5/19/69

Dear John,

I did begin a rather lengthy analysis of the government's answer to your suit. I've not had time to read it but if you have any interest, I can xerox and send, uncorrected. These are comments, suggestions, etc.

Two of the government attorneys who signed this answer, Ruckelhaus and Axelrad, were party to the suit in General Sessions Court in DC and know the evidence adduced there. They knew it well before they prepared these papers. They therefore know better than they claim in your suit.

Their response is semantics, with deception practised and intended. I will specify below. This misuse of words, which is an imposition on fact, the court and you, cannot be accidental.

First paragraph of body quotes Rhoads affidavit, "the clothing, X-rays and photographs sought are specifically exempted from disclosure by statute" and the release of the cited evidence is "precluded by statute". A bald lie. There is no such statute. This is but the dubious interpretation of what the government says it is empowered to do, but there is no law under which this is "specifically exempted". Read their own quotation of it. A decent judge should get hopping mad at this. And how can the word of a non-lawyer be given or taken on such a subject? The answer probably is to prevent action against a lawyer, who would be expected to know better. So, they have a non-lawyer misrepresent instead. Note also there is no ervbatim quotation of any law "specifically" stating these things. I also suggest that the lawyers really prepared Rhoads' affidavit for him, for they would not leave interpretation of the law and controlm over their argument to a layman.

The cited law was 17 years old and could not "specifically" anticipate the murder of the President then virtually ~~then~~ unknown. It ~~is Section 507(c)(1) and~~ relates to Presidential papers. Related to this is the so-called "letter agreement", signed for the executors of the Kennedy estate by Burke Marshall. The pictures and X-rays could not be part of the estatem for that is determined the moment of death, hours before they existed. These also are government property which there was no legal authority for giving away. The judge in Washington (Charles Halleck) as much as said this. In any event, he, in effect, held the "agreement" invalid for he did issue an order for the production of this stuff. It became moot because of ~~federal~~ delay, hence it is not overturned. The government carried it no further. You will find the evidence that it is customary and I think the effect of the law that the film belongs to him who buys it in the Pittsburgh code. I know that when I pay for X-rays (as Kennedy did not) they do not become my property, not can I get them and give them to my doctor when he doesn't make them. We've had this experience. We were permitted to borrow emergency X-rays.

Your lawyer can emphasize the ridiculousness of this argument of "specific" exemption by poking at the "specific" exemption claimed fot the ballistics evidence, by official number, given to unfired bullets by a non-existent Commission more than a decade in the future. The 1949 Congress was not that prescient!

So, the government lied, claiming specific law when there is none and having only its dubious interpretation of an inapplicable statute, based on a fraudulent agreement. Much is based on this spurious "agreement". It is alluded to twice on page 3, and the entire fourth and fifth pages are devoted to it. It is twice invoked on

the sixth. It is cited under "Argument" on page 8. Repeated in various forms and formulations on pages 9 through 20. This fraudulent agreement, then , is the crux of the government's argument and case.

The "Pittsburgh Code " is "Hospital Law Manual", See the "Administrator's Volume", p. 11.

It is especially dishonest to claim that the pictures and X-rays were under the "original ownership" of the Kennedy family or the estate.

The government alleges this material was Kennedy property. We know it could not have been. It does not explain how this happened, and if the law will permit, I would suggest a separate interrogatory or question for an explanation of how this happened. The stuff was turned over by the Secret Service/Treasure 4/26/65, I know second-hand from an undersecretary, who told Dick Whalen who told me. If you can do this you can nail them in an illegality, for no one had the authority to give this away. You thus can establish what I think the law prohibits, a law-breaker profiting from his illegal act. But I think a simple establishment of the fact that the film was exposed in a federal hospital and the question how did it become Kennedy property may accomplish the purpose, if it is permissable at the present state of the litigation. They nowhere prove their major claim, that this was Kennedy-family or Kennedy-estate property. The memo of transfer is alluded to in the panel (Clark) report. I have been denied it by the Archives on the ground it is private property. I have appealed and the reply is months late coming. Further, the film could not have been the property of the Treasury and I have certification from the Navy that as of 11/25/63 they possessed none of the autopsy evidence. We know they delivered the film to the SS, but this does not mean it became Treasury property.

I believe the "letter agreement" was ~~ex~~ drafted by the government at a time the Kennedy estate had no legal representative. Examine it. You will find there is a blank where the name of Marshall was subsequently added by hand. If this is the case, I think it then means that Marshall accepted what he was asked to sign, what he had no part in negotiating or even considering. Perhaps as a matter of law this may have no meaning but to me it seems to be significant. He is a former assistant attorney general and would have trusted his former associates.

The government cites the House Committee report of August 19, 1965 as recommending the exhibits be denied anyone, in this language: "...these ~~xxxx~~ critical exhibits" considered by the Commission shall be permanently retained so that "allegations and theories concerning President Kennedy's assassination" that "might serve to encourage irresponsible rumors undermining public confidence in the work of the President's Commission" would not be "encouraged". Preserving this evidence ends nothing, satisfies nothing, proves nothing. To deny it to one competent to examine and understand it is to do exactly the opposite of what the House Committee says it wants, for the denial in itself is sufficient to warrant "undermining public confidence". If the evidence proves what the government says it proves, the government, if it is sincerely dedicated to the belief of the Committee , would want this proof public, authenticated by a genuine expert as it never has been. Rather than shun such a confrontation, the government, by its own citation, should seek it. That it goes to such length to prevent this does not inspire confidence in the genuineness of its claim or in its faith in what the evidence proves.

To say (memorandum, p. 2) that the exhibits may be "viewed" only is to say they are, to all practical intents and purposes, denied, for Exhibit 399, for example, is kept in a plastic case and cannot be examined at all without removal for turning, measuring, etc. In fact, the requisite measurements were never made by the government itself. This argument amounts to a federal diktat that there can be but a rubber-stamp of its conclusions and claims. This serves but to frustrate free

inquiry and scholarly, independent research, the only authentic purposes of establishment of an archive. This is opposed to thenational need and interest, especially when the subject is the murder of a President and its official, ex parte "investigation".

To argue that this is an "unconsented suit" is to claim that the government can engage in a fraud, which is what the letter of agreement is, and cannot be questioned without is assent, ~~hardly the probable course of this engaging in the fraud~~. It is to argue that the Department of Justice can ignore or sanction the theft or the illegal disposition of government property and evidence, without citizens being able to contest this. It is also to argue that when government property is stolen or illegally disposed of conditions can be imposed on the return of that property. This is to say that a stolen car becomes the property of the thief, at the moment of theft, and that it continues to be his property as long as he perpetuates the illegality. Without this illegality, it would have been impossible to impose any conditions on examination of the film. (applicable to later portions also).

I suggest you claim an added reason is to avoid the requirement of prosecuting government employees, Humes, Boswell and Finck, for perjury. I charge they did perjur themselves in POST MORTEM III and prove it.

Page 3 argues an "unwarranted invasion of Personal privacy", without specifying whose, which is pretty impersonal. But the same government held otherwise with Oswald, Connally and Tippit. Can it have it both ways? Is it an "unwarranted invasion" for the Kennedys and not for the Oswals, Tippits, Connallys and others of less prominence?

The purpose for which the spectrographic analysis was made is and has been irrelevant for it was used by the Warren Commission (Frazier's testimony and as an essential backstopping of the Report). It thus cannot be withheld as "part of an investigative file". In addition, if the government claims Oswald was the lone assassin, as it does and has, that case is closed and thereby ends the classification "investigative file" and the designation of "law-enforcement purposes."

Page 6: photographs of the clothing cannot substitute for the actual clothing for any serious purposes, <u>especially</u> photographs as thoroughly incomptent as those of the government (examine them, John!). Making this condition is to assure that the evidence of the clothing is denied. This is particularly significant in this case because of official misrepresentation of what evidence the clothing bears. If you didn't include the tie, by all means add it fast! There is no hole in it. I have this in POST MORTEM III, and the proof.

Bullet and fragments "may be viewed but may not be handled..." Nonsense. I have been permitted to do it several times, the most recent being but last Friday. So were Bernabei and the photographer for whom I arranged. Here the government alleges falsehood and by it again seeks to prevent meaningful examination, which can be made in no other way, especially when the lack of quality of the official photographs is considered.

The government argument amounts to this: a President can be murdered, there can be an ex parte proceeding without spectators and the evidence may be denied citizens or competent investigators. Thus the government claims the right not to be questioned in an ex parte "solution" of a murder. The national interest is opposed to this, generally and specifically. The plea is additionally frivolous for the government itself defaced Exhibit 399. And it suppresses and here denies access to the test for which it was allegedly defaced.

The date of the spectrographic analysis is carefully hidden. Unless the government can and does show that it was prior to the murder of Oswald, it cannot claim it was kept "for law-enforcement purposes" without claiming Oswald was not the assassin or not a lone assin, both of which are contrary to what it does and without exception has claimed. Additionally, with no federal law violated by the murder of the President, the FBI had no jurisdiction "for law-enforcement purposes". It is rendered further invalid by the "leaking" of the results by the government, before the issuance of the Warren Report. The government cannot claim it can make the content available and suppress it, both. It can argue but one side. More, can it be believed that if the spectrographic analysis, which involves no secrets and no secret processes, no secret informants to protect in any way supported the representation of its results, the government would have any reluctance in publishing it? Denial of the spectrographic analysis (which I have been seeking since May 25, 1966) leads only to the belief that competent study of it would show it proves the opposite of the government's claim. The FBI does not dare have its work carefully scrutinized and knows it. It also cannot be argued that the FBI is immune to honest error. If Jesus could trust Judas, even J. Edgar Hoover can err. And the Secret Service, officially claimed the FBI was wrong, especially Agents Greer and Kellerman, in their sworn testimony.

Jevons is not the competent witness on the spectrographic analysis, for Francis X. Gallagher made it. Jevons is also wrong in swearing the file is disclosed only to government employees, for it was leaked and the interpretation is in the Warren Report, which was widely published, and in the testimony, also public and published. The FBI has made the contents of countless other of its "investigative files" public in this case when doing so served a propaganda purpose. It cannot have the one thing two ways.

Page 7: to say the Secret Service has no knowledge of the measurements of the car, the import of the carefully-selected language which avoids saying this, is to say that then-Inspector (since promoted) Tom Kelley testified without knowledge. If the government could not with certainty state the height of the seat it could not reconstruct the crime and it could not claim any of the shooting it alleged actually was done from that sixth-floor window. It is to declare that the entire Warren Report is without foundation.

Page 8: How can the non-existent Warren Commission be cited in a suit? And how can a plaintiff know what agency to sue when the government refuses to abide by its own rules, regulations and orders? Example: Attorney General Clark on 10/3/66 ordered that everything in the possession of the government and considered by the Commission (I have executive order if you do not) be transferred to the Archives and there made available as everything else is. Immediately I went to the Archives and sought the spectrographic examination, whichbthe Frazier testimony establishes is in government possession and was considered by the Commission. The FBI first assured the Archives, in my presence, that the analysis was there and then, when I established they were lying by citing what is not this analysis, fell silent. Hoover has failed to respond to my inquiries for it (as have Department of Justice lawyers) going back three years. This allegation by the Department of Justice, the prime violator of the Department's own order, is a neat device for frustrating suit, for it would preclude any suit for this material.

Page 9: without ashowing that the cited Bristol-Myerssuit under 5 USC is directly applicable to this case, how can it be alleged that a court decision in it is pertinent? In this case solid objects are the essential evidence. Further, the citation of 44USC to claim that Congress intended only "exhibition purposes" in records at the Archives is directly contrary to the other claims of the government cited above and is in no sense related to a subsequent action, not under this law, when the records of the Warren Commission were disposed of. This entire archives, as the Department of Justice knows only too weal, is excluded from any exhibition at the

National Archives. It may not in any way be examined except by those specially accredited and then only under armed guard.

It is unseemly for the government to claim there has been violation of its "published rules" for access when it is the prime violator of its own rules, as with the executive order of the attorney general cited above, and when it ignores requests for access or delays them beyond reason. For example, I have made ~~xx~~ requests that have not been responded to in six months. It now takes at least two months for me to get even a non-responsive answer to a proper inquiry or request. The government invents evasions to present as responses. An example of this is the memorandum of transfer of the pictures and X-rays of the autopsy here sought. It required 82 days and a number of false promises before I got the non-responsive misrepresentation, that the government had only a private paper not government property, which is false, for it also had, if this indeed be true, the official copy. In several months, at the moment of this writing, my pointing this out has not been responded to . I did this in writing to the Archivist, the Department of Justice and the representative of the Kennedy estate, all of whom ~~xx~~ have been silent. No response at all. It would, in this case, be impossible to cite a single agency in the suit because the government has made it impossible to isolate that agency. Yet it demands this be done.

But it is not now and never has been the purpose of the establishment of the archive on the assassination that its content be for "exhibition purposes". It has the purposes of backstopping the Warren Report against criticism and being a repository of proofs, both of which require unrestricted access to the tangible objects that are the essence of the evidence.

Page 10: if the government can argue that it can withhold the clothing because it was "donated", it cannot make this argument about the film, which was never the property of the donor. If the argument is valid for the clothing it would thereby seem to require production of the film. And the citation covers "historical materials". That is not a proper description of legal evidence, evidence that would have reposed in a court of law in Texas and been outside the control of the government if the government had not illegally pre-empted the State of Texas by the forcible and illegal removal of the corpse in open defiance of the only applicable law and in open violation of the demand of the proper official of Texas (Rose) that the Texas law be complied with. Here the government again seeks to benefit from its own violation of law, which is not permissible.

It is a frivolity to allege that the defendant has not described the single spectrographic analysis of the bullet and fragments of bullet(s) "with sufficient precision to determine which particular documents within the classification referred to are desired". Unless, that is, the government deceived the Warren Commission and the country and made more than a single such examination. Here reference to the single analysis is positive and precise reference to it.

Page 11: this has been ruled invalid by the Court of General Sessions in Washington, here the government did not raise this objection and where the judge held proper request had been made without appeal to the public-relations expert for legal evidence. The judge ordered the production of the evidence, including what here is sought, exactly the same film and other objects.

Page 12: this argument is invalid for the film was not the property of those claimed by the government to have donated it. It was the property of the government that invokes this false pretense in its unending effort to seek to suppress this film, which contains evidence of the murder contrary to the interpretation of it by the government agents who never examined it. This spurious argument and this incompetent arrangement that assumes the character of a conspiracy is part of the endless and illegal effort by the government to suppress the film- or that part of

it that still exists. My book POST MORTEM III establishes that some of the exposed pictures and X-rays no longer exist, to the knowledge of the government which persists in hiding this fact.

In any event, this claim of the government as here presented is inconsistent with its representation that the material is "specifically" precluded.

Page 13: the claim that the Kennedy-family representative must assent has been overruled by the cited Washington judge, Halleck. He ordered production of the film when the family representative refused to assent.

Page 14: When the government argues that it has "never challenged the original ownership" of the film it argues that it engaged in a conspiracy, for it knew that it and not the alleged "donor" was the owner. The government was derelict in not seeking the return of its improperly-missing property. It cannot claim the sanction of law for its own derelection. The government has the obligation to obtain the return of its property when, improperly, that property has been removed from its possession. It cannot invoke its failure to meets its legal responsibilities as ground for denying what it could not otherwise deny. The argument here is that the government can become the repository of stolen materials, which would seem, at the very least, to be against public and national interest. It also is an argument that evidence of a crime can be denied those seeking it by the commission of a further crime to which the government is party. The interest of the government, which has issued a false official accounting of the murder of the President, is the suppression of the evidence that proves its official accounting was false and to its knowledge false. It would seem improper for the government to claim it can further benefit in law from its own illegal acts in first permitting the sought film to leave its possession and then accepting it back under condition it, not the alleged "donor", imposed, which, without the illegality of surrendering government property in the first place, could not have been attempted.

Page 15: the cited language of the "letter of agreement" that permits or seeks to permit the withholding of the best evidence of a capital crime is or at least should be argue to be against public and national interest.

Page 16: the government has acknowledged, indeed argued, in open court (General Sessions, Washington) that the representative of the executors of the estate has no intention of making these materials accessible, even to a court of law, in a criminal proceeding, persuant to proper subpena issued by the competent judge.

Page 17: "preservation" of evidence serves no prupose if it is suppressed, if access to it by those entitled to access is refused by the exercise of the raw power to suppress. This also should be considered against national policy and interest. It is absolutely false to claim that the Archivist has "determined" that the bullet and cartridge cases " may not be handled either manually or with instruments" for I have on several occasions been permitted to do this, most recently within the past week, and have observed others permitted to do it.

The citation of the committee at the bottom of this page and on the next has no meaning except in opposition to the argument of the government, for the cited purpose is end allegations and rumors, which can be accomplished only if proper examination of the evidence is permitted. Refusal to permit examination is directly contrary to the invoked opinion. Rather than serving " to eliminate questions and doubts", it fosters and inspires them.

Page 18: as previously pointed out, the claim in "D" that the cited laws "Specifically exempt the Autopsy X-rays and photographs" is a falsehood.

Page 19: the film is neither "private" nor "personal" information or

property. The government has already, by precedent, held that as such information relates to others of lower station the revelation of such information is not "an unwarranted invasion of privacy", in the cases of Connally, Oswald and Tippit, for it without reluctance made public the most intimate details of the medical evidence relating to them. It has done the same, except without the film, with the President and his family, for it has the most elaborate discussion of his wounds in the Warren Report, printed the picture of his head exploding, printed pictures of his garments, published the descriptions of eyewitnesses in the ~~xxxxrt~~ testimony, and published the most detailed descriptions by the autopsy and other doctors and by those observing them and the President's body. The only way in which invasion of privacy can be argued puts the family of the President in an untenable and most embarrassing~~xx~~ position, for it argues that revelation of the truth about the nature and extent of the President's wounds would be embarrassing to them. Their interest, as that of all other Americans, requires that the nature and extent of these wounds be publicly established beyond any question. This cannot be done without knowledge of the evidence preserved in those films that still exist, others having ceased to exist because of government negligence or worse. More, the fact that some of the film no longer exists when it was in government custody requires that before more of it can disappear or be destroyed its content be made available. The use sought is in no way "undignified" or designed for "sensation". Directly the opposite is true. It is only suppression that is either undignified or sensational, only this that can "dishonor the memory of the President". The "grief" and "suffering of the members of his family and those closely associated with him" can only be added to by improper suppression of the best evidence of the crime. It cannot be by ending any possibility of doubt about the fact of the murder, which is what proper examination of the suppressed evidence makes possible. This is especially true now that the government has made available a contradictory interpretation of it (POST MORTEM III). In any event, once a man seeks the Presidency and becomes president he surrenders the right to anonymity and certain privacies for the national interest requires this. More, when he is murdered, there can be no invocation of an alleged right to privacy about the best evidence of that murder.

Page 20: again it is claimed, without truth, that the spectrographic analysis was "conducted for law enforcement purposes", by implication and context for no other. In any event, the "FBI investigation into the assassination" is by far the largest part of the material on it published by the government and the government itself has rendered this part of its argument thereby invalid. The claimed purpose is not, in any event, controlling, for there was use. Were this not true consideration by the Warren Commission ended that and any possible validity it might have had.

The Jevons affidavit is deceptive, misleading, incompetent and irrelavant. The claimed purpose is both immaterial and untrue, for there was no FBI jurisdiction in the crime. Jevons, in any event, has no personal knowledge of why the examination was ordered, for the order did not originate with him. He also did not make the examination and the man who did, an FBI employee, is available for affidavit. To claim that "this file is not disclosed by the FBI to persons other than U.S. Government employees" is to practise deliberate semantic deception, for only the FBI could have leaked the content of the file to the press, which was done. Were there any possibility of proper claim to the right to suppress, the FBI has ended it by its own leaks of the content of the file.

Inherently this affidavit suggest that there is a present, continuing investigation of the murder, which in itself casts doubt on the official solution, for were there confidence in it there would be no need for continuing investigation. And, as a matter of fact, the FBI investigation was not "conducted for law enforcement purposes" but for the Warren Commission, which had and could have had no such purposes. The government lawyers, who knew this, apparently drafted (and certainly approved and argued to the court) what they knew to be false. There is no doubt at all that the

FBI acted as the investigative arm of the Warren Commission, which had not a single investigator of its own. Even more must this be emphasized about the alleged subject of the Jevons affidavit, (paragraph 2), the "laboratory examinations". Were these things not all true, public use by the Warren Commission of the laboratory examinations would seem to end the possibility of validity of this claim. I here note that if these examinations are consistent with the official interpretations of them there is no reason for the government not to publish them or make them available and every reason why it should. There is no secret or secret process involved. We there, the government would have cited as reason for denying them its "Guidlines", which have such a provision. The only apparent reason for denying access to the laboratory examinations is that they are not consistent with the interpretation made of them or cast doubt up these interpretations.

In addition, the government itself knows better than is alleged in Paragraph 3, for in addition to leaks to the press the contents of the investigative file were made available to others not "U.S.Government employees", the police in Texas and others there, such as the lawyers.

Jordan affidavit: If the Secret Service has no "information which contains) measurements pertaining to the height of the seats of the limousine (only one is in question)...at the time of the assassination..." how could Inspector Kelley give testimony on it? Without a positive determination of the height of the seat there could be no reconstruction of the crime that could have any meaning, particularly as it relates to the sigth-floor window as the source of the shots and Oswald as the assassin. Yet the Secret Service itself conducted the first of the at least three official reconstructions. If this affidavit is not false the Secret Service knowingly engaged in a fraudulent reconstruction of the crime. To argue this affidavit is tantemount to arguing that the Secret Service (and the FBI and the Warren Commission) knowingly engaged in fraud, the manufacture of evidence and the framing of the accused Oswald. The Jordan language precludes dependence upon written information alone. It also seems to acknowledge that the Secret Service still has records of the crime, which is not consistent with what Director Rowley has written me. (I believe Jordan here.) I go into Kelley's testimony in WHITEWASH II. It seems to me that unless he commited perjury, this testimony is a powerful argument for full disclosure of all the evidence of the crime for it is a confession of the most complete investigative incompetence. The Secret Service kept the car in its exclusive controll 100% of the time yet it claims to have no written record of the vital measurements without which it could neither solve nor reconstruct the crime, yet it is responsible for the security of the President. And it claims none of its personnel have any recollections that are pertinent!

Rhoads affidavit: Paragraph 3 repeats the frivolity that the entire government, not just the Archivist, in this case, does not challenged the "validity" of the agreement it drafted and knew was illegal if not conspiratorial. Paragrpah four says he can do what you want, make the clothing available, but refuses to, as I interpret its language. He does not say it is "precluded", the burden of the argument elsewhere and, I think, refutes that argument. Paragraph 5 is a paraphrase of the advice to the darling daughter about hanging her clothes on the hickory tree -but don't go in the water. Examination of the photographs, particularly such professionally incompetent ones (examine them as published) can and does not disclose any evidence, as must be more than clear to the Archivist who executed this affidavit. Moreover, there now is a conflict between the sworn testimony about the holes in the coat and the finding of the Clark panel, which describes a hole I do not recall from any of the testimony or the Report. It is entirely meaningless to make such photographs available and to try and tell the court otherwise is to impose upon the court. Paragraph 7 adds to the thrust of the document, that a crime can be committed and evidence of it can be suppressed indefinitely by making a gift of that evidence to the government, the added argument that unless this is perpetuated and santtified historically important papers will not be preserved and will be lost. This is nonsense. It also argues that unless

those it describes as "public figures" are assured and can be that their papers are beyond the reach of the courts they will not save their papers. Were this to be the case, it would still be against national interest. Paragraph 8, as reported above, is false with regard to the bullet, shells and other three-dimensional objects. I suggest that false swearing about what is material, even by the Archivist of the United States, is still perjury. It is now but four days since the latest instance, to which there were more than two other witnesses, but Richard Bernabei and Tom Wolesworth, both of whom were present and also handled the objects, certainly will provide affidavits. I have examined three-dimensional objects-even operated them, as with the Zapruder camera, in the presence of the press (Mike Berlin, New York Post). I have never had access to them except in the presence of those two employees in direct charge, and in the recent case, May 16, both were present. This includes the man who prepares the letters, etc., for Dr. Rhoads signature, Marion Johnson. The words "for preservation" are underscored in this paragraph. Preservation serves no purpose if examination and study are denied. To argue the need for preservation is to refute the rest of the government's argument. And to highlight the ridiculousness of the government's claim to be the "prevention" of "loss, damage, destruction or alteration" of the evidence, the government alone has done all these things with this very evidence. In the case of the bullet it has needlessly removed a piece from the nose, which may have destroyed evidence (was there a mark of any sort at that point?), certainly did alter it (the same purposes could have been served by the removal of the microscopic quantity required from the inside of the rear end (and the same testing could have been done by means requiring no alteration, the same specified by the ~~xxxxx~~ Nichols suit). All sorts of evidence was "lost". Some was deliberately destroyed without having ever been seen by anyone, including the Commission. Some was withheld from the Commission after it was obtained (for example, the Doyle and Martin films of Oswald's arrest in New Orleans). So, it cannot even be alleged that the government's possession of the evidence in any way protects it. In fact, if the curbstone dug up in Dealey Plaza is subpensed, it will be found that it was patched to hide evidence! Paragraph 9 again argues against itself, for it cannot be said the articles are preserved because they are evidence and that access is denied for this reason. Denial denies them the specified use and function. It is not possible to use ~~xx~~ for "reference purposes" or for their "evidentiary value" what is denied. The only purpose served by denial of access is exactly opposite that specified plus the protection of the government's error and other transgressions.

Dr. Bahmer's letter of 7/21/67 stipulates a requirement that is contrary to both practise and the appended regulations, paragpgraphs 2 and 3, and constitute a dsicrimination against Dr. Nichols. The regulations specify that the photographs will be provided for examination without restriction, but that "reproduction" alone will require the written permission of copyright owners. In practise, the Archives has in two ways violated its own regulations, for it has made copies of copyrighted photos for me without any restriction and it has made copies to which it has affixed a stamp on the back stating there is a copyright. But I have <u>never</u> given it any written permission from any copyright holder for it to make copies for me. Thus, as the very least, it becomes clear that the regulations are flexible and are interpreted for special, unintended and entirely improper purposes, including suppression. I think here again it is necessary to emphasize that the only real purpose served by the withholding of the evidence is to deny impartial examination. Only ex parte examination has been permitted, that by or for government employees.

Dr. Bahmer's lletterr of October 8, 1967: I suggest it is fiction to say the conditions were "imposed by the Kennedy family" on two grounds: the letter of agreement was not by or for them but it was signed on behalf of the executors of the estate, which is not at all the same thing, and there is no evidence that anyone other than the government drafted the agreement, to which the signature and name of the representative of the estate was affixed at a later date. I cite this to establish the truth and also to show that in the finest detail no word by anyone in the government

of any station or authority can be accepted on any aspect of the entire case or in any of the legal documents. The government reflects no concept of truth and is quite willing to impose falsehood and misrepresentation upon the court.

Exhibit D: this is to say that those necessary tests the government failed or refused to make cannot ever be made and the error of the government is beyond correction or even question. Additionally, the necessary tests would not have this effect. And I repeat this was violated with me when I was permitted to test the operation of the Zapruder camera.

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The presence of others here and immediate needs kept me from finishing this when I had planned. They thus also preclude correcting and retyping it and making copies. Ordinarily, I would have had a clean copy for myself and on this content would have sent copies of Paul Hoch, whose address you have, and Gary Schoener, Box 392, Mayo Hospital Minneapolis 55455 because they have the kind of knowledge of the fact that enables them to make constructive criticism and detect possible error or misconstruction, or the kinds of less than explicit expression that can creep in when there is haste. If and when you can, if it is no burden to you, I'd appreciate it is you can make and mail these copies. They cannot comment in time for you to benefit from their comment by the time you file your papers, but they can before any other steps are taken. I do not believe there is any error, but I also know they can think of what I may not have recalled. This could be helpful to you, it would to me, for I may later use some of this, and it might also be to them in their work and understanding.

My wife has returned to work temporarily and can type only after supper, when she also faces other necessities.

If you would like further detail or amplification on any of the foregoing, please ask me. I am confident that in all cases I can supply it.

I also call to your attention the extensive and repeated use of the invalid arguments. Examples: "hasn't exhausted administrative remedies", pp 2,5,7; "specifically exempted from disclosure" which is false; "unwarranted invasion of (unspecified) personal privacy", pp. 3, 7, 13,19; spectrographic analysis as "investigative file" only (pp. 3,6,7,10,20; "for deposit only" or variants (pp. 3,4, 11,12); "viewed but not handled" (pp. 6,11,12,17); "identifiable records "(pp.2,7,8, 9,10,11) "for preservation", which really is the same as "for deposit" ~~(pp. 5, 7, 8, 9, 10, 11" and "for preservation, of which the same is true,~~ pp. 17 and 18. In short, what I am pointing out here is inherent; the entire memorandum is invalid and based on invalidities and false statements known to be invalid and false to those who prepared, signed and filed it. I would hope the court would take a dim view of this, especially because it is so permeating. It is neither accidental nor incidental. It is basic. Without it there is no response, no argument or memorandum to file.

I hope this is helpful to you. If you have any comment I would appreciate it.

Dick will be sending you copies of the pictures we took. Those we ordered have not yet been received. I think (as Dick does not consider necessary) that if we went to, without too much work we can make negatives of the identical size and overlay them. For the skilled eye this may not be necessary. For the amateur it is the most effective possible comparison. By the way, you may want to add the fact that damage to the evidence you seek, as for example, the empty cartridges, is neither acknowledge by the Commission nor addressed in its taking of evidence. It is entirely unexplained and should have been inquired into.

If any other occasions on which I can be helpful arrise, please let me

know, for I want to be of whatever help I can. I would ask that you give me the deadline at the time you ask, for I am into so many things each of which to me is urgent I can delay when I would not if I knew, as in this case. Had I been able to do this under less pressure, I could have done better and without doubt would have found more that might be of interest to your lawyers.

Good luck!

Sincerely,

Harold Weisberg