of President Kennedy's assassination and continuing into 1964. A new and more fully automated taping system had been installed in the White House during President Kennedy's final trip.

The focus of this brief discussion will be quite narrow. We will look only at the way Beschloss (or someone at Simon & Schuster) treated two extremely important phone calls. Full and accurate transcriptions of those calls do provide a crucial part of the story of how the Warren Commission was created. Such transcripts are available at the LBJ Library. The creation of the Commission was a critical part of the initial stage of the cover-up, similar in importance to the activities of certain media entities during the hours following the assassination, and of the Alan Belmont-J. Edgar Hoover controlled FBI operation.

These two phone calls, one on November 24th and the other on the 25th, are the beginning of an effort to get President Lyndon Johnson to a) create a presidential commission to review evidence gathered by the FBI and perhaps do a small investigation, and then to b) issue an official report carrying the full weight of the federal government behind it. LBJ was opposed to this and did not give in until sometime between the afternoon of November 25 and November 28. (Note: For a full description of how the Commission was created, see the author's articles in *Probe*, May-June, 1996, and July-August, 1996, or *Mid-America: An Historical Review*, Fall, 1997.)

The first person to suggest a presidential commission to the White House was Eugene Rostow, Dean of the Yale Law School and a member, with Allen Dulles and John J. McCloy, of the then fairly exclusive Council on Foreign Relations. Rostow began this effort within minutes of Oswald's murder on November 24. Until Oswald was murdered, the Texas authorities had clear priority (although the FBI had partly usurped that priority). Rostow first tried to get Deputy Attorney General Katzenbach to press for a commission, but he became concerned that Katzenbach was not going to act on this so he called Bill Moyers, aide to President Johnson. Rostow got Moyers to promise that he would bring up the idea of a commission with LBJ.

How does Beschloss (or Simon & Schuster) handle this first attempt to get LBJ to create a commission? He doesn't. Incredibly, he decides to exclude this call from the book. An eminent historian has a phone call relating to the creation of the most famous and controversial presidential commission in American history and he just leaves it out. He does include a conversation later in the same afternoon between LBJ and Representative Jack Brooks which is devoted to dinner plans.

A transcript of the other important call related to the creation of the Warren Commission is in the book. Well...sort of. Less than 24 hours after Rostow's calls to Katzenbach and Moyers, quintessential establishment journalist Joe Alsop called and made a more aggressive pitch to President Johnson. This time it was directly to LBJ.

Beschloss presents only part of this other historic phone call. His editing job conceals some of what is significant in this call. Also, he prefaces the transcript with his own comment which supposedly summarizes the meaning of the call. Beschloss writes:

Johnson prods one of the most powerful columnists of the time to turn Washington Post colleagues against the notion of a commission. (p. 32)

This is an extraordinary misrepresentation of this phone call. The purpose of the phone call was to convince Johnson to create a commission. Beschloss gives the call a different purpose and he implies that Johnson made the call and spent most of the call on the matter of the *Washington Post*. In order to do this, you would have to eliminate the first three lines of the transcript which show that Alsop called the President. Then one has to pretend that something that was, at most, secondary was primary. Beschloss does both.

There are a number of instances where significant content is excluded or misrepresented through the editing of this crucial phone conversation. For example, on page thirty-four of the book, about two-thirds of the way down the page, there are three dots at the end of LBJ's statement that if he sets up a commission he will "ruin both procedures" already in place. Those three dots represent sixteen lines spoken by Alsop. Among other things, those lines contain one of the four references in this phone call to former Secretary of State Dean Acheson and an unexplained reference to "things that the FBI says can't be used" in the report on the assassination.

On page thirty-five, six lines down from the top, Alsop is saying "I'm just suggesting." In this line, and in the next, there are three dots inserted. The reader will be mistaken if he or she assumes that those dots represent a pause or some irrelevant comment. They represent about eight lines of Alsop's words. Those words included another important reference to Dean Acheson which clearly indicates that it is Acheson who is pushing for the creation of a commission and that Alsop's phone call is on behalf of that effort.

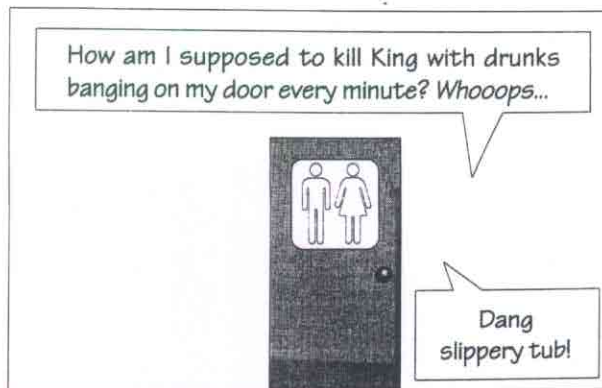
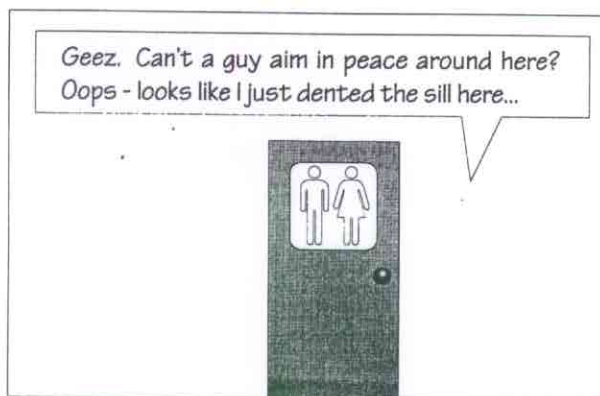
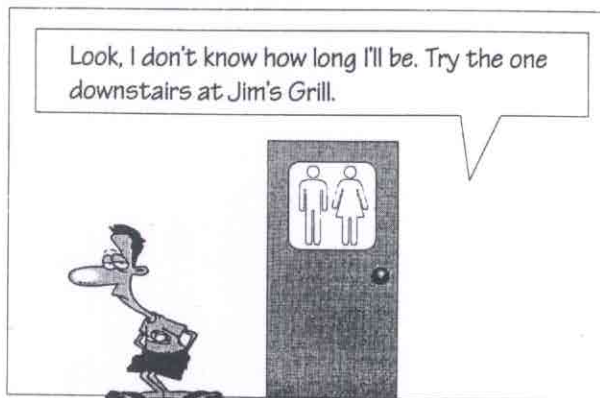
Why would anyone decide to edit out this material? This is the second time that Acheson's name has been edited out and along with Beschloss' misleading prefatory comment, it fundamentally alters this conversation.

Dozens of lines are eliminated near the end of the conversation. Amongst the text that Beschloss deleted is yet another reference to Dean Acheson, wherein Alsop makes one last attempt to get LBJ to promise that he will talk to Acheson. LBJ does promise to do so. Alsop refers to Acheson four times in this call which was made for the purpose of talking LBJ into setting up a presidential commission. Beschloss eliminated three of those references and did other things to make this call into something it was not. There is still enough there to allow the reader to see that Alsop is pushing LBJ to create a commission. To conceal that entirely, Beschloss or Simon & Schuster would have had to have done with Alsop's phone call what they did with Rostow's: exclude it altogether. Is this a case of extreme incompetence and carelessness; or worse? People familiar with these matters will also be familiar with this choice of hypotheses. ♦

By Lisa Pease

The Official Story

James Earl Ray, waiting in a public bathroom to kill Martin Luther King



Gordon Novel: Agent Against Garrison

By Lisa Pease

In past issues of *Probe*, we have learned a great deal more about the Kennedy assassination through the words of Gordon Michael Novel, taken during his deposition in his suit against *Playboy* magazine, a suit which was ultimately thrown out of court on the grounds that his case lacked credibility. He was suing *Playboy* for having published Jim Garrison's charge during his interview that Gordon Novel was CIA. During the course of the deposition, it became obvious that Novel had indeed been involved with the CIA, and thus the determination by the judge.

But in this 1500+ page deposition, there is still much gold to be mined. We have learned from this deposition such bombshells as the fact that Novel was in direct contact with Allen Dulles during the period in which he was working to undermine Garrison. We learned that Guy Banister and Sergio Arcacha Smith worked under David Atlee Phillips in anti-Castro propaganda campaigns and that Phillips had been to Banister's office. We learned that the Houma raid, in which Novel, Banister, Smith, David Ferrie, Layton Martens and others were involved, was a raid to obtain weapons destined for the Bay of Pigs operation.

In this article, you will hear how Novel came to be involved in undermining Garrison, his relationship with Walter Sheridan, and about the famous "Mr. Weiss" letter, including who Mr. Weiss really was.

Novel's Early Episodes

A great deal of Novel's curious background and character is revealed in this transcript. For example, he once worked at Boeing. When he was fired for making too many long distance phone calls, he let out some information that caused the man who fired him to also be fired. He once shot a cop with a pea shooter from a bus. A cop came aboard the bus because an African American kid had refused to sit in the colored only section. The cop pulled the kid off the bus, and a surprisingly civil rights-minded Novel blew a pea at the cop.

Living in Pasadena in the late fifties, he applied and was accepted at the Northrop Aeronautical Institute of Technology. Novel really wanted to learn how to fly jets, but he had had asthma as a child and wasn't allowed to fly, although he belonged to the Naval Air

Reserve. After a few months at Northrop, he was accepted to USC, where he took a course in play writing and studied television production. He also claimed that one of his classmates was the future king of Mozambique. They met because of a mutual interest in auto racing. He applied for a scholarship to the prestigious Pasadena Playhouse and was accepted into their program. The program was aimed at the business side, training producers and writers, but Novel enjoyed the fencing. (Novel was also proficient in archery.) He was there for six months.

In late 1957 and early 1958, Novel wrote "little confidential trash" for *Confidential Magazine*, the magazine owned by Fred and Margaret Mead. He wrote under a pseudonym which he said was provided as a matter of course by the magazine. He described his job in this manner:

They would give you a detective report, a broken-down report and they gave you the times, dates and places, et cetera, and cars, et cetera, and time, and witnesses, whatever they could get, photographs. And then you cheese it up. You just write the dialog into the damn thing.

He returned after these episodes to New Orleans and enrolled at LSU. By the summer of 1959, he decided he had had enough of school, and wanted to strike out on his own. He operated a place called the International Raceway in Hammond, Louisiana out of the Hammond airport, leasing unused runways for drag racing. His two partners in this venture were his good friend Rancier Ehlinger and Salvador Giangrosso.

He also got to know many in the political circles through his evidently well off and well-connected mother. He met Willard Robertson, a man who was to become somewhat of a patron of Novel's. During 1959-1960 Novel became "socially and politically interested in politics." Novel dated his association with Clay Shaw as having begun in this period, 1959 to be exact.

Novel and Garrison

Novel had first met Garrison casually in a bar in 1964. In 1966, Willard Robertson, one of the Truth or Consequences supporters of Garrison, set up a meeting between the two. Novel had told Robertson, who passed the

information to Garrison, that Novel knew that Governor McKeithen and J. Marshall Brown were out to wreck Garrison's chances in an upcoming election by bugging his campaign manager's phone. Garrison wanted to know what Novel knew about bugging and anti-bugging equipment.

In late 1966, Novel heard from Dean Andrews that Garrison was quietly looking into the assassination of President Kennedy. Novel characterized Andrews as working on the investigation with Garrison, at this point, saying Andrews was Garrison's advisor, and that "They were trying to figure out how the plot went." More specifically, Novel reported, using Andrews' own colorful terminology, they wanted to know "Who killed Cock Robin." At that point, Novel thought such speculation was "stupid and inane and pointless," explaining, "I was very aware of the Warren Report and I happened to ascribe to it...I do have a bad habit of believing in the United States Government for better or for worse."

Novel claimed he heard only bits and pieces about Garrison's case between that conversation and the time it exploded onto the front pages of newspapers on February 17, 1967.

Hooking Up With Garrison

About 4:30 p.m. in the afternoon, shortly after the story broke, Novel got a call from Robertson, asking him to come over to his office to talk to a friend who needed help. Savvy Novel asked would it have anything to do with "what is on the front page in the newspapers." Robertson said yes. Novel recounted the following conversation:

"Jim has a problem that you are the only person I know that can take care of it." I said, "What is his problem?" He said, "Well, as you can read by the newspaper, he has decided to reopen the Kennedy investigation and that he has a case, and he says he has promised me that he has all the evidence."

And I said, "Well, what do you need me for then?" He says, "Well, he is very, very worried that the government is going to be bugging his telephones in his offices and what have you." And I said, "That's interesting, that's probable, that makes sense and I wouldn't disagree with it." I said, "In my opinion," I said, "he has got to be crazy." I said, "because if he has the case, he will literally

overthrow the government." That was my exact statement.

Novel claimed he told Robertson at least ten times that he didn't want to get involved, but agreed to listen to Garrison. He met Garrison at the Roosevelt Hotel in New Orleans, and had a long conversation. The following is excerpted from Novel's rendition of this event:

I said, "Well, what do you want me to do?" He says, "I would like you to be my chief of security." And I said, "What price glory." I said, "Because I am interested in getting married and I am strongly considering it and..." I said, "I haven't—if I am going to become involved in something like this, it is going to take up all my time." I said, "I have to be paid."

Well, he says, "Well, I have got to worry about the guys that are working on my staff because I believe the CIA is going to put men in there." This is the first time he said that.

Novel was surprised to learn that his friend Bill Gurvich had joined up with Garrison. "That doesn't sound like Bill Gurvich to me," Novel told Garrison. Garrison also expressed frustration that Dean Andrews had stopped being cooperative.

Novel told how he was taken by Garrison initially, but quickly changed his mind:

See, he started to open up his case on that [referring to the assassination]. Now, that was—he had me convinced, I was skeptical the first hour or the first forty-five minutes, he had me convinced the next hour, and then as he unwound and told me about where he could go with the thing, he then de-convinced me and that is when I became very interested. Because I believe I was other than Gurvich the first person who knew he was going to arrest Shaw.

...Then he went on to tell me about David Ferrie, and in the last hour he started telling me all these weird crackpot schemes of his, and the more he unwound on the principals, that's when his plot made good sense and his schemes made sense, but when he started talking about the actual individuals and he started talking about things that I knew, like telling me that a guy could hypnotize himself and beat a lie detector, I knew he was just absolutely nuts, and that's when we started—that is when I started pushing him to get the rest of his case.

Curiously, Novel seemed to have great faith in his own ability to pass a lie detector test, as he incessantly mentioned his willingness to do so throughout the 1500 plus page deposition!

When Novel claimed that Garrison thought David Ferrie was a superagent of the CIA, Novel added that was "very possible, by the way, but I doubt it." Garrison told Novel that Shaw's role was primarily that of money

handler, and that he believed Ferrie and Arcacha handled the more nuts-and-bolts portions of the operation.

Novel's enthusiasm waned well before the end of this first meeting. "I just couldn't see taking on the entire federal establishment and being his scapegoat to do it." He was also unsure that Garrison could afford to pay him:

I am going to set up security against the FBI, the Secret Service, the CIA, et al., the Internal Revenue et al. against you, what is going to be in it for me from the standpoint of this. If they win and you lose, everybody gets hurt....He says, "I can assure you that you will be paid and compensated for your services in a manner that will make anything that you have done in the past appear to be small." I says, "That would be very difficult for you to achieve."

However, Willard Robertson had raised quite a bit of money to be used to back Garrison. Enough to pique Novel's interest, at any rate.

Novel goes on to tell a story that, several drinks later, Garrison talked of a plan to shoot a dart with atropine or miazine, some form of tranquilizing agent, into David Ferrie in order to kidnap him for the point of working him over to obtain the details of the plot. Given Big Jim's propensity for humor, it is entirely likely he was just recounting an amusing fantasy. Novel, however, appears to have taken him seriously.

Novel says a turning point for him came when Garrison expressed a desire to arrest James Reily of the Reily Coffee Company, where Oswald had worked. Novel thought such a notion was preposterous. His (illogical) explanation was that Reily was "just too big a thief" to be involved in the assassination.

Despite Novel's tale of his near instant dismissal of Garrison's credibility, when Garrison told him later that night that he had only one witness with the guts to testify, Novel said, "Do me and yourself a favor. Don't tell anybody who it is until you are ready to get him to testify."

Novel and the FBI

The conversation with Garrison lasted about five hours, after which Novel returned to his apartment at 336 Exchange Place. When Novel arrived home, as he described it, "it looked like an armada of FBI agents were there....They were hanging out—they were so obvious that it was ridiculous....they were in the doorway. They were across the street in the alley, there was two or three of them dressed up as bums. There was two of them parked in a car. I would say all told there must have been six of them, Mr. Hoover's proudest

there."

Novel knew two of the agents personally: Peter Chase and Roger Bombardier. He also claimed that "the FBI occasionally worked for me." Novel characterized the agents as "hungry wolves" who nonetheless approached him gently, saying, "Hi. What has the Giant [Garrison] got on his mind tonight?" Novel invited them into his place and proceeded to tell them everything his would-be employer had just shared with him. "We joked a lot, we joked a lot. I was friendly with them. I wasn't worried about them...I mean, we called each other like, you know, 'Gordon,' and 'Pete,' and 'Hey, clown,' and things like that." The FBI agents asked how close Novel could get to Garrison, and would Novel help them, to which Novel responded, "Do I have any choice." They replied that they were simply asking him on a "friendly basis" and he replied "Look, I will cooperate. I have got no compunctions against it."

Novel referred to his involvement as looking like that of a "quadruple agent", adding that by then, he was being asked to do some work for Walter Sheridan. Hmm. The FBI, Garrison and Sheridan. That makes three. Who was the fourth party for whom Novel worked?

Novel and Sheridan

"The minute I went to work for him, Mr. Sheridan got me involved in Mr. Garrison's witch hunt from the other side." Novel referred to the arrangement as "clandestine employment" for which he was paid \$500 in cash (by Sheridan at Novel's apartment) and later another \$750 when he was hiding out in Columbus, Ohio. Novel passed Sheridan tapes of conversations between himself and Mr. Robertson. Novel is coy with the lawyers about having Garrison on tape, claiming, "I had tape recordings of Mr. Garrison, but they were turned over to a party, or parties unknown to me at this time." Novel explained further:

As I recall it was in the presence of some other agents. There was a gentleman who was identified to me, but he never showed any credentials. For all I know, he could have worked for you or anybody. But I was told it was all right to turn over certain tape recordings to him.

Novel first met Sheridan in person through Dean Andrews. "Mr. Andrews called me and asked me to come up to his office. He had someone, he said, it was very important that I meet." Novel described the encounter:

"Hi, hello. Tell me everything you know about Garrison. I got to know. Who are you? I am Walter Sheridan from NBC." What does that mean to

continued on page 12

Gordon Novel

continued from page 11

me?

"I am former chief investigator for Senator Robert Kennedy and Bob thinks this is a fraud." [The evidence contradicts Sheridan's assertion in this regard—Eds.]

I said, "You are not the first person to tell me that in the past twenty-four hours." Or whatever period it was.

I said, "A lot of other people seem to ascribe to that theory." He said, "Who in particular?" I said, "The Federal Bureau of Investigation." He said, "What do you know about it?" I said, "I'll tell you what I have told the FBI and what I have told Garrison. Let me know that your credentials are in order."

So he showed me his credentials. I says, "Who do you represent, per se, Mr. Kennedy or NBC?" He said, "I represent the Kennedy family and NBC." ... He said... Bob was the Attorney General during the time that the Warren Report was written, and much of it was under his control [another bogus claim—Eds.], and he knows it to be a fraud." End of story.

I says, well, I told him about Houma. I told him about what I knew about Mr. Garrison. And I said, "What do you want to do?"

He says, "Well, you obviously know more about this thing than anybody walking around right now." I said, "Yeah. So what?" I said, "Mr. Garrison wants me to be his chief of security." He said, "Fine. How would you like to be my chief of security while you are working for Mr. Garrison?"

I said, "Gee, triple agent. How much are you going to pay?" He says, "Well, you will get whatever you want." ... we had an agreement, \$500 a day... I think I worked another day and Walter blew it. Walter Sheridan will admit, he goofed a little bit. I am sure... Well, the plot unfolded at a high rate of speed. Mr. Garrison became aware who Mr. Sheridan was. Mr. Sheridan pretty well spelled out his intentions of why he was in New Orleans to Mr. Garrison's investigators. He told them it was his opinion they were a joke. And we were off to the races.

Mr. Sheridan didn't come there with an open mind to Mr. Garrison's investigation.

During the initial conversation, Sheridan also pumped Novel for information regarding the different Cubans, who did what, and so forth. Whereas Novel had held back much of what he knew from Garrison, he told Sheridan everything. "Walter has a way of getting inside of your heart, and at the same time Walter offered to pick up the phone and get Bobby Kennedy on the phone and things like that, and that was strong enough for me, and I wasn't about to call his bluff. So I told him the truth." Among the things Sheridan wanted

continued on page 34

The following is excerpted from a State Police report on Novel made out to Jim Garrison from officers Thomas Casso and John J. Buccola dated April 1, 1967.

SUBJECT: Special Investigation, 3-9-67 through 4-1-67

... I von also explained other phases of this case and when the name of Gordon Novel, W/M, came up, Sgt. Buccola advised that on March 7, 1967, Gordon Novel, who is an acquaintance of Sgt. Buccola, called him at his residence asking him if he (Buccola) was assigned to the case and what did he know about the case. Sgt. Buccola advised Novel that he was not on the case and knew nothing about it. Novel advised Buccola that he soon would be and that he (Novel) would appreciate being called when this happened, as Novel was interested in this case.

We were advised by Louis I von to concentrate on Shaw and any phase of the case on which we could uncover any information. From March 9 through March 21, 1967, we were unable to locate Clay Shaw but the following was accomplished. During this period it was brought to our attention that Gordon Novel attempted to obtain the names and addresses of the two subjects who were arrested with Layton Martens from one of Desk Sergeants for the sum of \$100. With this information, the undersigned officers went to the Bureau of Identification in New Orleans; obtained a mug shot of Layton Martens, also mug shots and rap sheets of the two subjects arrested with him on 8-30-61, one Andrew Blackmon and one Melvin Seeling.

Sgt. Buccola then called Gordon Novel and agreed to meet him in his establishment, the Jamaican Village, 800 North Rampart Street, New Orleans, on Friday night, March 10, 1967.

... While in the Jamaican Village with Novel, Sgt. Buccola asked Novel how he knew that he (Buccola) would be assigned to the case even before assigned. Novel stated that he had connections everywhere. Sgt. Buccola then asked Novel to lend him a miniature tape recorder (sic)... Novel stated that all of his recorders were working full-time at this time but that maybe something could be done for a little information... The information Novel wanted in exchange for the tape recorder was the mug shots and names and addresses of the two men arrested with Martens and the exact details of our part in the investigation. At this time I showed him a mug shot of Layton Martens and Novel stated he knew Martens but studied at length the picture and the information contained on the back of the mug shot. He then asked where the mug shots of the two men arrested with Martens were and I informed him that I had left those at home but would show them to him when he delivered the tape recorder... Novel then started pumping me as to why my partner and I were not in Lafayette and since Novel seemed to know more about this case than I did, I advised him that we had to have some time off and that I was not interested in talking shop. Novel claimed that he was working with the District Attorney (Garrison) and that he had immunity from J. Edgar Hoover, Garrison, the CIA and anyone else connected with this investigation. Novel asked me, "When Garrison opened up this case to you, weren't you amazed to hear about the second Oswald?", to which I stated, "Stranger things have happened."

While Novel was pumping me he asked what I thought about "the student" ducking back to college when Ferris was killed (Novel did not say "died" but specifically said "killed")... Novel stated he knew all of the people involved at the time they were questioned by the CIA and FBI. I asked him why he became involved with these people and he stated "we were making money" ... Novel also intimated he knew the exact whereabouts of Clay Shaw and was amused that Garrison had Shaw under observation. ➔

He's Barararack!

The Return of Gerald Posner

By Jim DiEugenio

This past March, April and May, Gerald Posner did a mini-version rerun of what he had done in 1993. Five years ago, Posner wrote one of the most one-sided, monomaniacal books ever on the assassination of John F. Kennedy. *Case Closed* was given a huge publicity build-up and, when released, Posner was allotted more public appearances on major media outlets than any author in recent memory, save Seymour Hersh in 1997. In the meantime, Posner has become a regular name at publications like the *New York Times* and *Time* magazine. In the latter publication, early last year, the first announcements came that Posner was at work on a book on the King assassination. No surprise, it was timed to appear at the time of the thirtieth anniversary of King's murder. Although Posner did not get quite as big a launch this time as before, he still appeared with Dan Rather on *48 Hours* (3/24/98), and had a large spread in *Newsweek* (4/6/98). The latter was interesting in that it coupled an excerpt from Posner's book with rather unenthusiastic articles about King's legacy and the lives and characters of his children. The phenomenon that *Probe* detailed about the JFK assassination—a posthumous character attack to go with a cover-up about the original murder—was now transmuted and crystallized in the MLK case.

Killing the Dream is pretty much drawn from the same mold as *Case Closed*.

Posner shows the same type of "convict at any cost" attitude, the same quoting of clearly biased resources, the same use of character assassination on the supposed perpetrator, the same heavy-handed maneuvering of the evidence to rig the deck. For instance, in his public appearances, Posner's version of candor is admitting that certain government agencies had surveillance on King. Sending King a note with a thinly veiled threat to commit suicide or be sexually blackmailed—which is what the FBI did to King—qualifies as a bit more than intelligence surveillance. Yet, no commentator I listened to challenged Posner on this point. This included the supposedly liberal Marc Cooper of the Los Angeles Pacifica out-

let, KPFF. Shockingly, or not, two of the featured voices on National Public Radio on the thirtieth anniversary of King's death were Posner and Robert Blakey.

How single-minded is single-minded? In an interview in the *San Jose Mercury News* (4/26/98), reporter Jeff Guinn asked Posner if Ray had actually killed King. Posner's answer was, to put it lightly, untouched with ambiguity: "There is no question. Ray was the shooter. That's how I see the evidence, how anybody objective has to see the evidence."

Such metaphysical certainty from a man who writes about scouring the Toronto Sun newspaper for mentions of Ray in 1967 when that newspaper did not exist until 1971. Ditto for research Posner did at the so-called Canadian Bureau of Vital Statistics, which also is non-existent.

Posner went on to use Robert Blakey's HSCA version of a motive, the Ray brothers were after a \$50,000 bounty put up by a St. Louis racist. As Bill Pepper and others have noted it is odd that, if this was the motive, there exists no evidence to indicate that Ray or his brothers tried to collect the money. Another oddity here is that one of the people who Posner thanks in his book is none other than David Lifton. Back in 1977, Lifton, with Jeff Cohen, wrote an article for *New Times*. It (rather weakly) postulated Ray as a racist and his brother Jerry Ray as a co-conspirator in a rightwing plot. This article caught the eye of Blakey and the HSCA and Lifton's ideas ended up influencing the final product of their Final

Report. Posner acknowledges that his debt to Lifton is a bit odd, but makes no more of it than that. We wonder what Lifton would think of another comment from that interview which is a pure Posnerism:

The murders of Martin Luther King and John Kennedy did not do justice to the status of the victims. Many people want something meatier to lend extra weight to how they died. In each case, a conspiracy does that nicely. Look, the facts are that King and Kennedy were killed by sociopathic losers....There were no intricate assassination plots. None.

Such metaphysical certainty from a man who writes about scouring the *Toronto Sun* newspaper for mentions of Ray in 1967 when that newspaper did not exist until 1971. Ditto for research Posner did at the so-called Canadian Bureau of Vital Statistics, which also is non-existent.

No surprise, the symphony of praise also included the *New York Times* and the *Memphis Commercial Appeal*. The former review was written by Anthony Lewis, their liberal commentator who also praised the Warren Commission Report when it was first issued. The latter's review was penned by Marc Ferrusquia who was that newspaper's point man on the effort by Bill Pepper to revive the King case. The praise for Posner extends through the major media to major political figures. In June of last year, Governor Frank Keating of Oklahoma praised Posner's earlier work on the JFK case as "masterful".

Masterful? Let us never forget the sworn affidavit of Roger McCarthy of Failure Analysis Associates. His company did work for the ABA when they did their mock trial of Oswald in San Francisco in 1992. McCarthy's firm provided experts and analysis for both the defense and prosecution. In his affidavit, McCarthy writes: "There was not a conclusion reached by FaAA as a company concerning the issues of the assassination. Each of our teams did its best within the factual, time, and resource constraints to assist the two eminent trial lawyer teams to resolve the key issues

continued on page 14

The Return of Gerald Posner

continued from page 13

for their respective sides." Significantly, he also added, "...there are gaps in the factual record that our analysis was unable to bridge." Finally, the affidavit concludes:

Subsequent to our presentation one Gerald Posner contacted Dr. Robert Piziali, the leader of the prosecution team, and requested copies of the prosecution material, but not defense material, which we provided. Eventually Random House published a book by Mr. Posner entitled *Case Closed*. While Mr. Posner acknowledges in the book the material from Failure Analysis Associates he does not mention or acknowledge the ABA, or mention or acknowledge that there was additional material prepared by FaAA for the defense. Incredibly, Mr. Posner makes no mention of the fact that the mock jury that heard and saw the technical material that he believes is so persuasive and "closed" the case, but which also saw the FaAA material prepared for the defense, could not reach a verdict.

In early televised interviews of Mr. Posner that were witnessed by FaAA staff, Mr. Posner made no attempt to correct any supposition by a questioner that the FaAA analytical work was performed at his request for him, and certainly left quite the opposite impression.

Another point, reviewers of Posner's recent whitewash do not mention is that in the earlier work, Posner used Professor David Wrone as an historian who is aghast at some of the more irresponsible efforts of the critical community. What Posner, nor any of his reviewers, add is that Wrone was also aghast at Posner's book when it originally came out. Wrone wrote a merciless review for *The Journal of Southern History* (Vol. 6 #1). In the first paragraph, Wrone stated,

"...[Posner's] book is so theory driven, so rife with speculation, and so frequently unable to conform his text with the factual content in his sources that it stands as one of the stellar instances of irresponsible publishing on this subject."

He later added, "Massive numbers of factual errors suffuse the book, which make it a veritable minefield....Posner often presents the opposite of what the evidence says."

None of the reviewers mentioned another problem with *Case Closed*: the interview denials. Some of the people who Posner sources in his footnotes deny ever talking to him. For instance, when Peter Scott phoned Carlos Bringuier in New Orleans to confirm that he told Posner what Posner quoted him as saying, Bringuier said he didn't recall ever talking to the author. Gary Aguilar wrote a letter to the *Federal Bar News & Journal* noting this

M.D. Posner testified that they confirmed to him that they had changed their minds about the original location they had given for Kennedy's skull wound....Posner informed the U.S. Congress that the pathologists told him that they had erred [in their original autopsy report]—the [head]wound was 10 centimeters higher, at the top rear of the skull. On March 30, 1994, I called both Drs. Humes and Boswell. Both physicians told me that they had not changed their minds about Kennedy's wounds at all. They stood by their statements...which contradicted Posner. Startlingly, Dr. Boswell told me that he has never spoken with Posner.

As John Newman has noted, one of the most incredible things about Posner's book was its bombastic title. How could anyone write a book so pretentiously titled when the millions of documents sealed for decades were just about to be released? Couldn't there be just a few interesting morsels in there that could have some effect on the Warren Commission's conclusions? (Vincent Bugliosi's upcoming *Oswald-did-it* whitewash has a similar title, *Final Verdict*.) One notorious presumption made by Posner was the statement that Oswald did not know David Ferrie. This, of course, is a real problem for the Oswald-did-it crowd since it opens up a Pandora's box of weird associations for that supposed Marxist loner Oswald. It was a box Posner did not want to lift the top off of. Very shortly after the book's publication, Posner had to eat those words when PBS and *Frontline* produced a photo of the two in the Civil Air Patrol. The bumbling Posner had to recover some

face, so he told another whopper. In response to a negative review of his book which used the photo, Posner replied that the picture could be a fake since two such photos secured by Jim Garrison depicting Oswald with Ferrie had proved to be fakes also. First of all, there is no evidence that Garrison ever had photos of Oswald and Ferrie in the CAP. Secondly, the photos which he *did* have appear to show Ferrie with Shaw, not Ferrie with Oswald. Third, no one has ever produced evidence to demonstrate that *those* particular photos are forgeries.

But Posner did not have to go photograph

The following is from the second page of an affidavit by Henry Burnell Clark, dated 9/12/67, discussing the presence of Oswald, Ferrie and Clay Shaw in Clinton, Louisiana in the Summer of 1963:

...During the same period of time in the summer of 1963, after the conclusion of the picketing demonstrations and during the attempted voting registration of the Negroes, I stepped out in front of the Stewart & Carroll Store and saw a man whom I noticed particularly because of his unusual hair.

It was bushy and stood up [in] all directions on his head like he had been out on a drunk all night. He walked up to the pay telephone on the street and stood there for a short while. I do not know whether he made a telephone call or not. From pictures shown to me this date I can state this man who went to the telephone booth was the man wearing over his chest the label NEW ORLEANS, LA 107062 with the numbers under it reading 2 16 62 [an arrest photo of David Ferrie] or it was his twin brother. I have marked with my signature the aforementioned photograph as that of the man who walked past me in Clinton and stood by the public telephone that day.

Thus signed and executed of the own free will and volition and after a due reading of the whole by appearer on the date and place aforesaid:

/s/ Henry Burnell Clark

Sworn to and subscribed before me, notary on the 12th Day of September, 1967 at Clinton, Louisiana.

/s/ William F. Kline

Notary Public

East Feliciana Parish, Louisiana

phenomenon (Vol. 41 #5):

I called [James] Tague on April 30, 1994, and he told me....that he has never spoken with Posner, though the implication of three references in *Case Closed* is that Posner did speak with him on two successive days...."

Then there is the possibility that Posner may have deceived Congress. To quote Aguilar's letter again:

On November 17, 1993 before the House Committee on Government Operations, Posner reported that he had interviewed two of Kennedy's pathologists, James Humes, M.D. and J. Thornton Boswell,

hunting to know that what he had said about Ferrie and Oswald was false. He just had to go to New Orleans and talk to some of Ferrie's old CAP cadets. Or, he could have talked to some of the HSCA New Orleans investigators still living in New Orleans like L. J. Delsa and Bob Buras (see the accompanying excerpted document). They could have told him that the presumption was patently false. Or he could have just waited to publish his book in 1994 when some of the following documents were released. But then of course, the book would have appeared too late to dominate the broadcast waves on the thirtieth anniversary of JFK's murder. Which was probably the real point all along. What makes this above assertion quite tenable is that on March 28, 1998 the *New York Times* allowed the masterful Posner to write an editorial for the 30th anniversary of King's death. In it, Posner asked for the release of the government's King assassination files. Is Posner now an advocate of the free

As John Newman has noted, one of the most incredible things about Posner's book was its bombastic title. How could anyone write a book so pretentiously titled when the millions of documents sealed for decades were just about to be released?

flow of information? Does he really want to spend years going through millions of documents and cull out the wheat from the chaff? Does he wish to vigorously challenge the official version of some of our history? Of course not. After saying that the JFK Act of 1992 has released plenty of pages of new files, Posner's *New York Times* column continued:

While nothing has contradicted the original Warren Commission finding that Lee Harvey Oswald was the sole gunman, the files have filled in many details for historians and eliminated much of the suspicion that the government was hiding something nefarious.

Are we to conclude that Posner has read the 4 million pages now declassified at the National Archives? From the record adduced above, could we trust him if he had read them? But further, since publishing *Case Closed* in 1993, Posner has written two other non-fiction books. Besides the King book, he did a biography of Ross Perot timed for the 1996 election. Assuming he worked on the Perot book at least through 1995 and 1996, and the King book in 1997 and early 1998, just when did he have the time to go through the millions of newly declassified pages? I think we all know the answer to that question. Unfortunately, so does the *New York Times*. ♦

Ferrie and Oswald

"There is no credible evidence that Oswald knew...David Ferrie"

(p. 148 of 1993 hardcover edition of Gerald Posner's book *Case Closed*.)

Is that so? Decide for yourself.

KENNEDY

SELECT COMMITTEE ON ASSASSINATIONS

Name Jerry Paradis Date 12/15/78 Time 3:20
Address New Orleans law firm Place by phone 504/###-####

Interview:

I called Paradis to discuss his involvement with David Ferrie and the CAP in New Orleans during the 1960s.

I told him that we had seen his name in Ferrie's FBI interview from November 28, 1963, and that Ferrie had stated that Paradis was the commander or instructor of the CAP unit during the period in which Ferrie was associated with it in around 1964-65; and that Paradis had been the instructor during the period in which Oswald was alleged to have attended. In the FBI interview, Ferrie had recommended Paradis as the person who could tell the Bureau that Oswald and himself were never in the same unit at the same time.

I asked Paradis if he was ever interviewed by the Bureau back then and he stated that he had not; noting that he has never previously been questioned about any of it.

Paradis, now a corporate attorney, stated that "Oswald and Ferrie were in the unit together. I know they were because I was there." He stated that "I specifically remember Oswald. I can remember him clearly, and Ferrie was heading the unit then. I'm not saying that they may have been there together, I'm saying it is a certainty."

Paradis stated that he like (sic) Oswald, but that he was quiet. He stated that he rarely discussed anything with Oswald except CAP business and instructions. He said: "I really only talked about flying with Lee." He further stated that he was in the CAP for a couple years, but that he saw Oswald at the meetings for only a few weeks or months. He said: "I can't say how many times he came to the meetings, but he was there quite a few times." He stated that he would guess "at least ten or fifteen meetings." He stated that Ferrie was present at all of these meetings, saying that Ferrie never missed coming "and was always there."

He stated that he and Ferrie became fairly good friends and that he respected Ferrie, though he was somewhat unusual.

Paradis stated that he does not know of any relationship between Ferrie and Oswald other than their contact at the CAP meetings, and recalls that there was nothing unusual about their relationship there.

He stated that Ferrie was a "fairly stern, but generally likable" guy, and that the unit primarily studied aerodynamics, navigation, and meteorology.

continued on page 16

Ferrie and Oswald

continued from page 15

He stated that these meeting with Ferrie and Oswald at the CAP occurred at New Orleans Lakefront (sic) Airport, and that Ferrie and some of the others occasionally went to Moissant airport. He stated that Ferrie later left the Lakefront airport and worked only at Moissant with the CAP.

He stated that the unit used to meet twice a week, on Friday nights and on Sunday afternoon.

He stated that he always thought it was "funny" that Garrison's people never interviewed him about the CAP; he stated that he was also a personal acquaintance of Garrison's aide, James Alcock, but never discussed the case with him.

He stated that he (sic) last saw Ferrie sometime in the early 60s after Ferrie was fired by Eastern for homosexual activity. He stated that "Ferrie was really bitter about that. A very bitter guy."

I asked him if he was aware that Ferrie worked for Marcello, and he stated that he had never heard that before, and was surprised.

Paradis again repeated that he has been surprised that the FBI never interviewed him, and stated that "I sure could have told them when Oswald and Ferrie were in the CAP. I could have given them what they wanted." He also repeated that he does not believe the relationship between Oswald and Ferrie "meant anything really," and does not think that Ferrie "was a bad guy or anything like that."

Interviewer Signature _____

Typed Signature Mike Ewing

Date transcribed 12/16/78

SELECT COMMITTEE ON ASSASSINATIONS

KENNEDY

Name Anthony Atzenhoffer

Date 1/2/79 Time 11:45

Address Gretna, Louisiana

Place by phone: 505/_____

Interview:

I called Mr. Atzenhoffer to discuss several points which were not entirely clear from the report of Bob Buras's interview with him in October.

Atzenhoffer stated that he believes that Ferrie was in fact instructing the Moissant CAP unit at the time that Oswald was a member. Atzenhoffer stated "I can't recall seeing the two of them together. I don't have that detailed a memory. But I'm sure they were there together at the same time." Atzenhoffer stated that Oswald was very quiet and was mainly friendly with Ed Voebel, who Atzenhoffer also knew.

Atzenhoffer stated that "Ferrie was always around the unit during those days. I can't say that I know anything about Ferrie and Oswald being together anywhere else except at the meetings."

Atzenhoffer also stated that the "experiments" that Ferrie tried to recruit CAP cadets for were supposedly to be conducted by the Medical School of Tulane University.

Interviewer Signature _____

Typed Signature Mike Ewing

Date transcribed Jan 3, 1979

The following is excerpted from an interview of Mr. Robert Boylston conducted by HSCA field investigators Bob Buras and L. J. Delsa on October 17, 1978 at the Hilton Hotel in New Orleans.

DAVE FERRIE paid [him] over one thousand dollars for tuition at the University of Loyola in New Orleans and never once asked for it back or even referred to it....

....Boylston remembers Ferrie over the years as always talking about secret orders of a military or intelligence nature. He was usually saying things to impress others of his knowledge. He talked of knowledge of some secret order during the Lebanon Crisis in 1959. In 1960 he knew of secret orders about Cuba. Dave once was wounded and stated that he was shot over Cuba in 60 or 61. Around 1961 Ferrie talked a great deal about a "group" who knew what was going on in this country and was going to take care of it....

FERRIE did know a lot of people and when the CAPC Drill Team went to National Competition Boylston, John Irion and Jim Graffeo went to Dallas, Tex. three days in advance. Ferrie gave them a name to call when they got there and when they talked to this man (unknown) he had reservations for them at a motel. Ferrie later flew back on an Air Force C-47. Boylston remembers being a little surprised when the Warren Commission said that Ferrie didn't have contacts in Dallas. The man that set up the motel and the people that got him the C-47 were personal contacts as far as Boylston could ascertain. Ferrie would motivate people by flattery and discipline and always had an effect on the people around him. Boylston was warned by Ferrie not to ever talk about the training going on over the Lake or anywhere no matter what happened. Ferrie said not to talk about it even if "it" didn't go. Boylston didn't know what "it" was and to this day don't (sic) want to know. He felt then and still feels that some of the people around Ferrie and Ferrie were not playing when they talked about "taking care of something".

FEDERAL BUREAU OF INVESTIGATION

Date 11/27/63

The following FBI document was declassified before Posner started his book on the JFK case.

ROY MC COY, 108 Fourth Street, Chalmette, Louisiana, telephonically contacted the New Orleans office of the FBI and advised that his wife had received a telephone call from DAVID FERRIE during the afternoon of November 27, 1963.

Mr. MC COY said that he was not at home when FERRIE called but according to his wife, FERRIE was interested in any photographs which MC COY might have in his possession. These photographs were in reference to MC COY's former association with the Civil Air Patrol of which he was a member during the early 1950's. He said the meetings of his group were held at the New Orleans Airport and that for a time, DAVID FERRIE was the head of this unit. FERRIE also asked MRS. MC COY whether the name of OSWALD was familiar to her.

Mr. MC COY said that he had not returned FERRIE's call but that in conversations with his wife, it was her impression that FERRIE was seeking information about OSWALD and photographs of OSWALD to show that he was not acquainted with OSWALD.

Mr. MC COY said that to the best of his recollection, Oswald never attended any Civil Air Patrol meeting at the New Orleans Airport nor did he ever meet OSWALD.

On 11/27/63 at New Orleans, Louisiana File # NO 89-69
By SA STEPHEN M. CALLENDER Date dictated 11/27/63

M E M O R A N D U M

March 1, 1968

TO: Jim Garrison, District Attorney

FROM: Andrew J. Sciambra, Assistant District Attorney

RE: DAVID FERRIE

Today I talked to MRS. DORIS EAMES in regard to her meeting with DAVID FERRIE. It was reported to us by MARY LEE LASAVIA that MRS. EAMES had said that DAVID FERRIE came to see her in regards to where the OSWALDS were right after OSWALD left Texas. MRS. EAMES today said that DAVID FERRIE did come to her house but it was not until after the assassination and he was not looking for the OSWALDS but only wanted to know if MRS. EAMES had any information regarding LEE HARVEY OSWALD's library card. MRS. EAMES had stated that he had seen OSWALD in the public library and FERRIE wanted to know if MR. EAMES had also seen OSWALD's library card and, if he had he wanted to know whose library card OSWALD had. MRS. EAMES also said that she cannot ever remember seeing anybody with the OSWALDS or go to the OSWALD'S home. She said that they were loners and didn't associate with anybody.

[Doris Eames was Oswald's neighbor while in New Orleans in 1963.]

Through the photograph adduced by Frontline, and the documents preceding the above one, we now know that the last line of the above FBI report is wrong. Ferrie knew exactly what he was doing hunting down any photos of he and his longtime friend Lee Harvey Oswald. After all, **how does one explain a member of the Fair Play for Cuba Committee associating with a CIA contract agent involved with the Bay of Pigs, Operation MONGOOSE, and paramilitary training for Cuban exiles?**

Posner also tried to state that even if there was a link between Ferrie and Oswald through the CAP in the fifties, there was nothing between them in 1963. **Then why is the following report in Garrison's files?**

JEREMY GUNN AT STANFORD UNIVERSITY

Transcription by Paul Ruiz
Tape provided by Gary Aguilar

In our March-April issue of Probe, there was a rather discordant exchange of letters between Jim DiEugenio and the Review Board. Tom Samoluk felt that we had mischaracterized the work of the board by criticizing some of its members' public comments. We tried to stress the point that we felt there was a difference between the attitudes of four of the board members and the actual staff of the board. For that reason, we have decided to present Chief Counsel Jeremy Gunn's public comments made in May of this year. We think it dramatizes the point that we were trying to make in that exchange of letters and gives a much more objective view of what the board is actually doing.

GUNN: What I'd like to do is talk to you about three different areas that I have been working in and suggest three sorts of themes for you. The first one is the story of the assassination itself and the legacy of distrust that story has left.

The second one is to talk a little bit about the work of the agency that I work for. It's an independent agency of the federal government. It was created in 1992, and it's slated to go out of business in September of this year. So we've just about completed our work.

And then the third thing I'd like to look at briefly is what the records that we have been able to declassify and release to the public tell us about history, what they tell us about the Kennedy assassination.

On November 29, a week after the assassination, President Johnson appointed a commission to investigate the assassination. That commission, after it issued its final report, went out of business and classified many of the records that it had used to create its story. So they released some records. They classified other records and put them into deep storage.

The American people were not satisfied with the answer that the Warren Commission gave. I think now the figure is approximately 70 to 80 percent of the people of the country, this country, believe that there was a conspiracy to assassinate President Kennedy.

There were several other inquiries that were sponsored by the U.S. government to look into the story of the assassination. There was the Clark Panel. There was a military review in 1966. Jim Garrison, as you know, particularly if you've seen the movie "JFK," did an investigation into the assassination himself.

And actually, I have a little bit of timely news to report on that. You remember Kevin Costner, who was really Jim Garrison in the movie—how many of you have seen the movie? Widely seen. So you know—all know who Kevin Costner was.

During the earlier phase in the board's work, we received a promise from Harry Connick, Sr., the father of you-know-whom, that he would give us the—he's the district attorney of New Orleans. And he promised that he would give us the papers from the New Orleans district attorney's office from the time of the Garrison investigation.

He then later changed his mind and decided not to give us those records. But he said that he wanted nothing further to do with this. So we subpoenaed the records, and we got the district court in Louisiana to agree to give us those records....

Harry Connick was not satisfied with that answer, so he appealed it to the Fifth Circuit. And the Fifth Circuit looked over the case, went through a long briefing process. And the Fifth Circuit ended up agreeing with us as well, and ordered Harry Connick to turn the papers over.

Harry Connick, Sr.—as opposed to Harry Connick, singer—Harry Connick, Sr. decided to file petition for cert in the U.S. Supreme

Court. And today, as a matter of fact, this morning, one of the distractions that I had this morning was the Supreme Court denied cert in that case, meaning that we now will be getting into the National Archives all of the original records from Jim Garrison's investigation and prosecution of Clay Shaw.

There are other committees that have looked into this issue as well. Senator Schweiker, who later worked for the Church Committee, did an investigation into the assassination. Then when that ended up not proving successful, the House Select Committee on Assassinations was created in the late 1970s. And they, too, looked at the question of the assassination.

But what we have found is that with each of these prior investigations, there was a legacy of distrust and doubt that lingered over the Kennedy assassination. Most people in the United States, again, between 70 and 80 percent of the people, believe that there was a conspiracy to kill the president.

Well, let's go back to the Warren Commission. Look at some of the things that they did and see some of the very early problems that we have. On December 9 of 1963, the FBI believed that it had completed its investigation into the assassination. They gave a report to the Warren Commission.

It was kind of interesting to see what the members of the Warren Commission thought about that apparently, or supposedly conclusive investigation that had been completed by J. Edgar Hoover and his friends.

In the discussion about the report that had been issued by the FBI, in then-secret, now it's open testimony, Hale Boggs, one of the members of the Warren Commission, says, "There's nothing in this FBI report about Governor Connally." Earl Warren says, "No." Cooper—John Sherman Cooper—and whether or not they found any bullets in him.

John J. McCloy then says, "This bullet business leaves me confused." Earl Warren says, "It's totally inconclusive." Senator Russell says, "They couldn't find where one bullet came out that struck the president. Yet they found a bullet in the stretcher."

So you have commission members, who have just read the FBI's conclusive report on this, and they can't understand what's going on, what kind of bullets hit President Kennedy, where they went, what the trajectory is. And this is the report of the finest investigative body in the United States, the FBI. It had devoted a massive amount of resources to it within the few weeks after the assassination.

Then John J. McCloy says, referring to Jackie Kennedy, "She's the chief witness as to

how those bullets hit her husband." That's an important thing. She was the person sitting closest to President Kennedy. So she would be the one who would have pretty good evidence about this. And the Warren Commission realized that. They understood it, and they pointed her out as the lead witness.

Then McCloy says, "This is looming up as the most confusing thing we've got—how these bullets hit the president, what happened." So they go on in this sort of discussion, and they're a little bit confused about what's going on. So they don't accept what the FBI has told them.

The next session of the Warren Commission, they now have the autopsy report from the doctors. Now if you're—if you do criminal trials, if you do murders, homicide cases, you'll know that probably the medical evidence is the single most important body of evidence that you need to have. And you need to get your medical evidence lined up the right way.

Well, listen to what the commission members say after they finally received the autopsy report. So here we have, again, secret testimony, secret discussions in the Warren Commission. This is from January 21, 1964.

John J. McCloy says, "Let's find out about these wounds. It was just as confusing now as could be. It left my mind muddy as to what really did happen. Why did the FBI report come out with something which isn't consistent with the autopsy when we finally see the autopsy report?"

Commission members, already in January 1964, see a disparity between what the FBI has said about the assassination and what they—how the FBI has analyzed it and what the autopsy report is of the doctors. The commission members knew that there was a problem there.

Well, going on to the next—the third commission meeting. The first one they were talking about a problem with the bullets. The second one, they're talking about the problem with the medical evidence. The third one they get to problems with Oswald. And it's very nice what they did to help me organize my little talk today.

It had been reported in early January, January of 1964, that Lee Harvey Oswald was an FBI informant. That would change the whole nature what's going on here, that we have not this lone gunman who doesn't have any connection with the U.S. government, but somebody who may have been an FBI informant. Now that was rumor that came out. And the Warren Commission got very excited, nervous, interested in this.

The FBI, or the Warren Commission examines this question of whether Oswald was an informant or not. And they asked themselves the question, how would we know whether Oswald was an informant for the FBI?

And then they ask Allen Dulles, former director of the CIA, how they would know whether Oswald had been a CIA agent. And Allen Dulles says, "Well, you wouldn't know." And they said, well, wouldn't the director of CIA tell us this information? And Allen Dulles says, "Well, if I were the director of CIA, I wouldn't do it."

And they say, well, how would you find out? And Allen Dulles, the director of CIA, says, "The only way you would find that out

And then they ask Allen Dulles, former director of the CIA, how they would know whether Oswald had been a CIA agent. And Allen Dulles says, "Well, you wouldn't know." And they said, well, wouldn't the director of CIA tell us this information? And Allen Dulles says, "Well, if I were the director of CIA, I wouldn't do it."

is if the president of the United States asks the Director of Central Intelligence, was this guy a CIA agent. Then you might get the right answer."

So, with these first three meetings, then, of the Warren Commission, we have three of the big problems of the Kennedy assassination. We have confusing ballistics evidence. We have the confusing story of the medical evidence. And we have the confusing story of who was Lee Harvey Oswald, and how much can we trust the U.S. government to say what it knew about Oswald?

These three problems were present right from the beginning. Now what I'll suggest to you today, and I will avoid belaboring the issue, is at the time the Warren Commission finished its job, it took those questions and it gave answers to those questions. And then it took all of the evidence that was inconsistent with the answers that they had published and

they classified it, buried it, put it away.

Now when the Warren Commission report came out, there was doubt in the country about whether this was the true story or not. But I think one of the great tragedies of the Warren Commission, and the legacy of the Warren Commission is that they were not completely candid about what they knew the problems were.

They wanted to write something, in my opinion, that smoothed over the issues so as not to trouble peoples' minds about this. So the Warren Commission does not release the FBI report. That remains classified, after the Warren Commission goes out of business. The FBI report, that conflicts with the autopsy report, that conflicts with other information when J.—by the time—when J. Edgar Hoover died, he still believed his version of what happened in Dealey Plaza, not the version that the Warren Commission came up with.

So there were problems—there were problems right from the beginning. We end up having, I think, one of the most peculiar and interesting problems with Lee Harvey Oswald. I mentioned that there are at least three problems—the medical evidence, the ballistics evidence, and the Oswald problem.

Who was Lee Harvey Oswald? He tells a very—there is a very interesting story....

Oswald was a little bit of an enigma. The Warren Commission analyzes Oswald as if he is a loner, somebody who is a drifter, is someone who is not of any particular consequence. Well, that's one way that you can understand Lee Harvey Oswald. And there is certainly some evidence to support that.

But then there's some evidence that's a little bit different from that as well. And a way that the Warren Commission could have been candid is to say what that other evidence was. A way to, I think, so the legacy of mistrust is to present one sanitized version of him.

...But let's just look at a couple of the things that Lee Harvey Oswald did. Now when he's 17 years old, he's a member of the Civil Air Patrol in New Orleans, which is a somewhat right-wing group in New Orleans.

Now at the time that Oswald is a member of the Civil Air Patrol, he also claims to be a Marxist. Now that, on its face, is a little bit odd. Now it could be that there are a lot of odd people who do things that are inconsistent. Oswald may have been of them. But that's the first realm of oddity.

Now after becoming a Marxist, or a Marxist-Leninist, as he sometimes referred to himself, he decides to join the U.S. military. Now of all of the branches that he could have cho-

continued on page 20

JEREMY GUNN

continued from page 19

sen to join, he joins the United States Marine Corps. Now that is probably the last place that you would think of looking for a Marxist. But Lee Harvey Oswald goes and does that.

Now the Warren Commission portrays him as being a little bit disgruntled, which he was. And they portray him as being a little bit erratic, which he was. But he also became a radar operator, when he would work for the United States government. He was trained in that, and then he was sent off to Atsugi, Japan, as a Marine Corps radar operator.

And he wasn't sent just to any place in Japan. He was sent to Atsugi, which is one of the bases for ... the U-2 flights that went over the Soviet Union. And we're talking about the period of 1957-58. During the Cold War, in fact, while Oswald was in Japan, the first Sputnik missile, or the first Sputnik satellite was launched. So there you have Oswald over sitting down in the same base, as a radar operator, where the U-2 is taking off from.

Now, what would a radar operator know about the U-2? Well, maybe he never saw one of the U-2 planes. But these are still the most secret technology device that the United States government has at this period of time. Oswald's a radar operator. What does he know about the U-2s?

Well, he would know altitude. He would know trajectory, and he would know speed. All he needs to do is look at his screen. And what he would be seeing on his screen, assuming that nothing else is told to him at all, what he is seeing on his screen is what — is a classified secret, what the U-2s were capable of doing.

And Oswald could see that. So here you have a 19-year-old—think of yourselves when you were 19 years old. Some of you may even qualify for that right now. But think of yourselves as a 19-year-old, and there you are, over in Japan, Sputnik's going around the world.

The United States is getting very upset about Sputnik. And you know about flights going over the Soviet Union at an altitude that is not supposed to be possible at a speed that's not supposed to be possible. You've got that information in your head. And you are also a Marxist. And you're also a member of the Marine Corps.

Well, Oswald goes back to the United States after having been in the Marine Corps and decides to get discharged a little bit early. He couldn't wait for those last four months. He said that he needed to go take care of his mother. He went back to New Orleans, where his mother was, got on a boat and went off to

go to the Soviet Union, we now know.

Now if I were to try to figure out, using my brain, if I wanted to get in the Soviet Union, how would I try to do that, if we're talking about 1958 or 1959? And I know what I would have done would be to go to France, probably because I like France, I'd put that on the itinerary. But then I would have gone to Berlin, then I would have gone to East Berlin. Then I would have gone to Moscow. That's how I would have thought about doing it.

Now that was the wrong way to do it, which I wouldn't have known. It would seem to me to be very common sensical, but not the right way to do it. The right way to get to Moscow, if you want to go there, is to go

Now after becoming a Marxist, or a Marxist-Leninist, as he sometimes referred to himself, he decides to join the U.S. military. Now of all of the branches that he could have chosen to join, he joins the United States Marine Corps. Now that is probably the last place that you would think of looking for a Marxist.

through Helsinki. Well, Lee Harvey Oswald knew if you go to Helsinki, you then got into the Soviet Union, where he stayed for a couple of years.

When he first went into the Soviet Union, making a long story short, he went into the United States Embassy in the Soviet Union. And some people say that he spoke as if he was speaking to the walls and announced that he was defecting and that he was going to tell the Russian government the secrets that he had learned and the information that he knew, OK?

And you think, all right, you have this Marxist Marine who knows about the U-2, at least—whether he even knows the term "U-2" or not, he knows altitude, speed and trajectory, all the most secret information, technological information the United States government has.

And he's now gone to the American Em-

bassy, announced to the walls that he is going to tell the Russian government. Why is it saying it to the walls?

In 1964, it was revealed that Soviet—the KGB had thoroughly penetrated most parts of the U.S. Embassy, including floors of the U.S. Embassy that they should not have been able to penetrate. They did it. And that information was released in 1964.

So KGB is listening to this. And Oswald's speaking to the walls. Does Oswald know that the KGB is listening or not? Does he have any knowledge? I don't know. But he says that he's going to tell these secrets. So, Mr. Marine Corps is now essentially saying that he wants to commit treason.

Well, he stays in the Soviet Union for a couple of years and has some peculiar experiences. Besides, he wants to come back to the United States. Now how does the United States treat this guy, who was—who tried to be a defector to the Soviet Union, in the Marine Corps under a potentially false purposes, who may have told the secrets of what he's learned? Well, the United States welcomed him back.

Now it's a little bit odd, in the records that I have seen from the FBI, from the CIA, there was a lot of interest in Marxists and in communists who were in the United States and doing things. And the FBI would frequently put either tails on them or put wire surveillance on them.

Lee Harvey Oswald marches back, waltzes through, after he's married to a Soviet wife, comes back and the U.S. government does not seem to be interested in him. That's a little bit odd, too.

Six weeks before the assassination, Lee Harvey Oswald decides to go from New Orleans down to Mexico City. Now in 1963, six weeks before the assassination, there are probably two or three spy capitals of the world. You could argue about which one was the premiere spy capital. One of them was certainly Berlin. One of them was certainly Vienna. And the third one, and perhaps the most important, but we don't even need to reach that question, was Mexico City.

Why Mexico City? Mexico City had a Soviet embassy. There was the Chinese embassy; there was a Czech embassy; there was a Polish embassy; there's a Cuban embassy. All in Mexico, which is not too far from the United States. It was the—Mexico City was one of the bases for the Soviet Union to do intelligence penetration of the United States.

So Lee Harvey Oswald, six weeks before the assassination, decides to go where, of all places in the world, but to Mexico City. And he goes down to Mexico City, and he goes into the Cuban Embassy and out of the Cuban

Embassy, and into the Soviet Embassy and out of the Soviet Embassy.

Meanwhile, there are CIA cameras that are aimed at the doors of the Soviet and Cuban embassies, and pictures are taken, though the CIA doesn't have any record of having taken a picture of Oswald. Although he went in and out 10 times. In theory there would have been 10 pictures. And there are many explanations as to why there may or may not have been photographs taken.

But Oswald also, there is a tape recording of Oswald having called the Soviet Embassy on October 1 of 1963, where Oswald asks in sort of a garbled way if he can speak to Kostikov, a person named Kostikov. Now Kostikov, in October of 1963, is the head of — director of the 13th directorate of the KGB. And that was the directorate that did wet operations, assassinations in the Western Hemisphere.

So there's Lee Harvey Oswald, this ne'r-do-well, disgruntled Marine Marxist Soviet defector who now wants to speak to the head of assassinations of the KGB six weeks before President Kennedy is killed. And the CIA knows that.

So what's going on here? If we go to November 22, 1963, all that information is known about Oswald. That exists in various files throughout the U.S. government. What is the CIA going to do about this information?

Now imagine that you are working in the CIA, you are doing some kind of analysis at the CIA in 1963. And you then hear that the president's been assassinated, and this guy named Lee Harvey Oswald is accused of having committed the crime. What do you do?

I mean, it's a pretty strange thing to think here, we knew six weeks before the assassination that this guy was talking to the head of assassinations at the KGB for the western hemisphere. We didn't do anything about it. So whether you think the CIA had anything to do with the assassination or whether they didn't have anything to do with it, you've got a very interesting person here.

One thing I didn't mention — perhaps it's implicit, perhaps not—is that Oswald, while he was in the Marine Corps, not only was reading Marxist literature, but he learned the Russian language. Now ask yourself this question: How many Marines do you think in the 1950s, 1960s were Marxists, Marxists-Leninists, announced it and learned Russian, and then defected to the Soviet Union?

Are we talking about just an average, run-of-the-mill ne'r-do-well? I mean, this is not a ne'r-do-well who sits on the street corner and asks for some change. This is a guy who has a pretty interesting life by the time that he's 24 years old. He's been right through the secu-

rity net of the United States in Atsugi. He's been through the security net of the United States when he goes to the Soviet Union, goes to the American Embassy there when he comes back.

And he's gone through the security net of the United States also in Mexico City. So we've got a very interesting character here. Well, how does the Warren Commission portray him? They portray him as somebody who is just a little bit disgruntled.

How does the Warren—I said that there were sort of these three things that were of interest to the Warren Commission right off. How did they treat Oswald? They treat him not as a potential problem in terms of how do you understand this? How do you understand these intelligence connections? Those are whitewashed in the Warren Commission report, not well-handled.

I have seen from the FBI, from the CIA, there was a lot of interest in Marxists and in communists who were in the United States and doing things. And the FBI would frequently put either tails on them or put wire surveillance on them. Lee Harvey Oswald marches back, waltzes through, after he's married to a Soviet wife, comes back and the U.S. government does not seem to be interested in him.

How did they treat the question of ballistics? Remember, we had this problem of the members of the Warren Commission knowing right off the bat there was a ballistics problem. Well, they analyzed the bullets, and they came up with a very interesting theory, which you all know is the pristine bullet, the "magic bullet." They give an interesting description of what happened, which we can talk about later, if you're interested. But they come up with an answer that is, we'll just say a little bit odd. They—it's a little bit odd.

The third thing, on the medical evidence, and I suggested to you before that that was probably the most important area of study, the most important aspect of any homicide case. Now what should the Warren Commission have done? I would personally give the Warren Commission its worst grades on how they handled the medical evidence.

What they had from the medical evidence was several people who had performed the autopsy of President Kennedy. They had several people who had tried to treat President Kennedy in Dallas. They had photographs that were taken of the autopsy. They had an autopsy report. They had a face sheet from the autopsy.

So they had some evidence there. What did the Warren Commission do with that evidence? Well, they asked some questions to three of the autopsy doctors, and they looked at the face sheet of the autopsy, and they looked at the autopsy protocol. Arlen Specter, who was then not a senator from Pennsylvania, but was a junior staff member of the Warren Commission, wrote a memo where he described the types of things that should be done by the Warren Commission to investigate this and to make sure the medical record was straight.

Well, they didn't do what he suggested that they do. They ended up having a—they ended up writing a rather summary version of this.

One of the things that we have tried to do in the Assassination Records Review Board is to collect records that show the background of the Warren Commission. We were able to get the records of the general counsel of the Warren Commission, whose name is J. Lee Rankin. His son donated his father's papers. And in those papers, there were the various drafts of the Warren Commission report.

In the first draft of the Warren Commission report, it says that the draft—it says that the bullet in President Kennedy went in the back. Gerald Ford did an editing job on that, where he took that phrase and put in the back, and he made a (UNINTELLIGIBLE) going out of the neck. So the wound went from being in the back to the neck.

Now the Warren Commission—part of the Warren Commission internal deliberations, which I did describe to you, they talk about how the wound is down below — the shoulder wound in the back is down below the shoulder blade. By the time the Warren Commission report gets out, it is in the back of the neck.

Again, we have—the question is, why does this wound get moved up, in what would ostensibly be the version that they first had, versus the way that it gets when it finally appears in the Warren Commission report?

continued on page 22

JEREMY GUNN

continued from page 21

Now people are capable of making many different interpretations of that. You can say, well, Gerald Ford did not, in fact, know. And perhaps we could say that's just what he remembered, he made an editorial change, nobody caught it, and that's what came out.

One of the problems we have here is that fairly consistently, the Warren Commission classified, or kept secret the information that conflicted with what they said in their official version. And this has been one of the problems that has occurred with most of the investigations of the assassination, that a body that tries to reach certain types of conclusions, they do their analysis, whether in good faith or not, whether intelligently done or not, whether conspiratorially done or not. Whatever it is that they are doing, they then come up with a conclusion. And then they hide the evidence that is inconsistent with the conclusion that they reach.

So we had a problem, and an increasing number of records about the Kennedy assassination were secret. Now you all know about the movie "JFK" I asked you about, that at the end of the movie "JFK," if you remember, it talks about how there are these secret files, and the government won't open them up. It was partly because of that uproar, largely because of the uproar from that event that Congress decided to enact what became the JFK Act.

I was told by Congressman Stokes that he saw the movie "JFK" with his daughter. They were sitting in a theater in Chicago, from what I recall, although Cleveland would have been more appropriate a place. That he—I think he said Chicago. And she said—he said that his daughter turned from him after the movie was over and said, "Daddy, why don't you open those records?" So he then became the chairman of the House Select Committee—or he informed the chairman of the House Select Committee to help sponsor the legislation that made—that created our agency.

What we are is an agency that is unlike the Warren Commission, unlike the Church Committee, unlike the House Select Committee on Assassinations, that our job is not to tell the American people who shot JFK. But it is to tell them—it is to get the records of the prior investigations, to declassify them, and make them available to the public so that they can see what the evidence is.

And for the most part, I'd say probably about 95 percent of the work of our agency has been taking federal records, declassifying

them, and sending them out to the archives so that people can see the records.

In addition to the work that we've done declassifying records, we also have done a few other things ... one of the things that is interesting, we have the authority to order federal agencies to give us records that are related to the assassination.

And for the most part, the federal agencies have cooperated with that. There is one little agency, whose name I will not use right now, because we're still dealing with them, that has refused to give us records so far.

And we have been in negotiations with this agency. It's one that you probably haven't even heard of, but we've been in negotiations with this agency. And they have shown us their records, and they do, in fact, have assassination records. There are no smoking guns in there, so there it is not a treasure trove.

But they do have assassination records, and they have said that they're not going to turn them over because they don't need to do it. They don't need to turn them over. And we've gone back and forth with them, and we are now in the midst of a battle with them to make sure that they turn them over. I'm very confident we are going to win that particular battle.

Another sort of problem that we have is when we go through the process of declassifying just federal government records, that the law provides that the Review Board will make formal determinations about records. And that any agency who disagrees with the decision of the Review Board has the sole option of then appealing the board's decision to the president of the United States.

Up until very recently, there had been only one agency that had attempted to—or had gone to the president. And one of the things that we became involved with then was for a several-week period was preparing memoranda back and forth to the president, the FBI on one side and the Review Board on the other side.

And so we had to make arguments to the president about why the records should be opened. I happen to think that we made very good arguments. I think they were very persuasive. I was very proud of our agency. And there's a little bit of understandable self-pride in this sort of thing.

I think they were so good that the FBI, after all the briefing had been done, withdrew their appeals and let the records be opened, as we had asked to do that. That, to me, was one of the most interesting experiences about understanding government, understanding bureaucracy, and understanding secrecy in the U.S. government, this interchange that we had with the FBI.

I learned several lessons then, that I had no idea when I took political science in col-

lege, didn't learn lessons like this. But you learn how bureaucracies work, and you learn how certain sorts of cultures work within agencies.

First thing that was interesting, the FBI is a huge bureaucracy. If they want to file a paper, they have a person who writes the paper who has to give it to his or her boss, who gives it to his or her boss. And it goes all the way up to the director. So for them to get a brief done in this particular case, it will take them at minimum, if they're working quickly, two weeks to get it through the chain of command.

So the FBI would take two weeks to get a paper filed. We would be able to take that, turn it around within a few hours, and get something back, sometimes filed the very same day that they filed theirs. And we just kept them off-balance. So that was one thing the nice, lean and mean, small agency without a top-heavy bureaucracy is able to accomplish much more quickly sometimes than the huge agency of the FBI, with all of its resources. So that was one part.

The second thing that was very interesting to me was how the FBI had—did not have intellectual control or intellectual knowledge of what they even had that was secret. Typically, when someone makes a FOIA request they will get back a document that will have large sections of it blacked out so you can't read. And you can then go to a judge and say you know, open this up. And the judge will hear from the FBI about why it can't be opened. And the judge usually—usually, no always—sides with the FBI. It says you can't open this up.

We had the advantage that we could see all the information that the FBI wanted to postpone. And we also could go out and research to see what was in the public record. And we found that time and time again the FBI was trying to keep something secret, it was already a matter of public record. It was 90 percent a matter of public record, or was so much a part of the public record that what they were trying to protect was minuscule. And very, very typically, the FBI didn't ever know it.

Then you have some people making decisions in one wing; in another part of the agency, it's off defending some other standard. And so you have left-hand/right-hand not knowing what the other one was doing. And we ended up being able to show that on some cases, things which the FBI had said were secret, we were able to find testimony that J. Edgar Hoover had made to Congress in 1959 that said 95 percent of what we thought should be open.

And we were able to go and do that and show the president that this stuff is already

of secrecy, a culture that does not want the information to come out.

Now the information that the FBI was trying to protect was not particularly assassination-related. It didn't say who shot JFK, and the FBI was now trying to suppress this. This was on a lot of issues that are peripheral to the core of what we're doing, but necessary for us to be able to release the documents.

We've just been told that there's another agency that is now going to be appealing some decisions of the board. We're going to—we're trying to negotiate with that other agency and see if we can convince them not to appeal to the president. We know that we have an extraordinarily strong argument, and we're going to try and convince the agency that they shouldn't do it.

One of the things that was interesting for us as well is that the briefing that we did for the president on FBI records circulated in the CIA. So they wanted to see what happened to—what happened to the FBI in this appeal process. And I heard back from some people that one of the reasons the CIA didn't want to appeal the board's decision is that they did not want us to do to the CIA what we had done to the FBI.

(LAUGHTER)

One of the things that was funny is that immediately after the decision was—the FBI withdrew the decision, the FOIA request was made on our briefing on this issue. And those have now gone through the laborious FOIA process. And those are also available to the public.

Now let me jump to the last part of what I want to talk to you about, and just try and present you the question about what are the greater lessons to be learned here? I obviously haven't said who shot JFK. I don't have an answer to that question.

The records don't say who shot JFK. But they do say some things that are interesting and I think worth paying attention to. I think there are sort of four points that I think that come out of this. We now have—we will have released or processed, putting in the National Archives almost four million pages of records about the Kennedy assassination. Some things are more closely related than others.

The four million pages, we can say in some ways this is perhaps the most documented event in history, other than the O.J. Simpson trial. There's more information about the Kennedy assassination than any other event of its—than any other event of its kind. But does that mean because we have all of the information, that we have more information about this than anything else, that we know more about the Kennedy assassination than we know about other things?

Let me suggest four different sorts of lessons or things that come through out of this. One of them is just the very question, or the notion of what does "conspiracy" mean? Now, conspiracy could mean—well, let me try a question first. If I can just try this. I hope you will indulge me in this.

If I had to ask you how many of you believe that there was a conspiracy to assassinate President Kennedy—and I want the standard to be reasonably loose. I'm not asking if you're absolutely convinced of it. But if you say probably more than less, who of you would think that there is more likely a conspiracy to kill the president than not likely to kill the president?

(PAUSE)

And those who think that there was not likely to have been a conspiracy?

(PAUSE)

That would reflect probably the American population generally. There are probably a few more anti-conspiratorialists than there are conspiratorialists than is represented here. But roughly that breakdown.

It's very clear to me now—it wasn't clear when I started out—that conspiracy means two different things. And people often get those sorts of things confused. And it's a really important distinction that I would like to make.

One, there's just the plain old legal understanding of what a conspiracy is, which is two or more people acting in concert to perform an illegal act. So you take this one particular notion, you say Lee Harvey Oswald—this is hypothetical, this didn't happen—Lee Harvey Oswald says to Marina in the morning, I'm going to go shoot the president today. And he says, but it's a little bit bad, because I'm feeling a little bit shaky and I had too much coffee this morning.

And Marina says to him, here, let me give you a sandwich, and that will help steady your nerves so you'll be able to shoot better. In that particular scenario, Marina Oswald is part of a conspiracy to kill the president. Although her action was simply to give him a sandwich, she was doing it for the purpose of facilitating a murder of the president.

That would be a conspiracy. And I'll call that a small-C conspiracy. There are others—you can have two people get together, and they're going to get at different angles to shoot at president Kennedy. That's a conspiracy as well. And that's not exciting, that's not dramatic. That happens. People do get together and agree to perform illegal acts, or to take acts in furtherance of an illegal activity. So that's a small-C conspiracy.

There is also another kind of conspiracy that I will call the capital-C conspiracy, that

believes there are significant forces, either in the U.S. government or in the world or among people who act in secret, who have a certain kind of power that other people don't have and that they operate and move the government in mysterious ways. And there are a lot of different versions of this conspiracy with a capital-C.

One of the things that's so difficult about this capital-C conspiracy is there is very little evidence that can ever defeat it. That if I were to say, just taking this hypothetical, that somebody believes that there was a vast conspiracy to kill President Kennedy, and that conspiracy involved the CIA, it involved the Director of Central Intelligence, and I were to say to them, well, I understand how you might make a circumstantial case for that, but there's no direct evidence that the Director of CIA John McCone was involved in the assassination. There is no record that shows that. There is nobody who's said that they saw him do it. There's just no direct evidence. Doesn't mean he didn't do it, but there's no evidence.

The capital-C conspirators will often think that doesn't matter. The records were shredded. He lied about it. People knew about that and they've been bumped off. What I'm suggesting here is a certain kind of approach to an issue that does not allow a counter-example, or does not allow evidence to contradict it, so you can have this sort of conspiratorial frame of mind.

And I have decided during my work at the Review Board, if I didn't believe it before, there are people who have a genetic predisposition to have a capital-C conspiracy in them. And you don't need to be conservative or liberal. You can just have that.

And I've noted that it seems to me in—this is all anecdotal. I don't have any proof for any of this. And you can't dismiss anything else I've said, but you can dismiss this. That typically in the elite in the United States, people who tend to be government officials, who tend to be media officials, U.S. elite do not have this capital-C conspiracy gene in their bodies. They always believe that there is an answer of a bureaucracy. There's a bureaucratic mistake, or that there's a mix-up or something like that. That's how you explain events that seem otherwise unexplainable.

Whereas the other part of the—there's a fairly widespread belief in the population that there are these conspiratorial forces. This is different in Europe, where the capital-C conspiracy can go right through top levels of government officials, and it's not so crazy for them. When KAL-007 was shot down over Sakhalin Island, in Europe it was very common to have the immediate presumption that that was a U.S. intelligence mission, that

continued on page 24

JEREMY GUNN

continued from page 23

United States government had decided to sacrifice this plane in order to gather intelligence about Soviet intelligence.

Just natural presumptions. You don't need any facts. You don't need any evidence. It's just you know this is what happened. There's a little bit—there are some strange oddities about the trajectory of the flight. And so that—and that's sufficient for it. Anyway, there are these two kinds of conspiracies. And it's important to keep the two sorts of things straight.

The second sort of thing is the problem of using circumstantial evidence in order to be able to make a case. I think that the JFK assassination is particularly interesting because of the number of completely inconsistent circumstantial cases that you can make.

You can make an argument, pretty convincing argument—particularly if the people don't know all the evidence—pretty convincing argument that Castro was behind the assassination. You can also make a pretty convincing argument, based on circumstantial evidence, that anti-Castro Cubans were involved in the assassination.

You can say the KGB was involved in the assassination. You can get information. You can put certain pieces of the puzzle together. And it looks as though it's the KGB. You can say that CIA was involved in the assassination. You can say the FBI was involved. You can say disgruntled people within the CIA were involved. You can say there was a right-wing business conspiracy against the president, and they did it.

You can say that LBJ was part of this. You know, after all, it took place in Texas. Johnson wasn't in the car with the president. Johnson's friends are all surrounding this issue. Johnson then gets the body out of Texas immediately because they want to get back to Washington. Very suspicious. The one state in the United States that Lyndon Johnson controlled is the state where John Kennedy was killed.

So you can make these kinds of cases for a lot of different things. The problem with the circumstantial cases is that you pick and choose among the evidence. And you can't say that there is necessarily a good reason for one piece of evidence and not a good reason for the other sorts of evidence.

One thing that I have noticed in, and I would say with almost every book about the Kennedy assassination, this is whether—whether you're talking about the Warren Commission report, or people who think the Warren Commission was a conspiracy itself, is that very, very typically, people pick and choose among the evidence. They make the

case based upon the one that they want, and they ignore the countervailing evidence. And that's why there is just a plethora of conspiracies and non-conspiracies about this assassination of President Kennedy.

The next thing is trying to understand what it is that we know. I mean, what kind of proof is necessary in order to be able to convince someone of something? Now, there are different standards that you can use for evidence on a legal basis. You can say one is—one could be called by the preponderance of the evidence, or more likely than not. And that was

One thing that I have noticed in...almost every book about the Kennedy assassination...is that very, very typically, people pick and choose among the evidence. They make the case based upon the one that they want, and they ignore the countervailing evidence. And that's why there is just a plethora of conspiracies and non-conspiracies about this assassination of President Kennedy.

sort of the standard that I asked—I used with you when I asked if you believed in conspiracies. That more likely than not that President Kennedy was killed as a result of a conspiracy.

The second sort of thing is, is there clear and convincing evidence? So not just that you sort of think it, or more likely than not. But there's pretty clear evidence. And the third sort of standard that we have, at least in the law, is beyond a reasonable doubt. Those three things mean different things. And I find that when people analyze the Kennedy assassination, they frequently switch around between which standards of evidence, what standards of proof they want....

There's one doctor — this'll be the conclusion on the eye-witness testimony—there was one doctor who was one of the treating physicians of President Kennedy at Parkland Hospital, whom I interviewed. And I asked

him some questions, and he said he remembered that day very, very vividly. He remembered being in the treating room with President Kennedy in Parkland Memorial Hospital.

And he remembered seeing Jackie Kennedy walk in. He had never seen her before. At what a stunning moment that was for him and how traumatic it was. There was the president, who had just died. There's his widow, who's there with him. He said, "This just burned in my memory. I remember Jackie being there in a white suit."

And I thought, absolutely everyone in the United States knows that Jackie Kennedy was wearing a pink suit. This is the only guy in the United States who thinks that she was wearing a white suit. There's—people who were never present in the autopsy, who were never present in Bethesda, never saw Dallas everyone knows Jackie was wearing a pink suit.

And here you had one of the treating physicians who remembers Jackie wearing a white suit. And I assume he wasn't lying to me. I assume he wasn't trying to trick me. And I'm assuming he didn't have a second-suit theory (LAUGHTER)

And I said, none of that was true. But here he has this memory. Then he describes some other things about the autopsy, or about the treatment of President Kennedy. Let's suppose that I think he's wrong on what he says about something that happened in the treating room. What can I say? This guy is so wrong, he doesn't even remember what kind of suit Jackie Kennedy was wearing. You could dismiss his testimony. Just dismiss it.

Or suppose that I think what he said what happened at the treating room was what I think happened, too. And I said, well, his memory of the suit, that's not relevant. What is relevant is his professional skill as a doctor. He's not into fashion. He's into being in medicine. So I can trust what he's saying there.

And that's one of the problems that you have with the Kennedy assassination. You have all this wealth of information, and people pick and choose, and then they refute, they argue against one person. They could use an inconsistency that they've made, and you end up having all of this confusion.

So what do we do about it? I can tell you what I think should have been done, is the Warren Commission should have investigated the assassination the right way the first time. They should have had doctors testify before them. They should have asked the doctors the right questions about the assassination. And they should have released all that information to the public.

If there's any lesson that's to be learned

here, that's the one for me, is it should have been done the right way. And the American people should have been told that right off the bat.

I would be happy to try to fend off questions or dodge questions, if anyone has one. (LAUGHTER)

QUESTION: Jeremy, after the Review Board goes out of business, could you say something about what will be the status of new information, new allegations, new records created? Are you putting anything in place—have you talked about putting anything in place as a follow-up to the Review Board for continuing access or, for example, strengthening FOIA on Kennedy assassination-related records?

GUNN: The board's going to be issuing a final report in September. And they will be making recommendations there. And I don't know what the recommendations are going to be. They haven't decided it yet. But certainly one of the questions they have to consider is—I'll give a personal opinion. This does not reflect the Review Board. I have no idea what they're going to say.

I have certainly learned some of the major problems with FOIA, in my own experience, like our ability to be able to see all of the classified records and to know what the issues were, we can understand what the agencies are doing. And I'm not attributing malice or evil or anything like that to the agencies. But it is clear that they don't necessarily know what they're doing, or they don't have intellectual control over it.

So there are real problems with FOIA. FOIA should be fixed. I don't know if the Review Board's going to do it.

QUESTION: Mr. Gunn, it's my understanding, having read the Act, that there is nothing that can be held back. Any records submitted to the ARRB, nothing, there's no question about something being stamped top-secret, secret, withheld for various reasons, that anything submitted to the ARRB, that's my understanding. I may be incorrect on that. Is that correct, or am I incorrect?

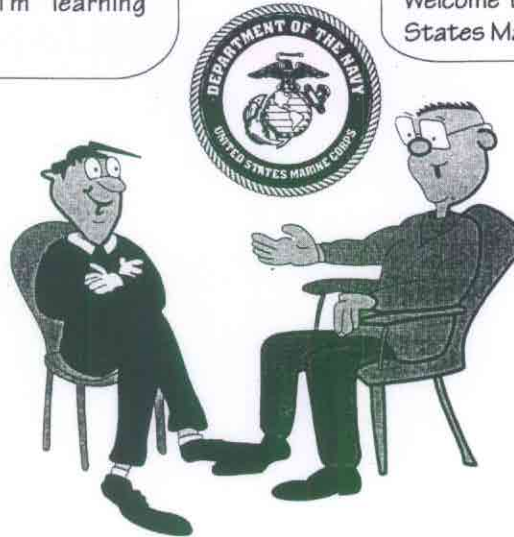
GUNN: Well, there are a couple of different issues. We have the authority under our statute to order federal agencies to make their records available to us. As far as I know, this is the first time that there's been any law like this.

There have been things somewhat like this. But this is really unusual, for us to be able to tell the CIA we want you to bring those records over, and that they have to do it. And the CIA, with one tiny little exception, has always made the records available for us that we have asked

I'm a Marxist-Leninist. I don't enjoy discipline. I want to join Castro's revolution. Oh, and did I mention I'm learning Russian?

The Official Story: Oswald joins the Marines

Son, you're just what this country needs. Welcome to the United States Marine Corps!



By Lisa Pease

for. For all practical purposes, we have had complete access to that.

What we have done in some cases, we found little treasure troves and pockets of CIA information. Often we've found records the CIA did not even know they have. And we've been able to look through them, things where we would hope there might be information about the assassination, so we read through that. If we identify information relevant to the assassination, we tell the CIA it needs to process it under the Act.

If we look through information and it doesn't have anything, then they don't need to. Just a specific example, the CIA finally came up with the files of John McCone, who was the Director of Central Intelligence. We just got those a couple of weeks ago, and we're now looking through those files to find out whether there's anything relevant to the assassination. They have to make those available to us.

Now there's a different question on after we get their designated assassination records, then they go through the processing, we still can have information be postponed or redacted. That would not be made available. But the Review Board has a very high standard, or a very low threshold, whatever it is, they maximally want information to be released. And for the most part, records have gone from being largely redacted to very small pieces of

information, that are typically technical and typically say nothing at all about the assassination, not being released.

I think that this is really a very interesting experience in U.S. government to be able to say we're going to take a citizens body now, and they are going to have effective control over the records of the intelligence community. That hasn't happened before. And still, they can appeal to the president. But to be able to say to the CIA, to the National Security Agency, to National Reconnaissance Office, whatever the agencies of the government, the most secret agencies of the government, you have to make these records available for us. And then we're going to make the decisions on what can be released.

That's new, and it's been a remarkable success, I think. The board still redacts modest amounts of information. But there is no information that I have seen myself that has been redacted or postponed that explains the Kennedy assassination. It's typically some file number or something like that, that doesn't have probative information.

So when we are finished in September of this year, all of those secret files that you've heard about in the movie, those are going to be open to the public. And everything relevant to the assassination that we have been able to find is going to be open and available to the

continued on page 26

JEREMY GUNN

continued from page 25

public. And then you get to decide for yourselves what happened.

QUESTION: There, in William Sullivan's book, former assistant head of the FBI, he said in the days right after the Kennedy assassination, that Hoover and his boys stored lots of documents pertaining what he assumed was something related to the Kennedy assassination.

How would we know, or would we ever be able to really know, whether some of these intelligence agencies that have been known to destroy documents in the past, certainly the CIA in Iran and other situations, how do we know, or is there any way of really knowing whether they have destroyed files? And whether the files we have are complete?

And as a follow-up to that, one part of the story that did not come out of the Review Board when it sent its press release, which I got via e-mail, was a story that appeared in AP today. And that is, that apparently in the files that came out of New Orleans, and Henry (sic) Connick, at least one file cabinet is now missing. So, I mean, the question is, in general, how can you know that you're not pouring through documents that have now been cleansed by deletion or destruction? And is there any way of getting hints that perhaps that might have happened?

GUNN: If a file was created 35 years ago and destroyed 34 years ago, and there's no cross-reference to that file, we're not going to know about that, unless somebody comes and tells us about that. So such things are possible.

One of the things about intelligence records, certainly with the FBI, and less so, but still with the CIA, is that the way they do cross-referencing, you can sort of get your way into it. And if you find one little mother lode in it, you can work your way to other things. This is one of the things that we have learned about how these things go.

I don't know what has been destroyed or not. I can say we have not reached, for practical purposes, any sign that anything from the FBI that was in their central filing system has been destroyed. There's a separate set of files for the FBI, which are Hoover's personal and confidential files. And there are different versions of the personal and confidential files.

One of the projects that we have taken on ourselves is to try and do everything we can to document the personal and confidential files. There's a version of Hoover's—these are Hoover's secret files, that he kept in his outside—in his office, separate from the main filing system of the FBI. We have looked through all the personal and confidential files that still

exist for assassination-related issues, and have found a few documents, which are being processed and will be released under the Act.

And we have pursued different sorts of means to try and find those things out. But once again, if something was destroyed 30 years ago, we're not going to be able to find that. My own take on this, and I don't know, is for practical purposes, I don't see significant bodies of evidence that were destroyed and not accounted for.

There are things that are missing. I've tried—I've filed—I know sometimes I try and file something, or I look for it the next day, and I can't find it. And things like that happen. So there are missing records, and then sometimes I find it a week later in the wrong file, and I put it in the wrong place. Things like that happen. And sometimes you might think you're filing, and you accidentally throw it away.

So stuff happens, no doubt. We have not seen—I haven't seen anything that looks as though it's systematic to do that. And I think the records are probably fairly reflective of what the agencies created.

One of the big problems is records that were never created that should have been created. The best example I can think of for this, I think the most telling story for CIA, was the 1967 report, the Director of Central Intelligence, Richard Helms, asked the CIA—certain people in the CIA, to find out about the Castro assassination plots. So this—there's this internal CIA investigation under the authority of the Director of Central Intelligence to find out what they did, find out what the CIA had been doing about trying to kill Castro.

This was done in 1967, so they're talking about basically the previous eight years. From 1959 to 1967, what had the CIA done. So they went around and they interviewed the various people at the CIA. And the story they tell is very confusing.

People saying, just like the two FBI people whom I mentioned, two people were supposed to be at a meeting. One of them says, "I was never at this meeting." The other one says, "I remember that he was at the meeting, because I hadn't seen him for 10 years earlier, and I was stunned to see him there, because we had been in camp together." They have these stories that are utterly irreconcilable. And no particular reason to think that one of the two people is lying on this particular issue, whether they attended a meeting or not.

So they also—absence of records on many things where on the assassination of Castro, you just don't want to put that in writing. The record was never created. So that's going to be a problem. And you're going to have that problem, even if you're talking about something that happened fairly recently.

It's a problem. I don't see that as the an-

swer to what's going on with the Kenn assassination. One of the thoughts that I had at the beginning is, OK, the original problem is defined as all the records related to Kennedy assassination that are in various government offices, and those need to be opened up. Those are the secret files, so I thought when we started this process.

And what happens if we go and we find the records, we then open them up, what are people going to say? People are going to say, ah, well, there's other files that you didn't find. That's where it is. And there will be the constant ability to say it's always somewhere else.

And, you know, maybe it is. I can't prove that it isn't. But I haven't seen the evidence of destruction on any kind of significant basis. There are some examples of—the Secret Service destroyed some records in 1993 that they shouldn't have destroyed. I don't see any—I see ineptness as part of the problem don't see a conspiratorial explanation for those particular records.

Doesn't anyone want to know who shot JFK?

QUESTION: Could you talk a little bit more about the ballistic evidence that the Warren Commission received (UNINTELLIGIBLE)?

GUNN: To my mind, one of the least convincing parts of the Warren Commission is Commission Exhibit 399. This is a bullet that appears basically pristine, that the Warren Commission decided had been shot through—the Warren Commission decided it went through the back of President Kennedy's neck out the front of President Kennedy's throat then into Governor Connally and went through several parts of his body, then emerged basically unscathed.

And we have this one bullet performing all of these actions. I just cannot—this is a personal opinion—I just cannot believe that that happened. I don't know what happened. But I don't believe that that one happened.

The Warren Commission tried several ballistics tests to see if they could replicate this by shooting it through goats, human cadaver wrists, and to take bullets out and do it to see how deformed the bullets were. Any bullet that went through any kind of bone ended up being really deformed. You'd look at it and say this bullet looks squished.

And when you see Commission Exhibit 399, the one that did all of this damage, it doesn't—it just doesn't pass muster. I think what probably happened is the Warren Commission decided that they had to take the evidence that they had and come up with the best explanation that they could. And so they put these things together and tried to have the things fit.

And it was probably putting a square peg

into a round hole, or a round—you can't put a round hole into a square peg, can you? Try as you will. Anyway, that was sort of the problem.

There were many other problems. Let me give you one example that—there was an interesting discussion I had last week. There was—the person who picked up the bullet shells, there are three shell casings that were found under the window of the sixth-floor depository. They were picked up.

The person who was supposed to have picked them up testified to the Warren Commission. He was asked the question, did you pick up the shell casings? He said, no, I didn't do it. And they went off the record, and the Warren Commission—he then came back and said, oh, I was mistaken. Yes, I did—I am the one who picked them up.

Now that seems a little bit strange. I told that to a—there's an agency that we deal with that helps us find people. It's an agency of the U.S. government. It's called FINCEN. And I've talked—they are mostly former law enforcement officials. And I talked to this former law enforcement official about that.

He said, you know, that's pretty suspicious if you're trying to get chain of custody on something, the person who supposedly picked up the shells can't remember whether he did it or not in the murder of the president. And a law enforcement officer said to me, oh, that's nothing. He said, that's the way things are always done. That when you're collecting evidence, you know, people—different people pick up stuff. Usually you have to decide that one person is going to be the person who will testify in court. So they say they picked up stuff, even though they didn't. That's just standard police procedure. No big deal.

And I thought, well, how do you deal with that story? And let's assume that he's probably right. That is how things typically happen. And typically, things are not done the right way. Not done—police officers go into court and routinely perjure themselves, not because they are involved in any major conspiracy to cover up anything on any kind of crime, but it's just—it's an easier way to do things.

So perhaps that is standard police procedure. I think he was probably right, it was standard procedure. And they followed, then, standard procedure in the assassination of the president.

Now I think if I were a Dallas police officer, and the president had been murdered, I don't think I would follow standard procedure. I think I would follow impeccable procedure. I would want to make sure I do it the right way. And I don't need to worry about one person needing to testify about everything. You get whoever needs to testify there in court to do it.

So, do I believe this police officer — this

former police officer who told me this story or not? This is, once again, where you come up with this messy kind of evidence. And people will latch on to the version that they want. If you believe that in this case of the assassination of the president, the police are going to get it right, and if they don't get it right, they're involved in some kind of cover-up, if that's the predisposition in which you approach the evidence, then you've got the obvious answer. The police officers are lying and they know something, and they're trying to suppress the evidence.

If you're kind of this casual guy, you say, oh, that's just the way it always happens, no big deal, nobody ever thinks anything about it on the police department. Which is the right answer? I don't know.

Yes?

And what happens if we go and we find all the records, we then open them up, what are people going to say? People are going to say, ah, well, there's other files that you didn't find. That's where it is. And there will be the constant ability to say it's always somewhere else.

QUESTION: May I ask you another question? (UNINTELLIGIBLE) question the mechanics and the procedure of the board, you may or may not be familiar that there's a raging controversy among the research community about film alteration, including the famous Zapruder film, lesser-known film, the (UNINTELLIGIBLE) film. And also, autopsy forgery, fakery, X-rays forged. I'm not interested in your opinion about this. But (UNINTELLIGIBLE)...

(MOAN)

(LAUGHTER)

... but what I am interested in, has anybody come forward to present what they claim is evidence? And I'm not talking about receiving a book, which anybody can send. And the second question is, if this does occur, what is the mechanics of procedure about handling this body of information, since it could be considered assassination-related in the sense that somebody has come up with what they claim is evidence?

What is procedure of the board? Do they

go to somebody and say, I want to get this analysis done by Dr. So-and-So? I want this military analysis. What is actual mechanics of the procedure?

GUNN: ...There are several different things that we do, and that we have done. And the answers are—can be complicated. And right now it's not a matter of public record, so I can't give very many details. But this will all become publicly available, certainly before we go out of business.

So none of this is going to be classified. And it's just—no, I can't say it here now. But we have looked into the questions of the Zapruder film. We have looked into the question of the authenticity of the autopsy photographs. One thing that we did is we got basically every person who is still living who was involved in the creation of autopsy records, and we put them under oath in front of the original autopsy records in the National Archives.

So in some cases, we've subpoenaed people who did not want to come and brought them to Washington. We brought out the original autopsy photographs, the original autopsy X-rays, the photographs of the brain, and asked them a series of detailed questions. And the answers that they give are sometimes quite interesting. And all of that testimony is going to be released to the public.

I'll give one little teaser to you here. We found one of the people who was involved in developing the autopsy photographs, and we got her testimony. And that's one of the things that will be released later. And she tells a very interesting story.

We have tried to pursue every reasonable lead that we can on theft. One of the things that is crazy about the JFK assassination is that people come out and say all kinds of nutty things. The number of people who claim to be former CIA officers who were present in Dallas on November 22, you could fill a stadium with them. And what do you do when somebody says, "I was a CIA officer," or I had somebody who told me that they were a CIA officer and they were instructed to go to Dallas on November 22.

You know, that's possible. How do we find out? So we have chased down a lot of leads by that—go to the CIA and go through the filing system, we go through their record system and try and identify people. One thing that you end up believing, if nothing else, is that people are not reliable about what they say about what they've done in the past and what they saw and what they observed.

In some cases because they are just outright con-people. Not con-men, but con-people. And sometimes they don't know, or sometimes that it's just a little bit of an exaggeration.

continued on page 28

JEREMY GUNN

continued from page 27

generation of the story. Anyway, we've tried several different things on that.

Last question.

QUESTION: Well, this isn't quite as technical, but have you been exposed to a vast amount of the information on the subject, what is your personal feeling on (UNINTELLIGIBLE)? ...

GUNN: I don't know. The evidence is really confusing. One way that you can look at it, and it's an appropriate way. This is not very satisfying. My father, when he—when I talk to him about this issue, he always wants to know whether I have found the file that will say who killed JFK?

I don't know. I mean, suppose there's a file that says we know who killed JFK, and it's signed by John McCone and J. Edgar Hoover, and it says that Lee Harvey Oswald did it, you know, who's going to believe that? Or if it says that so-and-so did it, I mean, I don't know how anyone would be able to prove anything at all.

One of the things that I think is interesting is that even if you were to—if one were to say that there is more exculpatory evidence about Lee Harvey Oswald than there is inculpatory evidence, so it's more likely than not, just basing this on the evidence, that Lee Harvey Oswald didn't do it, that may be the case. We could say, take that as the hypothesis, the evidence principally suggests that Oswald didn't do it.

On the other hand, there is more evidence pointing to Oswald than at any other person at all. So if your standard is, where does it point more than anybody, it has to point at Oswald. I mean, he is on the sixth floor. He does do some funny things that day. He does behave strangely. He has been to the Soviet Union. He is a Marxist. There are a lot of problems that he has.

The curtain rod story is, to me, not believable, among other things. There are a lot of problems that Oswald has. So there's probably more evidence pointing towards him than any other person.

After—if you say Oswald's not the leading candidate, then who's the leading candidate? The amount of evidence you have drops to fairly close to zero. You don't know who it is. So that means, you know, by plurality, Oswald is more likely than anyone else. But that's not the way that you decide culpability, and it's not a very convincing answer.

Anyway, thank you very much.... ♦

Jeremy Gunn's talk has been slightly edited to allow for the flow and some technical problems with sound on the tape as it was transcribed.—Eds.

Judge Brown

continued from page 1

weapon for the purpose. "Others", o-t-h-e-r-s, I'm assuming that means the same to everyone else that it does to me. He returned the .243 to exchange it for a 30.06. Whereupon he had a scope mounted on the weapon in the gunshop.

There's an interesting thing about the Remington 760 Gamemaster. The breach of the weapon is closed by the receiver—don't worry about what this means, it's rather arcane. It means that you can't simply do what you would do with a

bolt action, which ordinarily would be the weapon of choice if you were going to commit any sniping activity because its far more accurate. It means that you can't simply take the bolt, prop this weapon up on some cushions and sandbags, anything that does not move, look down the bore at some object a hundred yards distant, center that object in the bore and then take your scope site using the adjusting screws, move your crosshairs until they center the object approximately 100 yards away while that object is centered in the bore. That's called bore siting. What you'd have to do is colonate the weapon. That means you stick something that looks like a small telescope in front of the muzzle of this weapon with an adapter and you attempt to get the crosshairs of the scope registered on the crosshairs of this colonator device that is inserted into the muzzle.

The gunshop in question did not possess such a colonator. So the scope was simply bolted to the top of the rifle. Now it has been my personal experience when siting in more than 60 rifles in my lifetime...if you colonate a weapon, bore-site it or whatever, and you take it to the range to continue to calibrate it so that it hits what you're trying to hit, and you place a target which is maybe 4-5 feet square on a target rack at 25 yards, you will probably be lucky if the weapon hits paper.

And then you crank in 25-30 clicks to the right, 15-20 up, and you get it approximately to the center of that paper at 25 yards. Then you back off to approximately 100, and then you fire again, and you keep adjusting your sites until you hit what you're trying to hit.

That was not done in this case. It would be the most profound accident I've ever heard of if you simply bolted a scope to the top of that weapon and you were able to achieve sufficient accuracy at 100 yards to hit your target. I won't speak on the number of times that just out of curiosity I took people who had little experience in firearms to arrange or to measure 100 yard stretch of open ground in the country, set up a silhouette target, and

allowed them the opportunity to attempt to hit the head of that target. I can tell you that, with the exception of certain experienced riflemen, there was zero success.

Now that's just one thing that's out there. There's another little something. Ammunition companies compete with each other for sale of their products. In other words, the company with the most accurate ammunition sells the most of it. Remington, Winchester, Federal and a number of others were in high competition about that time [1968], to corner the market. One of the things that you might know if when an ammunition company

makes ammunition, they do not have a machine dedicated to a particular caliber. They make a run, several million of this particular item that's relative to that caliber, and then they change the machinery to something else. So there might be a run of 15 million 30 caliber 150 grain bullets, 180 grain bullets—whatever the specification might be. And all of those bullets are roughly similar. About a year or so later when they convert the machine back and attempt to make the same thing, there are subtle differences—and those differences have a grave effect upon the accuracy of the trajectory. So what the ammunition companies always do is, separate them by what they call lots. A lot is one run. You take the lot of 150 grain bullets—you run a marker that has

There were a number of items that were removed from the case, a number of things that were leaked, and there was another incident where the court had to send one of its bailiffs to physically stop an individual, while this case was pending, from removing the bullet fragments from the courthouse. This individual had gone to the property room. They had given the fragments to this individual as he was leaving the courthouse.

a lot number. Take a run of cases and that run has a lot number...

Now there are other subtle things different with these lots. For example if you analyze, you will find the composition of the metal in the various components will change from lot to lot. Now what I saw in this record, in a very abrupt and abbreviated report from the FBI...is there is a cartridge case that is said to have been fired from this rifle. They found other unfired cartridge cases, with bullets, powder—intact along with the weapon. Well they couldn't shave them a brass from a fired cartridge case, they took a shaving of brass from the unfired cases and they made an analysis. Metallurgical analysis revealed the fired cartridge and the unfired cartridge case were from the same lot. They took a sample of the lead from each of the unfired bullets and they analyzed those four unfired bullets. They all were from the same lot. They took a sample from the lead core of the bullet they removed from Dr. Martin Luther King. Guess what? It is *not* from the same lot.

That's a red flag. Ammunition companies say clearly, without equivocation, they never do that. The bullet that was removed from Dr. Martin Luther King was sent to the FBI intact. What they sent back was fragments. There is a picture of the intact bullet. I will tell you now that in the last four years, that photograph, which was marked into evidence, is missing.

Which incidentally was one of the reasons why the court exercised the prerogative under statute to have the files left in its office rather than downstairs. There were a number of items that were removed from the case, a number of things that were leaked, and there was another incident where the court had to send one of its bailiffs to physically stop an individual, while this case was pending, from removing the bullet fragments from the courthouse. This individual had gone to the property room. They had given the fragments to this individual as he was leaving the courthouse. Now, that's not kosher. What you've got in terms of the physical evidence relative to ballistics... is frightening. I won't touch on it anymore at this time.

The conduct of the Attorney General's office in this case is highly unusual. They had a select committee that they formed, at

taxpayer's expense, supposedly to conduct an investigation that resulted in this report they released week before last. I don't know what it had to do with the investigation, but a lot of their activities had a lot to do with following the judge—videotaping the judge coming out of restaurants and with his associates, sending individuals to attempt to contact the judge in the case and place him in compromised situations. One of whom incidentally has made the statement to law enforcement officials—that statement's been recorded—and he said,

The reason we must go forward and resolve this matter is for the children. Generation X is coming of age and there's going to be leadership that will come out of this generation and the one behind it. They will do things to offend the power structure, just like we did things in the sixties, the fifties, or seventies. To protect this new generation from this type of response by the system, we must expose, we must dismantle the mechanism and we must do something profound so that somebody's brought to justice as a deterrent — so this does not happen to the children when somebody says we can step outside of the law because we believe our cause is holy.

quote, "I don't know what they have against this judge, he's just trying to be honest and they're trying to get me to see if I can't get him in a compromised situation. I don't know why they're trying to do this, or what they are afraid of," unquote.

I was jogging down the street in my neighborhood, became aware that I was being followed. Somebody came up eventually and decided to say a good lawyer over here told him to come talk to me etc. etc. etc. "I'll tell you what you need to do, I'll give you the name of the senior law enforcement official, you go talk to him." Apparently, the people on this investigation committee that the Attorney General's office had put together became rather upset. There was a dialogue they had with a law enforcement official who will remain unnamed at the moment, about why did he have a conversation with this person. Interesting what transpired as a result from that.

I don't know whether or not James Earl Ray would be legally guilty, but I can sit here

as an elected judge from the 30th Judicial District, State of Tennessee presiding over Division 9 of the Criminal Courts in Memphis, and tell you that there is sufficient evidence in this case to scream out to any decent person that a criminal investigation is mandated to determine what other persons were involved in this.

Judges are not supposed to do this. Well they can take it and go to hell with it! They can shove it! Thirty years ago today, a man who was trying to speak about truth and the conscience of America was slain in this city because of that. He gave his life. I can say the devil with it, this job as a judge is not as important as a man's life. And if I have to risk that, then go to hell anybody that doesn't like it!

I have a very good idea what really happened in this case, from going through these files and scrutinizing them. And if necessary I will withdraw from this [judicial] race and won't run or resign if it takes that to bring the truth forth. But it needs to be brought forth, because this is more important than any one individual. This involves a child of history, one of those people that God send every now and then to deliver a message to mankind. That involves a prophet, a man who was about the business of bringing black, brown, red, yellow, white, all of America together so it could remain the best in the world. That was that man's business. And that is my business. And that I think is the business of everyone assembled here today.

I read this [Attorney General's] report that they have, such as I was able to get out of it. It's absolutely ridiculous. I'm not surprised at the results of the investigation. I'm not surprised at the attitudes that have been reflected in the investigation. I'm not surprised at the course of conduct that has been engaged in by the people responsible for protecting the interests not only of the citizens of this state, this county, but advancing the interests of the whole world in finding out what happened to Dr. King—so we can have atonement and have closure. I'm not surprised.

I'm not surprised that the District Attorney General's office went all the way to the United States Supreme Court to have the principle ratified by that august body that the victim's family has an absolute right to be heard, relative to the disposition of a homicide case. I'm not surprised that they fought

continued on page 30

Judge Brown

continued from page 29

tooth and nail and engaged in the worst disrespect I've seen by prosecutors in a courtroom in 25 years to prevent the widow of Dr. King and his son from being allowed to be heard in open court as to their wishes. I'm not surprised. But that has got to stop! This is egregious. That is not right....

Excuse the liberty but I'm probably going to catch all kinds of hell for these remarks, so I thought I'd at least give you enough of a plate for the hell I know I'm going to get.... Please put this out there, you can take it to hell and shove it if being less than a man is what is required by holding this office. Thank you very much.

The following remarks were made at the COPA (Coalition on Political Assassinations) conference the next evening in Memphis.

It's obvious from looking at everything that's in that [case] file, this matter is not resolved. There's no way an intelligent reasonable person can examine what's in that file, what's in this case, and say that we have one individual who's in the penitentiary who is solely responsible for the death of Dr. Martin Luther King.

The reason we must go forward and resolve this matter is for the children. Generation X is coming of age and there's going to be leadership that will come out of this generation and the one behind it. They will do things to offend the power structure, just like we did things in the sixties, the fifties, or seventies. To protect this new generation from this type of response by the system, we must expose, we must dismantle the mechanism and we must do something profound so that somebody's brought to justice as a deterrent—so this does not happen to the children when somebody says we can step outside of the law because we believe our cause is holy.

In this case, what it was all about is somebody was attempting to take the tack that we have this "demon of world communism facing our great democracy and need to take steps to protect it from those who would tear it down." When Dr. King stepped over the line from just being civil rights oriented to deal-

ing with the economy and labor, and talking about the Vietnam War, then that whole thing kicked in. It is not about James Earl Ray. It's about what else has gone on out there. Now singularly missing from what I have seen in this record is an examination of who financed the itinerary [of James Earl Ray's travels after the assassination.] You've got the itinerary, who paid for it? That's one of the things you need to look at. How was the hotel paid for? The airline fare? Where did it come from?

...you want to say a three time loser, an escaped convict with no obvious financial resources, no technical knowledge, is going to, not only miraculously learn how to operate, fire, and direct a rifle and become a good marksman. This one individual is going to be able to acquire the resources to get identities for deceased individuals, come up with very, very good forgeries for passports and fake identifications, is going to somehow acquire funds to express himself in a pre-paid very expensive itinerary and travel schedule. And then he gets himself caught because he goes through Heathrow Airport, but he does not know whether he is a citizen, an alien, or whether he has commonweal status. Now, be real. You have to be the worst culpable moron to go for that story.

Track down the passports that were seized. What's the common thread with the individuals that are the subjects of these fake identifications? How would someone go about acquiring the information?

We talked about the rifle yesterday, which was the subject of the inquiry I conducted. It's not there. Not the right type of rifle. It's never been sited in. Wrong kind of scope. Wrong kind of equipment. A person who does not know how to use it. Metallurgical analysis excludes the bullet from the body of Dr. King from coming from the cartridge case they say was fired in that rifle. That so-called dent in the window sill is a complete red herring because one, if you're a rifleman you simply do not rest a bare rifle against a hard surface. You're guaranteed to miss your target. You've not a downward trajectory which would require someone to aim under the target in order to hit at what you're shooting at. These

are things that you require some experience with. You've got an odd distance involved in the shooting, especially from the claimed location of the shot. With a 30.06, it makes particularly difficult shot shooting downhill in that circumstance you had. You don't have the thing that adds up to what you need.

What's likely to have happened also, if you get into the mechanics of doing some shooting, if you've ever...stand waiting on a deer you know that hardest bloody thing is to keep your rifle in a position that's handy so you can quickly get to it without tipping your position by your movement....

What seems to have happened is that somebody who was at the [Lorraine] hotel, who was closely privy to the comings and goings of Dr. King, made a call—and notified whomever was the real sniper that Dr. King was shortly coming out on the balcony. That's how this went down. You've got somebody who was not remote, but somebody that was close, who was involved. That has a lot to do with the posture of what you've seen in the investigation. You've got political purposes here....

...Everybody's talking about somehow or another you've got a government implicated in this. You've got a director of the FBI who has a pathological hatred of Dr. King. You've got somebody that ran an agency with an iron fist and whom history has revealed to frequently have violated not only the letter and spirit of the law, but to have total disregard for it as an impediment toward his own ends, which he thought was to protect America. What is the paramount phrase that explains intelligence operations? You know, on a need-to-know basis. So you're asking people who are pretty well low down on the totem pole to explain to you everything that went on. Why in the world would you assume that they know? They're not gonna tell you. They know a small piece of the action. I would imagine Ray doesn't really know too much. What you've got in this case was a stooge whose task was to throw everybody off of the trail. That's what an analysis suggest. A three time loser.... What do you think he knows? They're not going to tell him much of anything....

Look at what you've got in our record recently. The Pan Am disaster, not the one off the American coast, the one over the British Isles. They left no stone unturned in doing

great detective work and they come up with several suspects, foreign suspects, a very advanced plot in scheme. They can solve that but for some reason strangely here in America, with something like this, you leave this investigation in the condition you find it in and you want to say a three time loser, an escaped convict with no obvious financial resources, no technical knowledge, is going to, not only miraculously learn how to operate, fire, and direct a rifle and become a good marksman. This one individual is going to be able to acquire the resources to get identities for deceased individuals, come up with very, very good forgeries for passports and fake identifications, is going to somehow acquire funds to express himself in a pre-paid very expensive itinerary and travel schedule. And then he gets himself caught because he goes through Heathrow Airport, but he does not know whether he is a citizen, an alien, or whether he has commonweal status. Now, be real. You have to be the worst culpable moron to go for that story.

But you see, a lot of things were buried because everybody trusted J. Edgar Hoover and the FBI thirty years ago. That was an icon, mom, apple pie, and the flag. And nobody questioned the lackadaisical, disgustingly inept work that they had in this case. Judge Battle in 1968 ordered the rifle re-tested. He said what I see in the record is not adequate. The rifle never got re-tested. He stated himself, I am sure that Ray did not act alone. Nothing was done of it. The House Select Committee on Assassinations says there was no investigation of a conspiracy.

See, conspiracy is only an agreement between persons to do a wrongful act. Under the laws of the state of Tennessee, you can criminally conspire to do an unlawful thing. There's an interesting thing about conspiracy that scares the hell out of the Attorney General's office: if they actually were to nail somebody—rules of evidence change. Any statement by any person shown to be a conspirator can be used against any other person, even if that person does not take the stand. Ordinarily a statement of a co-defendant cannot be used against another, unless the maker of the statement takes the stand and is subject to cross-examination. If you get a statement from anybody and that person dies, if you can show a conspiracy, there being no statute of limitations on a murder, you can use that statement in perpetuity against anyone and you can bring the whole chain down....

You see, you don't get into a situation where all it takes as a law enforcement agency is, you clean a rifle. I gave them something known as an outers file-out. It works on reverse electrolysis. You simply hook the thing

out using electric current, put a rubber stopper in the muzzle, fill the bore up with a chemical, plug the other end, turn the device on, come back in 24 hours, pull all the fouling out, you've got a pristine rifle bore. I've used one myself, works excellently. That won't touch the barrel. Won't harm it a bit. Then you take this weapon and you shoot it. And you analyze what you get. Sounds simple enough, doesn't it? Why was somebody so damned worried about that that they fought it tooth and nail for 3 1/2 years? James Earl Ray did it. We've got the man. There's no need to go any further. Are you that arrogant and cocksure to make that kind of statement, when you ought to be anxious as the chief law enforcement agency in the county wherein the crime was committed to see if there are other perpetrators that ought to be brought to justice? Damn, they do better than that on a DUI.

What's going on here? Why does the Attorney General's office engage in a national campaign of slander against the King family? Some reporters have called me up and let me hear some tapes they made of comments by members of the Attorney General's office. It's disgusting. It's revolting. It's defamation of character. You've got the same group of folks running around screaming about the victim's rights and they holler and they disrupt the court process for what was traditional for the new morality—saying a victim's family has an absolute right to be heard. What the sentence is going to be, whether there is a plea bargain. To be heard in the event a person is convicted relative to whether or not the person gets the death penalty, life in the penitentiary or life without possibility of parole. They always do this, bring the victim's family down and parade them in front of the court or the jury, put them on the stand and let them have their say. And yet they don't want Coretta Scott King to have a right to say anything. They don't want Dexter King to have a right to say anything. They don't want Dexter King to be allowed to take the stand. What goes here?

And then you turn around and you can't leave it at that. You try to slander and libel the King family—bzz, bzz, bzz things in the ear of other people to try and wage a campaign to discredit them. What goes on here? What gives when witnesses are sending—since the court's supposed to see to it that they get paid—an indication that they have interesting evidence, you say well hold on let's see what's revealed when they come in and testify. And then when they come time to testify, they have nothing to say. Or Mr. Campbell again, who seems to be so prone to being offended, comes in and ex parte says, Judge, you know we've gotten word that some of the tabloids are going to contact the defendant's

expert witnesses and we're worried that they're going to leak the information before it's revealed in court and they haven't been paid and we think the court ought to see to it that they get paid. Well, excuse me Mr. Campbell, have you talked about this with Mr. Pepper? "No, I think I'll bring it to the courts." "Well, I'll convey this to Mr. Pepper." I tell this to Mr. Pepper, and Mr. Chastain provides shortly an affidavit of indigency for Mr. James Earl Ray. And guess what's going on? Somebody is saying bzz bzz bzz, you guys haven't been paid. We'll see to it that you get paid if you switch sides.

The last hearing we had on that, they were saying we want another hearing because these people will testify against the petitioner now and say there's nothing to these rifle tests. Well gentlemen, this is Thursday, you have until Monday to provide a synopsis, written statement in writing from these gentlemen as to what they would testify to. Well we want the court to rule on whether it's going to recuse itself. No, you have this by Monday. The court will rule on that recusal as a separate matter. They never provided it.

Interesting to look at the appellate decision [which removed Judge Brown from the case]. Most of the information they based it on was in error. The Attorney General's office had a habit of running up there to get something done before a transcript could be prepared and then making fundamental misrepresentations to the Court of Criminal Appeals as to what transpired. And then the Court of Criminal Appeals says the judge was too involved in the fact-finding process. Well, what does rule 608B rules of evidence say? The judge may interrogate witnesses. Case law says there is no limit to the extent to which a judge during a trial to a bench—in other words where the facts are to be determined by the judge—can question a witness. Judges generally cannot call witnesses. Rule 714 of the rules of evidence State of Tennessee says, where the trial is to the bench and not to a jury, or the issue of fact is to the bench not to a jury, a judge may call expert witnesses if he does not feel that those provided by the parties are adequate. Rule 715, compensation of expert witnesses, etc. etc., expert witnesses called by the court in criminal matters shall be compensated in the event that the defendant is indigent, through the state's fund for compensation of witnesses for indigent parties. Now if the judge can call a damn witness, if the judge can interrogate witness, then what the hell do they mean that the judge is too much involved in finding the facts of the case and interfering with the Attorney General's ability to manipulate the matter through procedural

continued on page 32

Judge Brown

continued from page 31

devices.

The judge is biased against the state. Well, I mean that's very ironic. I suppose I should take it as a compliment. They're taking an African-American man who's had a long history of civil rights involvement—in the sixties was known for being quite militant—and they're saying he's biased in favor of a self-avowed bigot and racist. Well, when you have ordered that records be sealed and the state's representatives decide that they are going to leak them anyway; when you've got a political action committee that is operating in the AG's office and they've already picked a member to run against you and they are using the opportunity to get some political clout, what do you think's going to happen? Historically, correct me if I'm wrong, it has always been a longstanding rule in the District Attorney General's office that no assistant would be permitted to run against an incumbent criminal court judge, only if there is a vacancy. So they've already set somebody up to run against yours truly and they were doing it at the time and they were doing political manipulation. Tennessee rules of judicial conduct says, any judge subject to election may campaign at any time and make statements relative to his candidacy at any time to the news media. What was wrong there because somebody said this is nothing but politics that you see, it has nothing to do with the merits of the case. Never discussed, never indicated, never gave any indication or information what his ruling was going to be relative to whether or not James Earl Ray got a new trial. I *still* haven't given any indication. Because whether or not that was the rifle had nothing to do with whether James Earl Ray got a new trial per se. What was going on was, if the rifle was excluded, then an evaluation of the entire record must be done. A written finding of fact must be delivered by the court and in light of that exclusion, did that mandate a new trial for James Earl Ray? In other words you were going to get an African-American man who came from Los Angeles, California, went to UCLA, was active in everything going on, anti-war, civil rights, equal rights, gender rights, in the sixties—was going to get a chance to write for history a synopsis of what really happened in the James Earl Ray case. Now, you get another idea about what the devil's going on here?

And you want to look at that piece of garbage [the Attorney General's report] that's 32 pages long, filled with inaccuracies, errors, deliberate misstatements, misspellings, incorrect information—and you want to rely upon it as a statement that a 6th grade dropout, no

Fading Spirits

Old Spooks lurk speaking slyly like Shackley the ghost
"Those were the days".

Old stories. Old men.

War stories.

Tinkering, tailoring. Doctoring the spin.

You remember. Nocturnal death-optics tracking Che's heat.

A satellite shot: Outlined in the dark jungle like a corpse in chalk on the street.

Wet. A crash program. Agent Olson's suicide silhouette in glass.

The shatter froze. Sagged. Clattered glittering to the street. Light following mass.

A mad dash. A brute crash. A black bag of warm meat.

Before technical services. Or one lousy germ.

Recall the orchid man white as a worm.

Slighted in corridors. Glimpsed in the stacks.

Colleagues cowering. Eyes on their backs.

Him; a sensitive instrument tuned to the squirm.

Now the past glimmers shimmering gold.

Business lawyers panning Saigon when the war was cold.

Packing monumental artillery. Welding word of mouth.

The north was spooked. Assaulting the south.

Now we look back looking old. Out of the past. In from the cold.

By Peter Kerns

money, on the lam who's an escaped convict with I suppose great ties into England, great ties into the civil reporting and health systems of England, great ties into people who were expert forgers with identification and passports, got an inside track into international air travel, inside track into obtaining the wherewithal to do what was required to make those reservations, accommodations and transportation arrangements in various countries. Yeah. See, you got another thing going on.

I have a pretty good idea what actually happened. I'm not going to say right now, but let's put it at this point that there needs to be investigation. I think the federal government ought to do it, because this agency here is not capable of doing it. They don't have any resources. They don't have the knowledge. They don't have the expertise and they don't have anything in this state that's sufficiently sophisticated to draw upon to handle these matters. The federal government ought to do an inves-

tigation. Mr. Clinton's been over in Africa apologizing for the conduct of this country relative to African citizens who were kidnapped and brought over here and colonial activities, and a lot of folks are real upset with him for that. Why the devil are you going to get upset with somebody for having the decency to apologize for some wrongdoing I do not know. But I submit it's the same attitude you see here.

Now we've got a real live problem. And until we clear this problem up, our children are in danger. Because they'll do it again. This is thirty years after King was killed. J. Edgar Hoover pulled this charade off and we still haven't come far enough because the Attorney General's office in Shelby County Tennessee is still pulling it off thirty years later and doing it with the feeling they can do it with impunity. They're to be called to the carpet, raked across the coals, and a demand needs to be made as to why this farce has been perpe-

trated upon the people of this county, this state, this country and the world. And I really don't care that much about being a judge, to sit there and keep my mouth shut when I see this kind of injustice. They can take it and shove it. Meanwhile I may just change careers. You can watch my program starting in the fall. The Judge Joe Brown Show brought to you by the same folk that do Judge Judy, Aaron Spelling Productions and Big Ticket Television. And again, good hunting.

The following is part of an answer Judge Brown gave during the question and answer period afterwards.

I know what's been conspicuously absent from that file—nothing to investigate payments, or obviously what's going on internationally. When you make a reservation at a hotel internationally, you've got to provide passport information, financial information, means of payment whether it's currency, credit or some other kind of transfer. I don't see any of that in the record. It should exist and if it's destroyed, you should at least be able to get an indication as to how it became destroyed...

So understand this issue does not die with James Earl Ray. There is not statute of limitations on murder and they don't need James Earl Ray to reopen this investigation.

Q: Did you expect the kind of resistance you found?

Brown: Well they came to me and they had this cocksure attitude—of course we've got a formerly militant black man. He's going to throw James Earl Ray right out of court. What they did not count on is in fact somebody who understands what justice is about. That it's blind. It doesn't make any difference who is in front of you. Everyone is to get the same rights. Sometimes they don't like that. I didn't pay any attention to Mr. Ray's personal philosophy. All we dealt with was the issues at hand.

Now actually it started out in a unique fashion. When the case came in front of me, they were saying there was new scientific technical methodology that would establish his innocence. I think there were a number of issues that were raised relative to that. What I did is denied the petition. But I said there's a loophole in Tennessee law that needs to be closed. And that is if you do not file within a certain period of time—even if there is some new scientific evidence that shows that you're pristinely innocent—you lose your judicial remedy and you have to go to the governor for a pardon. That's repugnant to the law, for a legal situation to exist that has no legal remedy. In other words, a person sitting on death row condemned to die for a murder and it turns out that new DNA testing would reveal

that he is absolutely not the perpetrator. Well under Tennessee law at the time, there's nothing that could be done.

So what I did is say I deny the petition but I will allow the defense to make a proffer of proof for the appellate record. In other words, you may test the rifle, see what you get. Well, they ran up and got an immediate injunction. Said I was crazy. They said they'd never heard of it and they filed an affidavit that was very interesting. It says: "If the rifle is tested, it may be damaged which would prevent it from being tested in the future." They ordered me to dismiss the whole damn thing, and a week after the order came down, guess what? I had been talking with some of the state legislators, so they passed a new law. It says there is no statute of limitations when there is new scientific methodology that will establish the innocence of the petitioner. And/or he may simply request that his petition be reopened.

Well they came to me and they had this cocksure attitude—of course we've got a formerly militant black man. He's going to throw James Earl Ray right out of court. What they did not count on is in fact somebody who understands what justice is about. That it's blind.

They went and requested that it be reopened.

First thing that happened was, I had a hearing to determine whether that would damage the rifle. The conclusion was it would not, let's go ahead with it. Next thing they ran up to the Court of Appeals saying they wanted it out of my courtroom. It should go back to Division 3 because that's the original trial court. They did not understand that there is a thing called trial court, a thing called appellate court, and a thing called Supreme Court. So trial court simply meant Division 8. They sent that back down. So then they went over to somebody who had the administrative judgeship in rotation and they said, you must correct this, there's another mistake, they didn't really mean this, transfer it to another division. That didn't go. So they they went up to the Criminal Court of Appeals and they said no you can't do that. So then they try it again. Three times. We got back to the streets and we finally get these tests, and they come up with this flimflam and I cross-examined their experts and they did not appear to be too expert to me based upon their inability to answer questions. And what did the law on experts say: expert testimony is sometimes the best or the only means of arriving at the truth. But you are cautioned that you should receive expert testimony with *suspicion*. You are not

bound to accept it. You may reject it in part or totally. You should base your acceptance or rejection on the witnesses ability to answer questions, his knowledge of the subject etc etc.

So the next thing they did is they tried again, and somebody filed and said no it should be in my court. We had a big to-do. And it seems every time I was out of town is when they'd do it. So they have one statement in the paper that this is nothing but nonsense. It's politically motivated. Hell, I may have said it, I don't remember. I was probably full of it because I was in Jamaica and it was 2 AM in the morning and we had been dancing and drinking Bahama mamas, and somebody from the *Commercial-Appeal* managed to track me down at a resort hotel after we had been at the reggae festival.

In any event then when they got through with that round they tried again and wanted another set of hearings and wanted to run back up. Frankly, if I'd had anything to do with it, I would have said that your Court of Criminal Appeals needed to recuse itself because there were former prosecutors involved in the James Earl Ray case who had sat on or were sitting on the Court of Criminal Appeals. They were closely and personally connected with those individuals; and the fact it might cause an onus upon the prosecutor's office at the time and upon Criminal Appeals for more valid reasons, then they thought I ought to be recused. However, I didn't have any say-so in the matter because nobody asked me. Again, this is the same court system that brought you the Scopes monkey trial.

Q: Based on what has happened in the past, can we be comfortable with a commission that would take control of this case?

Brown: There is a method that could be done on the state level. We have a special prosecutor law in Tennessee. It says when there is a conflict in the prosecutor's office or they seem unable or unwilling to go forward, a special prosecutor can be appointed. It happens all the time particularly when a law enforcement official is the subject of a prosecution. I actually thought that would have been appropriate. There is a California case of First Impression that's interesting. It says that where prosecutors are tied to a position that makes them adverse to bringing out the whole truth, they must be removed from the case because they represent all of the people including the accused or the petitioner. And if they're not capable of objectivity in their conduct of handling of the matter, they should not be allowed to prosecute and they must be removed. Now that would have some bearing on this situation. I think what you need to do is get a select committee. But it needs to have absolutely nothing to do with any of the previous interests in this. ♦

Gordon Novel

continued from page 12

Novel to do were to locate Sergio Arcacha Smith, Layton Martens, and the truck used in the Houma raid. Novel did whatever Sheridan asked. He found Arcacha simply by asking Gurvich where he was. Recall that Gurvich told Garrison he was looking forward to arresting Sergio so he could say "I gotcha, Arcacha." But evidently, Gurvich knew where he was all along! Novel also reported passing Minox photographs of some of the evidence Garrison shared with him on to Sheridan.

When Novel was in Columbus to escape the reach of the DA's office, which had subpoenaed him, Sheridan allowed him the use of his credit card and paid his phone bills. Sheridan was also responsible for arranging Novel's polygraph test in DC. One of the questions on the polygraph was, "Do you have or have you ever had any knowledge of a genuine conspiracy to kill the President?" What constitutes "genuine"? This phrasing intrigued attorney David Krupp, who asked Novel who framed the questions. Novel quipped back, "What do you want me to do? Say Richard Helms?", an interesting knee-jerk response.

Novel boasted at one point that he had "fairly decent credit these days, but it only became effective after Mr. Shaw was vindicated." Before Shaw was acquitted, Novel explained, he drove a shabby '62 Lincoln. After Shaw was acquitted, one of his many corporations (which he likened to CIA fronts) leased him a new (1969) Lincoln Continental Mark III. Novel did not even have to shell out a down payment. Novel said the following: "I have fairly decent credit these days, but it only became effective after Mr. Shaw was vindicated...I didn't have the ability to buy a car or anything of that nature until Mr. Shaw was vindicated."

Novel, by his own admission, had known Clay Shaw since 1959. Shaw and Novel were associated through mutual interests in the International Trade Mart. In personal papers recently turned over to the archives, we find that Shaw had Gordon Novel's name and phone number for when Novel was in Reno, Nevada. Many people knew where Gordon was in New Orleans. Some knew where to find him in Columbus. But how many were close enough to have tracked him to Reno, where he went for a more underground portion of his life? Curiously, Clay Shaw was one of those people.

Novel and the Mr. Weiss Letter

One of the longstanding mysteries from Gordon Novel has been who the now-famous

PROBE July-August, 1998

"Mr. Weiss" letter was intended for, and what its cryptic contents meant. This was a letter found in an apartment in New Orleans, written by Gordon Novel but not sent. In this deposition, Novel is asked explicitly about every part of this letter. The following is an excerpt of the lengthy exchange on this subject. David Krupp, attorney for *Playboy*, is doing the questioning.

The text of the letter (taken from a transcription and the deposition text) is as follows:

Dear Mr. Weiss:

This letter is to inform you that District [sic] Jim Garrison has subpoenaed myself and an associate to testify before his Grand Jury on matters which may be classified TOP SECRET. Actions of individuals connected with DOUBLE-CHEK Corporation in Miami in first quarter of 1961.

Mr. Weiss was really Charles Weiss, the man he believed replaced Otto Otepka in Security at the Department of State. He met Weiss through Bernard (Bud) Fensterwald.

We have no current contact available to inform of this situation. So I took the liberty of writing you direct and apprising you of current situation. Expecting you to forward this through appropriate channels.

Our connection and activity of that period involves individuals presently under investigation and about to be indicted as conspirators in Mr. Garrison's investigation.

We have temporarily avoided one subpoena so as not to reveal Double-Chek activities or associate them with this mess. We want out of this thing before Thursday 3/17/67. Our attorneys have been told to expect another subpoena to appear and testify on this matter. The fifth amendment and/or immunity, legal activities will not suffice.

Mr. Garrison is in possession of *unsworn* portions of this testimony. He is unaware of Double-Chek's involvement in this matter but has strong suspicions. I have been questioned extensively by local FBI recently as to whether or not I was involved with Double-Chek's parent-holding corporation during that time. My reply on five queries was negative. Bureau unaware of Double-Chek association in this matter. Our attorneys and others are in possession of complete sealed files containing all information concerning matter. In the event of our sudden departure, either accidental or otherwise,

they are instructed to simultaneously release same for public scrutiny in different areas simultaneously.

Appropriate counteraction relative to Garrison's inquisition concerning us may best be handled through military channels vis (a) vis D.I.A. man. Garrison is presently Colonel in Louisiana Army National Guard and has read reserve status. Contact may be had through our attorneys of current record Plotkin, Alvarez, Sapir.

Novel identified Sergio Arcacha Smith as the associate to be subpoenaed. Other associates included Ferrie and Martens.

Regarding Garrison being in possession of unsworn testimony, Garrison had shown his case files to Novel, and he was therefore familiar with the contents.

Regarding the phrase "He is unaware of Double-Chek's involvement in this matter," Novel explained, "I was saying he was unaware of the CIA's covert involvement in this case is actually what I was saying." Asked what was meant by the parent holding company, Novel responded:

Well, the holding corporation would have been a nice way of sending that letter through the mail without saying "CIA," wouldn't it have been, at that time?...The parent holding corporation was the Central Intelligence Agency.

Novel admitted he had lied to the FBI about the CIA's involvement in Houma because he felt he was expected to do so.

Asked if Novel was suggesting Garrison be activated for duty, Novel said, "Yes, I was; I was really suggesting that....In fact, I was pleading for that."

So who was Mr. Weiss? Novel explains that Mr. Weiss was really Charles Weiss, the man he believed replaced Otto Otepka in Security at the Department of State. He met Weiss through Bernard (Bud) Fensterwald. Fensterwald was at that time the head of the National Assassination Committee to Investigate the Kennedy-Kennedy-King assassinations. Fensterwald and an investigator of Garrison's named George Hommey found out that Novel had developed a device that prevented a room from being bugged, called a Checkmate device. Fensterwald and Hommey brought Novel to Washington D.C. to promote his wares. When Senator Edward V. Long, for whom Fensterwald worked, heard of the device, he suggested alerting the State Department. The Checkmate device emitted white noise that made it impossible to tape record anything but that white noise within a 2000 square foot range of its vicinity. A group of 12 people was convened, and the person there from the State Department's Office of Security was Charles Weiss.

Novel explained that, "After seeing that unit work, he [Weiss] would know I was no

continued on page 36

Notebook

The Endless Circle

Last issue, we quote former representative Walter Fauntroy referring to some unnamed sinister force in the U.S. as "the apparatus". He was being necessarily vague. But we have tried to point out that there are tried and true networks of power in this country that have continually tried to cover-up any investigation of the assassinations of the sixties. These people persist to this day. For instance, in his book *Orders to Kill*, Bill Pepper describes the HBO mock trial he took part in in 1993. The prosecuting attorney in that case was Hickman Ewing. By all indications, this is the same Hickman Ewing who appears to be the go-between for Ken Starr in his communications with Richard Mellon Scaife (*Probe* Vol. 5 #3). We should also note that another illustrious obstructionist for Pepper has been King biographer David Garrow. Garrow has repeatedly attacked the King family for insisting on a new probe of the MLK murder. The media has showcassed him in that regard. He once referred to James Earl Ray's guilt as having been "proven." In his new (and awful) book *Killing the Dream*, the notorious Gerald Posner acknowledges Garrow as being one of the people who encouraged him to take on the King case. That's some apparatus.

More Drugs

We advise everyone to get Gary Webb's new book which we touch on in our bookshelf. Both he and Robert Parry have recently disclosed a rather tantalizing new fact that came to light via Frederick Hiltz's newly disclosed CIA Inspector General's report. In 1982, former CIA Director Bill Casey secretly engineered a deal with then Attorney General William F. Smith. The deal would exempt the CIA from a legal requirement to report on drug smuggling by Agency assets. The timing is important. The exemption was granted on Feb. 11, 1982, two months after President Reagan authorized covert CIA support for the Nicaraguan Contra army. As Parry notes it was about eight months before the first evidence of Contra alliances with drug traffickers surfaced. Predictably, this revelation was ignored by most of the mainstream press. It would have suggested Casey's cooperation in the Contra cause by any means necessary, including the drug trade.

Haldeman Sure Learned Something

In 1990, University of Wisconsin professor Stanley Kutler wrote a rather dull, prosaic book on Watergate. All one really needs to know about *The Wars of Watergate* is that Sy Hersh gave Kutler a blurb. But Kutler has now published another book on the subject, *Abuse of Power*. This is more valuable because it is a transcription of some of the newly declassified tapes from the Nixon years. On pages 139-140 a fascinating discussion takes place. Chief of Staff H. R. Haldeman is discussing ways to spike any further investigation of the Watergate break-in. He postulates a blue-ribbon panel that will certify the findings of the FBI and the Department of Justice. Who does he grab out of thin air to head the panel? Earl Warren and J. Lee Rankin. To pound the point home, Haldeman then adds that the findings of this panel should then be trumpeted as the most thorough investigation since the death of President Kennedy. Talk about a collective unconscious.

The Plots (and Disinformation) Continue

A recent book on the Kennedy assassination is entitled *Did Castro Kill Kennedy?* It was written by a Russian emigre named (supposedly) Andrei Muscovit. Muscovit defected to America in the seventies and went to work as a translator. His book was translated from Russian into English and then published in Miami by the Cuban American National Foundation. As most *Probe* readers know, the hypothesis in the title is pretty ridiculous but there is a good reason why the CANF would want to get it into bookstores. As the *New York Times* revealed on March 5th, the foundation itself has been implicated in a plot to kill Castro. Last October, four Cuban exiles were questioned by U. S. Customs agents in Puerto Rico. They had a cache of weapons on board including two .50 caliber assault rifles which, they admitted, were part of a plot to kill Castro. One of the rifles was registered to Pepe Hernandez, president of the CANF. This group came to huge prominence in the eighties when it got very close to Ronald Reagan and the CIA, which bestowed huge grants of money on it for propaganda warfare against Castro. Its latest patron has been none other than Sen. Jesse Helms, who is unrelenting in his desire to keep up the American trade embargo against Cuba. A disinformation effort? Highly likely. Yet this book was approvingly reviewed in a recent issue of the *Fourth Decade* (May 1998), and by Walt Brown in *JFK Quarterly* (January 1998). C'mon guys. It's not 1964 anymore. We have learned some things in 34 years.

More Posner

In 1995, when Dan Moldea published his whitewash of the RFK case, the *New York Times* made sure they gave him a good review. How? The reviewer was none other than Gerald Posner. Disturbing, but not surprising. When Posner published his book on the King case this year, the *Boston Globe* gave him a good review. How? Christopher Hitchens reviewed the book. Yep, the Hitchens of *The Nation* and the October Surprise. Hitchens has now joined Alexander Cockburn, Noam Chomsky, and Marc Cooper in the "Lefties for Lone Nuts Club" or "Who cares What Happened to the Sixties" circle. Need we add that the *Globe* was recently bought by the Posner-backing *New York Times*. Is Hitchens angling for a column there?

RFK a Memoir

In June, the Discovery Channel broadcast a three-hour documentary special on the career of Robert Kennedy. If you have not seen it, please do. It was produced and written by former RFK aide Jack Newfield, and includes many insights from those close to Bobby, especially in the period after the JFK murder. In our last two issues, Lisa Pease exposed that RFK's murder was the work of a conspiracy and suggested some of the people who may have been involved. If you are looking for a motive, just watch the closing section of this special. On the morning of the California primary in 1968, Newfield woke up early to check the voting in the Mexican and black sections of LA. All his life, he was told those people don't vote. That morning they were lined up at 6:00 AM. Incredibly, the turnout in the black ghetto of Watts was higher than in Beverly Hills. Mr. Hitchens, Mr. Cockburn, Mr. Chomsky, that is why the assassinations of the sixties still matter. Case closed.

Gordon Novel

continued from page 34

crank." By implication, Novel is also suggesting that Weiss would have immediately recognized the Double-Chek reference and warned the CIA.

Novel's deposition should sound a death knell for belief in the Torbitt document. A document was surfaced in the early 1970s which alleged to provide the Rosetta Stone to the assassination. The author wrote under a pseudonym, but was believed to be a Southern lawyer. A craftily prepared piece, the Torbitt document completely misrepresents both this letter and Novel's entire background of associations. The Torbitt document is an everybody-but-the-CIA did it document, which attempts to paint Novel as not being connected to the CIA. Anyone who has followed the series of revelations about Gordon Novel published in *Probe* based on his deposition cannot but come to the opposite conclusion. Whether on payroll or not, it's quite clear that he had deep contacts, including a substantial relationship with Allen Dulles. He was involved with an operation to be led by David Atlee Phillips before it was cancelled. He was heavily involved in operations surrounding the Bay of Pigs, for which he was thanked after the operation failed. And most of all, Novel showed a loyalty such that he would lie to the FBI to protect what he was certain had been a CIA operation. ♦

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Bookshelf

On the Kennedy Assassination:

Oswald, the CIA and the Warren Commission by Peter Kross, \$19.95, to Kross Research & Publications, P. O. Box 9, Franklin Park NJ 08823.

#5 Man, November 22, 1963 by Raymond Marcus. Sold through Last Hurrah Bookshop, send \$2.50 plus \$4.00 postage to, Last Hurrah, 849 West Third St. #1, Williamsport PA 17701.

Bloody Treason by Noel Twyman. Available through Laurel Publishing, P. O. Box 6756128, Rancho Santa Fe, CA 92067. (We made an error in our last bookshelf entry; this book will not be excerpted in *Probe*.)

Upcoming:

Let Justice be Done by Bill Davy, self-published. Scheduled for release late this year, this book will be excerpted in *Probe*. Should be the best and most current look at the Garrison investigation.

Related and Recommended:

Secrets: The CIA's War at Home by Angus Mackenzie (University of California Press).

A very unusual posthumously published book. It is a history of the methods by which the CIA and other agencies have tried to limit the scope and reach of the Freedom of Information Act, especially in recent years. Also how the CIA has used surveillance, informants, and covert operations to cripple the leftist press, most notably Ramparts. Very few heroes besides Ted Kennedy and Ernie Fitzgerald. A long list of villains includes George Bush and the ACLU.

Dark Alliance: The CIA, the Contras, and the Crack Cocaine Explosion by Gary Webb (Seven Stories Press). This book should be called the revenge of Webb. With 500 pages to lay out a huge canvas, not three newspaper columns, he manages to connect all the dots to show with precision just how the crack cocaine epidemic originated in Los Angeles through Ricky Ross' work for the Contras. Incorporates details from the recent CIA Inspector General Report to prove his case. Webb makes his critics i.e. the mainstream press, look pretty naked.

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