

Cunningham, Cortlandt, deposition of 2/24/77 in C.A.75-226

The first 10 pages say they have almost no records prior to an examination in the lab- that everything is verbal.

- 11 bottom- after examinations written reports are made and distributed to field office.
- 12 "I know there is always one copy of the report that goes to file," ostensible in lab.
- 13 when an examiner suggests other tests it also is not in writing. But "in a case
- * 14 of this magnitude it would have been done" in writing.
* They may argue form of the request but I believe we have received nothing that can be called such a request. i.e. for NAAs. They may come back and say that a lab worksheet is the entire request for further examinations but I'd give them the chance. Where he seems to say otherwise he may not be saying otherwise because of the form on the question, here "Mr. Frazier's direction," earlier "recommendation."
- 16 "A report, whether the case is going to court or not, is always prepared on the examinations conducted."
Here he is explicit in saying that nothing except the report is given to the prosecutor with which to prepare the testimony of an agent expert.
- 19-20 When he testified to the nature of physical examination and has testified about "marks which might be of value for identifying that bullet as having been fired from a particular weapon, to the exclusion of all other weapons," he is asked "let us assume that you cannot make that identification positively." He first says "I don't understand the question," it is repeated as "determine whether or not it is identifiable, or can be excluded as having been fired from that particular weapon?" His response is "There is no way of looking at or examining a bullet to positively determine whether it's identifiable." (I believe this is false. An example is different caliber, another is different number of lands and grooves.)
- 20 But "first you would run a patch through the barrel to determine whether or not the weapon had been fired since the last cleaning."
- 21 While earlier he testified that three agents did all the testing in the JFK case here he said that with respect to Oswald's rifle "I did not make the notes on Oswald's rifle, sir." Frazier did. This is one way of having three independent examinations, to have records made by one examiner only so there will be no disputing them.
- 22 On testing for body residues he is evasive. To the point where when asked about the
- 24 prior cleansing of the bullet he said "nothing like that occurred in this case, sir, that I know of - that I have any knowledge of." This is not possible if he examined 399. Examination showed it to have been cleaned and Frazier so testified.
- 25 Here he says that by test firing determinations can be made either way, comparisons.
- 26 Made with a comparison microscope.
- 28 Two test-fired bullets enough for comparisons.
- 29 At first he denied having seen the spectro and NAA results, then changed.
- 31 Although when tests are carried out "depends on the particular Examiner's workload" in ~~with~~ JFK "it was done immediately."
If done immediately with JFK, why not with King? Reports King dated much later.
- 32 The answer that has him saying he did not examine 399 has to be a reporter's error.
- 33-4 Can see where lab samples taken from base and nose.
- 35-6 Ryan objects when Jim asks if the history ~~is~~ attributed to 399 would lead him to believe it could have emerged as 399 did following which Cunningham said "I cannot answer the question." He then parries saying he has seen bullets that had not been mutilated at all after doing a great deal of damage.
- 37 Demarcation between medium and high-velocity bullets 3,000 fps.
Knows of no Clark panel consultations with anyone in lab.
- 38 Ryan objects again when Jim asks about marking Cunningham observed other than from rifling.

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- 39 He evades on mutilation from striking bone and then admits the only mutilation is at the base. "did you observe any marks on the bullet?" "No major." "Could it have struck bone and not been scratched?" "I don't recall, sir, whether or not there was any microscopic mutilation on it or not." Ryan interrupts again. (40)
- 40 After examining bullet claims "I have no opinion" on whether all fragments, including one of ~~3~~ 3.5 mm, could have come from it.
- * This testimony was for determining whether there were or should have been reports we did not get. His evasiveness is indicative of knowledge of the impossibility of what was attributed to 399. However, it is not proof positive that there was a report on this impossibility.
- K 42 Shown our picture of the Q64 king bullet he says it is bad and asked "you would ordinarily expect the FBI would have better photographs of, say the grooves?" he responds "yes, sir."
- * I think this is relevant in 75-1996.
- 45-6 NAA]ermits exclusion of common source or possibility of it in comparisons.
- 47 While he says the report would not list all the elements found on examination there would be a record because "The Examiner would have it in his notes."
- * This is not true of the curbstome examination in JFK or the clothing examination in MLK.
- 49 Claims he can't recall what reports he saw. "They came across Mr. Fraizer's desk." Can't even recall their nature. Asked about those that went to the Warren Commission he distinguishes between reports and letters. This means that letters are not reports.
- * 51-2 But Cunningham did make JFK case notes. I have seen none I recall, only Frazier's.
- 52 "... the report was made up from the notes."
- 53 Independent examination consisted of one only making notes while the three worked together. Early independent examination. More to eliminate any disagreements. Even on the chronographing to determine muzzle velocity there was no report.
- 54f Would never non-ident if the general characteristics were the same, regardless of any individual or unique marks.

NOTES: K= what can be of use in King case, *s what I think is more useful than other testimony relating to whether or not there are reports we have not received.