

APPENDIX  
VOLUME I (Pages 1-201)  
DEPOSITION OF JOHN W. KILTY



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IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA

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No. 82-1072

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HAROLD WEISBERG,

Plaintiff-Appellant

v.

U.S. DEPARTMENT OF JUSTICE, ET AL.,

Defendants-Appellees

---

On Appeal from the United States District Court for the  
District of Columbia, Hon. John H. Pratt, Judge

---

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Arlington, Va. 22209  
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Counsel for Appellant

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PLAINTIFFS

PRATT, J.

DEFENDANTS

HAROLD WEISBERG

1. U.S. DEPARTMENT OF JUSTICE
2. U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

CAUSE

FREEDOM OF INFORMATION ACT - COMPEL DEFTS. TO DISCLOSE CERTAIN RECORDS.  
(5 USC 552)

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  2. -do-
- William G. Cole  
 U.S. Department of Justice  
 Civil Division  
 (20530)

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	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	
				JS-6	

FILED  
 1975  
 JUN 18 1975

DATE,	NR.	PROCEEDINGS
975 Fe	19	COMPLAINT; Appearance; Exhibits A-F. 1
Feb.	19	SUMMONS copies (4) and copies (4) of complaint issued. (#2 Ser. 3-4-75) (U.S. Atty. Ser. 2-19-75) (A.G. & Deft. #1 Ser. 2-20) 2
Feb.	25	SUBMISSION of pltf. of corrected copy of Exhibit F to complaint. 3
Mar.	21	MOTION of defts. for an extension of ten days within which to answer or otherwise respond to the complaint; P&A; c/m 3-21-75. 4
Mar	25	ORDER granting motion of deft for extension of time to respond to complaint to 3-31-75. (N) PRATT, J. 5
Apr	8	STIPULATION extending time for deft. to respond to complaint to Apr 4, 1975; approved Apr 7, 1975. (fiat) (N) Pratt, J. 6
May	2	INTERROGATORIES (First Set) by pltf. to deft. #1; c/s 5-2-75. 7
May	2	INTERROGATORIES (First Set) by pltf. to deft. #2; c/s 5-2-75. 8
May	2	STATUS Call: (Rep-R.Mattson) Pratt, J. 9
May	2	CALENDAR call certification (2) for defts.
May	21	STATUS Call: (Rep-R.Mattson) Pratt, J.
Jun	2	TRANSCRIPT of Proceedings, May 2, 1975; pages 1 thru 13; Rep- R.Mattson; Court's Copy. 10
Jun	2	TRANSCRIPT of Proceedings, May 21, 1975; pages 1 thru 23; Rep- R.Mattson, Court's Copy. 11
Jun	3	MOTION of pltf. to strike affidavit of John W. Kilty; P&A; Affidavit; Attachments A-H; c/m 6-3-75. 12
Jun.	12	MOTION of pltf. to compel answers to interrogatories; P&A; c/m 6-11-75 13
Jun.	12	MOTION of pltf. for the production of documents by United States Department of Justice; P&A; c/m 6-11-75. 14
Jun.	12	MOTION of pltf. for the production of documents by U.S. Energy Research and Development Administration; P&A; c/m 6-11-75. 15
Jun.	12	MOTION of pltf. to postpone Calendar Call and stay all further proceedings; P&A; Attachment; c/m 6-11-75. 16
Jun.	18	OPPOSITION of defts. to pltf's motions to strike, to compel answers to interrogatories, for production of documents, and response to motion to postpone calendar call and stay all further proceedings; Exhibits 1*2; c/s 6-18-75. 17

see next page.

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF HAROLD WEISBERG	DEFENDANT U.S. DEPT. OF JUSTICE, etal	DOCKET NO. 75-0226 PAGE 1 OF _____ PAGES
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DATE	NR.	PROCEEDINGS
1975 June	30	MOTION of defts. to dismiss; P&A's; exhibit #3; c/s 6-30-75. 18
July	10	OPPOSITION by pltf. to defts. motion to dismiss; affidavit of Harold Weisberg; exhibit A,B,C,D; fourth affidavit of Harold Weisberg; attachment; c/s 7-10.
✓ July	15	MOTION of deft. to dismiss complaint, argued and granted. Reporter: Richard Mattson PRATT, J.
July	15	ORDER granting motion of defts. to dismiss and dismissing case as moot. (N) PRATT, J. 20
July	24	TRANSCRIPT of proceedings of July 15, 1975; Pages 1 - 20; Court Copy; Rep. Richard Mattson. 21
Sept	8	NOTICE of appeal by pltf. from order of July 15, 1975; \$5.00 paid and credited to the U.S.; copy sent to Michael J. Ryan. 2
Oct	21	RECORD on Appeal delivered USCA; receipt acknowledged (USCA 75-202)
1976 July	28	CERTIFIED copy Judgment USCA remanding case to the District Court for further proceedings under the Freedom of Information Act not inconsistent with the attached opinion; opinion. 23
✓ July	28	STATUS CALL: Continued for further discovery; status call set for 10-1-76 at 11:00 A.M. (Rep: Dennis Bossard) PRATT, J.
Aug	09	INTERROGATORIES (first set) by pltf. to deft. #1; c/m 8-9-76. 24
Aug	09	INTERROGATORIES (first set) by pltf. to deft. #2; c/m 8-9-76. 25
Aug	12	REQUEST of pltf. to deft. #1 for production of documents; c/m 8-12-76. 26
Aug	12	REQUEST of pltf. to deft. #2 for production of documents; c/m 8-12-76. 27
Aug	16	TRANSMITTAL Sheet from USCA returning to USDC the original record with 3 volumes of transcript. 2
Oct	01	STATUS CALL: (Rep: Dennis Bossard) PRATT, J.
Oct	01	RESPONSE of deft. #2 to request for production of documents; exhibits D,E,B & A; c/s 10-1-76. 29

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IL DOCKET CONTINUATION SHEET

PLAINTIFF HAROLD WEISBERG	DEFENDANT U.S. DEPARTMENT OF JUSTICE, et al.	DOCKET NO. 75-226 PAGE 2 OF _____ PAGES
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DATE	NR.	PROCEEDINGS
976 Oct	01	ANSWERS of def. #2 to interrogatories (first set) by pltf.; attachments (3); c/s 10-1-76. 30
Oct	28	ANSWERS of def. #1 to interrogatories (first set) by pltf.; c/s 10-28-76. 31
Oct	28	RESPONSE of def. #1 to request of pltf. for production of documents; attachments (3); c/s 10-28-76. 32
/ Oct	29	STATUS CALL: (Rep: Dennis Bossard) PRATT, J.
Nov	30	MOTION by pltf. for order compelling FBI Director Clarence Kelley to provide addresses of witnesses; P&A's; exhibit 1; c/m 11-30-76. 33
1977 Feb	11	NOTICE by pltf. to take depositions of John F. Gallagher, Robert A. Frazier, Cortlandt Cunningham, Lyndal L. Shaneyfelt; c/m 2-11-77. 34
Mar	22	NOTICE by pltf. to take deposition of John F. Gallagher & Lyndal L. Shaneyfelt; c/m 3-22-77. 35
Mar	25	MOTION by Archivist of the United States to quash subpoena, in part, and for a protective order; P&A's; affidavit of Steven Garfinkel; exhibits A & B; c/s 3-25-77. 36
/ Mar	30	STATUS CALL: Def. to file dispositive motion with Vaughn vs. Rosen affidavit by 5-2-77; pltf. allowed 10-days to file opposition. (Rep: Dennis Bossard) PRATT, J.
Apr	18	DEPOSITION of Robert A. Frazier taken on February 24, 1977: 38A
Apr	19	NOTICE by pltf. to take deposition of Mr. John W. Kilty & Mr. Harold Weisberg; c/m 4-19-77. 37
Apr	25	MOTION by defts. to quash and for a protective order; memorandum of P&A's; c/m 4-22-77. 38
Apr	26	ORDER filed 4-25-77 granting motion of def. to quash & for protective order, deposition of John W. Kilty not to be taken in this proceedings. (N) PRATT, J. 39

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF HAROLD WEISBERG	DEFENDANT U.S. DEPT. OF JUSTICE, et al.	DOCKET NO. 75-0226 PAGE 3 OF _____ PAGES
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DATE	NR.	PROCEEDINGS
1977 May	02	TRANSCRIPT of Proceedings of March 30, 1977; pp. 1-15; Rep: Dennis; K. Bossard (COURT COPY).
May	12	DEPOSITION of Lyndall L. Shaneyfelt taken on March 28, 1977 for 40 the pltf.
May	19	DEPOSITION of Cortlandt Cunningham taken on February 24, 1977 for 4 the pltf.
June	10	DEPOSITION of John F. Gallagher taken on March 28, 1977 for the 42 pltf.; exhibits 1-6.
June	27	MOTION by defts. for summary judgment; statement of material facts; P&A's; c/m 6-27-77. 43
Jul	11	STIPULATION extending time to and including 7-30-77 for pltf. to 4 file opposition to defts' motion for summary judgment. APPROVED. (FIAT) (N) Richey, J.
Aug.	23	MOTION by pltf. for leave to file opposition to motion for summary judgment, time having expired; P & A; c/s 8-23-77. 45
Aug.	23	ORDER granting pltf's: motion for leave to file opposition, time 4 having expired. (N) PRATT, J.
Aug.	23	OPPOSITION by plaintiff to defts.' motion for summary judgment; 4 attachments (2); Affidavit of Harold Weisberg w/Exhibits (17) Affidavit of James T. Tague w/Exhibits A thru L; c/s 8-23-77.
Oct	06	MEMORANDUM Opinion filed 10-5-77. (N) PRATT, J. 48
Oct	06	ORDER filed 10-5-77 granting motion of pltf. for leave to file 49 opposition out of time and granting motion of deft. for summary judgment. (N) PRATT, J.
Oct	17	MOTION by pltf. for reconsideration pursuant to Rules 52 & 59; P&A' affidavit of Harold Weisberg; exhibits 1,2,3,3A,4, & 5 thru 11; c/s 10-17-77. 50
Oct	27	OPPOSITION of defts. to motion of pltf. for reconsideration; 51 c/m 10-27-77.

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## CIVIL DOCKET CONTINUATION SHEET

**CASE CLOSED**

PLAINTIFF

DEFENDANT

HAROLD WEISBERG

U.S. DEPARTMENT OF JUSTICE,  
et al.

DOCKET NO. 75-0226

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DATE	NR.	PROCEEDINGS
1977		
Nov	02	ORDER filed 10-31-77 denying motion of pltf. pursuant to Rules 52(b) and 59 of the FRCP for reconsideration of order granting motion of deft. for summary judgment. (N) PRATT, J. 52
Nov	08	SUPPLEMENT by pltf. to motion for reconsideration; exhibits 1 thru 1. c/m 11-8-77. 53
Dec	30	NOTICE of Appeal by pltf. from Order of Oct 31, 1977. Copy mailed to Michael J. Ryan. \$5.00 paid & credited to U.S. by James Hiram Lesar. 54
1978		
Feb	03	RECORD on Appeal delivered USCA; receipt acknowledged (#78-1107).
1980		
Apr	30	CHANGE of address for James H. Lesar, counsel for pltf. CAL/N. 55
Jun	9	CERTIFIED copy of judgment from USCA dated 4-28-80 reversing the judgment and remanding case to the District Court; opinion. 56
Jun	9	BILL OF COSTS as taxed by Clerk of Court of Appeals; taxed against appellee, in the amount of \$693.81. 57
Jul.	24	REQUEST by pltf. for production of documents. 58
Aug	4	TRANSMITTAL letter from USCA returning 2 volumes orig record; 4 volumes of transcripts; 4 depositions; 1 brown folder of attachments. 59
Aug	6	NOTICE of pltf of filing; attachment 1 and 2. 60
Aug	20	MOTION of defts for extension of time to respond to request for production of documents. 61
Sep	5	ORDER filed 9-5-80 granting deft's motion for an extension of time until 9-26-80 to respond to pltf's request for production of documents. (N) PRATT, J. 62
Sep	29	RESPONSE of defts to pltf's request for production fo documents. 63
Nov	12	MOTION of pltf to compel deft U.S. Dept of Justice to produce copies of discovery records without cost to pltf; or, alternatively, for an order requiring said deft to deliver said discovery records to pltf's place of business; memo of P&A's; attachment 1; affidavit of Harold Weisberg; affidavit of James H. Lesar w/exhibits 1, 2, and 3. 64
Dec	5	MEMO OF P&A'S of defts in opposition to pltf's motion to compel, affidavit of John N. Phillips. 65

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CIVIL DOCKET CONTINUATION SHEET

FBI-MAR-7-14-80-7CM-433

PLAINTIFF HAROLD WEISBERG	DEFENDANT U.S. DEPT OF JUSTICE, et al	DOCKET NO. <u>75-226</u> PAGE <u>5</u> OF <u>    </u> PAGES
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DATE	NR.	PROCEEDINGS
1980		
Dec	15	REPLY of pltf to defts' memorandum of P&A's in opposition to pltf's motion to compel; attachment 1 and 2. <span style="float: right;">66</span>
Dec	24	MOTION of pltf to compel deft U.S. Dept of Justice to release spectrographic plates to pltf; memo of P&A's; exhibit 1. <span style="float: right;">67</span>
1981		
Jan	8	MEMORANDUM of deft in response to pltf's motion to compel the release of spectrographic plates; attachment. <span style="float: right;">68</span>
Jan	8	ORDER filed 1-7-81 directing defts to make certain documents available for pltf's inspection and after inspection pltf to designate those documents pltf wishes to have copied; directing defts to promptly make available to pltf without charge copies of all documents responsive to his discovery request. (signed 1-6-81) (N) PRATT, J. <span style="float: right;">69</span>
Feb	3	REPLY of pltf to defts' memo in response to pltf's motion to compel the release of spectrographic plates; exhibit 1; affidavit of Harold Weisberg w/ attachments 1 thru 4. <span style="float: right;">70</span>
Mar	6	STATUS CALL: parties to try to resolve discovery disputes without the intervention of the Court; further status call set 6-5-81, 9:30 a.m. (Rep: V. Marshall) PRATT, J.
Mar	6	ORDER denying pltf's motion to compel the release of spectrographic plates without prejudice. (N) PRATT, J. <span style="float: right;">71</span>
Apr	6	INTERROGATORIES of pltf to the deft. <span style="float: right;">72</span>
Apr	6	MOTION of pltf to compel; memo of P&A's; affidavit of James H. Lesa w/attachments. <span style="float: right;">73</span>
Apr	22	P&A'S of defts in opposition to pltf's motion to compel. <span style="float: right;">74</span>
May	7	RESPONSE of deft to pltf's interrogatories; exhibits A, B, and C. <span style="float: right;">75</span>
May	26	NOTICE of pltf to take the deposition of FBI Special Agent John W. Kilty. <span style="float: right;">76</span>
Jun	3	MOTION of pltf for an order designating Frederick, Maryland as place memo of P&A's; exhibit (notice to take deposition). <span style="float: right;">77</span>
Jun	5	STATUS CALL: Motion to compel, heard & denied; deposition to be taken in Frederick, MD on 6-15-81; motions for summary judgment to be filed within 30 days thereafter with replies due within 10 days. (Rep: V. Marshall) PRATT, J.
Jun	5	NOTICE of pltf to take the deposition of FBI Special Agent John W. Kilty in Frederick Maryland; attachment. <span style="float: right;">78</span>

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF HAROLD WEISBERG	DEFENDANT U.S. DEPT OF JUSTICE, et al	DOCKET NO. 75-226 PAGE 6 OF _____ PAGES
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DATE	NR.	PROCEEDINGS
1981 Jul 2		DEPOSITION of John W. Kilty taken 6-19-81 on behalf of pltf; exhibit 1 thru 19. 79
Jul 6		MOTION of pltf for extension of time within which to file a dispositive motion; memo of P&A's; affidavit of Harold Weisberg w/exhibit 1. 80
Jul 6		NOTICE of pltf to take the deposition of Mr. Harold Weisberg. 81
Jul 8		ORDER extending time to and including 8-19-81 for pltf to file dispositive motions. (N) PRATT, J. 82
Jul 14		NOTICE of pltf to withdraw his deposition notice for 7-24-81 of def 83
Jul 17		TRANSCRIPT OF PROCEEDINGS from 6-5-81; pages 1-19; (Rep: Vernell A. Marshall); court copy. 84
Jul 23		ERRATA SHEET and sworn signature of John W. Kilty to his deposition taken 6-19-81 and filed with the court on 7-2-81. 85
Aug 14		MOTION of pltf for further extension of time within which to file "dispositive" motion. 86
Aug 31		ORDER filed 8-28-81 extending pltf's time to and including 9-5-81 to file his dispositive motion; no further extensions. (N) PRATT, J. 87
Sep 8		MOTION of pltf for an order requiring Federal Bureau of Investigation to make a thorough and complete search for unproduced records and for other relief; memo of P&A's; attachments. 88
Sep 8		MOTION of deft #1 for summary judgment; memo of P&A's; affidavit of John N. Phillips w/exhibits 1-6; statement of material facts. 89
Sep 16		CHANGE OF ADDRESS for counsel for pltf James H. Lesar. 90
Sep 28		MOTION of pltf for extension of time within which to oppose deft's motion for summary judgment. 91
Oct 2		ORDER extending time to and including 10-9-81 for pltf to oppose deft's motion for summary judgment. (N) PRATT, J. 92
Oct 9		OPPOSITION of pltf to deft's motion for summary judgment; statement of material facts; attachment A. 93
Nov 18		ORDER granting defts' motion for summary judgment; dismissing case; denying pltf's motion to compel. (N) PRATT, J. 94

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CIVIL DOCKET CONTINUATION SHEET

FPI-MAR-7-14-80-7CM-438

PLAINTIFF HAROLD WEISBERG	DEFENDANT U.S. DEPT OF JUSTICE, et al	DOCKET NO. <u>75-226</u> PAGE <u>7</u> OF <u>    </u> PAGES
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DATE	NR.	PROCEEDINGS
1982 Jan 15		NOTICE OF APPEAL of pltf from ordered entered 11-18-81; \$65.00 USCA fee paid and credited to U.S. Treasury; copies sent to <sup>95</sup> W. Cole.
Jan 18		COPIES of notice of appeal and docket entries transmitted to USCA. USCA # <u>82-1072</u>
Jan 18		USDC fee of \$5.00 paid and credited to U.S. Treasury.

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1 HAROLD WEISBERG : CIVIL ACTION NO. 75-0226  
2 PLAINTIFF : IN THE UNITED STATES  
3 VS. : DISTRICT COURT FOR THE  
4 U. S. DEPARTMENT OF JUSTICE, : DISTRICT OF COLUMBIA  
5 ET AL.

6 DEFENDANTS :  
7 \* \* \* \* \*

8 Deposition of JOHN W. KILTY, upon oral examination  
9 before PATRICIA E. CRUM, Notary Public of the County of  
10 Frederick, State of Maryland, taken at the home of the  
11 Plaintiff, Harold Weisberg, 7627 Old Receiver Road, Frederick,  
12 Maryland, on Friday, June 19, 1981, at 10:00 A.M., for exam-  
13 ination of the said witness, called as a witness by the  
14 Plaintiff in the above entitled case.

15 APPEARANCES:

16 For Plaintiff -

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21 For Defendants -

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JOHN W. KILTY, the witness, having been duly sworn, was examined and testified as follows:

BY MR. LESAR:

Q. Mr. Kilty, would you please state your full name and address.

A. My name is John W. Kilty. I reside in Silver Spring, Maryland.

Q. Did you receive a Subpoena Duces Tecum requiring you to bring certain items to the deposition today?

A. I did.

Q. Do we have them here?

MR. COLE: Yes, we do.

Q. May I see them, please. Do you have them separately marked or identified? Mr. Kilty, could you just identify what you've brought?

A. I brought a two (2) page memorandum from Mr. M. E. Williams to Mr. White dated January 24, 1975. I brought a two (2) page memorandum from legal counsel to Mr. J. B. Adams dated 12/17/74. I brought a two (2) page memorandum from Robert P. Finzel, F-i-n-z-e-l, to Mr. Kelleher, dated 3/12/81.

MR. COLE: I'll just inform you, Mr. Lesar, that that is what is being given to you in response to Item "2" of your Subpoena Duces Tecum for all notes, correspondence or other form of written record regarding any search for records sought by Plaintiff in this case.

1 Q. Are there any materials responsive to Item  
2 No. "1"?

3 MR. COLE: There are none. I would add that in  
4 response to Item "2", that you have received previously all  
5 the items there except the most recent memorandum which was --  
6 I forget what it is.

7 MR. LESAR: Mr. Finzel.

8 MR. COLE: Mr. Finzel, that's right.

9 Q. And in response to Item "3" of the Subpoena,  
10 what have you brought?

11 MR. COLE: Mr. Kilty?

12 A. This packet of material here -- top of packet  
13 is a letter, dated March 31, 1975, to Mr. Lesar from Clarence  
14 Kelley and behind it and attached to it are a number of pages  
15 of documents which I will count. Would that be satisfactory?

16 Q. Yes.

17 MR. COLE: We can stipulate, I think. The letter,  
18 itself, states that it encloses seventeen (17) pages of  
19 material described, that is, March 31 letter. Let me just  
20 add that the letter of March 31, which is on the top of this  
21 packet indicates that there are seventeen (17) pages. After  
22 that letter, following that, is an April 15 letter that  
23 encloses fifty-four (54) pages of material.

24 MR. LESAR: Bill, let's get these identified before  
25 we describe it. Let me hand the court reporter the first  
26 materials given to us by Mr. Kilty and have them marked as  
27 "Exhibit 1", please. Now, let me hand to you a packet of  
28 materials and ask that it be identified as "Exhibit 2". Mr.

1 Cole, why don't you begin again with describing the materials  
2 that are contained in Exhibit 2.

3 MR. COLE: There are two (2) letters in Exhibit 2.  
4 The first one on the top of the stack indicates that it  
5 encloses seventeen (17) pages of material plus five (5)  
6 pages of documents -- that's the March 31, '75, letter. The  
7 second letter is dated April 15, 1975, and encloses fifty-  
8 four (54) pages of laboratory data described in an earlier  
9 letter of April 10, 1975. These have all been previously  
10 given to Mr. Weisberg.

11 Q. Now, Mr. Kilty, is this all of the materials  
12 that have been provided responsive to Mr. Weisberg's Freedom  
13 of Information Request in this lawsuit?

14 A. I don't know.

15 Q. To the best of your knowledge, is it all of it?

16 A. I don't exactly know what this lawsuit is. So,  
17 I don't know whether it's everything responsive to it or not.

18 Q. Alright. We'll come back to that question  
19 later. Could you just briefly summarize your background  
20 with the F.B.I. -- when you joined; how long you've been  
21 working in the lab; and so forth?

22 A. I became a Special Agent in June of 1963. I  
23 was assigned to the laboratory in February of 1965 where I've  
24 been assigned since. I am presently the Chief of the Element-  
25 al Analysis Unit in the laboratory.

26 Q. Are you familiar with the organization of the  
27 F.B.I. lab in 1964?

28 A. Generally, I am, yes. I was not in the lab-

1 oratory in 1964 but I have some idea as to how it was  
2 organized then.

3 Q. Could you just briefly describe it?

4 A. Well, the laboratory had an Assistant Director  
5 heading the lab and there were three (3) sections at that  
6 time: A section called a Physics and Chemistry Section;  
7 one called the Document Section; and the other section  
8 called the Radioengineering Section. And these Sections had  
9 various Units in them.

10 Q. What were the units of the Physics and Chemist-  
11 ry Section?

12 A. Let's see. There was a Firearms Unit, Micro-  
13 scopic Analysis Unit, Serology, Spectrographic Analysis,  
14 Metallurgy, Chemistry -- I'm trying to go around the halls  
15 in the old Justice Building to figure out...

16 Q. Where was the F.B.I. Laboratory located in 1964?

17 A. Most of it was in the seventh floor of the  
18 Department of Justice.

19 Q. You say most of it. What was not located  
20 there?

21 A. Part of the laboratory.

22 Q. Which part?

23 A. Part of the Radioengineering Section.

24 Q. Was all of the Physics and Chemistry Division  
25 located there -- section located there?

26 A. In 1964, yes.

27 Q. Could you -- we're going to be discussing  
28 spectrographic analysis and neutron activation analysis and

1 I wonder if you could just briefly describe these two (2)  
2 techniques. What is spectrographic analysis?

3 A. Well, there are lots of different kinds of  
4 spectrographic analysis. Do you want to talk about emission  
5 spectrographic analysis?

6 Q. Yes. I'd like you also to distinguish, if you  
7 can, between spectroscopy and spectrographic analysis.

8 A. Which would you like me to do first? Tell me  
9 what...

10 Q. Whichever you prefer.

11 A. Well, emission spectroscopy, basically, involves  
12 exciting materials so that there's a dissociation of the  
13 various atoms that go to make up the material and it happens  
14 that in this dissociation with electrical current, a spectrum  
15 of light is produced and the wave length of this light is  
16 indicative of or characteristic of the excited elements or  
17 excited atoms that are producing it and so you expose a  
18 photographic film to this light and you have -- what happens,  
19 the emulsion on the photographic plate is made darker depend-  
20 ing on the concentration of certain atoms that are being  
21 excited with a characteristic wave length for that atom.  
22 So, what you do is get a spectrum on a photographic plate  
23 which you can measure, determining the wave length of the  
24 various lines on the plate and identify the element that  
25 produced those lines. In activation analysis...

26 Q. Is there a distinction between what you've  
27 just described - emission spectrography - and spectroscopy?

28 A. Spectroscopy?

1 Q. Yes.

2 A. When people talk about spectrograph or  
3 spectrography, they're talking about some kind of lines made  
4 that -- lines on a graph or lines on a photographic plate --  
5 and that graph -- the graphologist or the graph part of it  
6 refers to that. Spectroscopy is kind of a general category  
7 of all investigations of spectra. You have neutron activa-  
8 tion analysis, you have spectroscopy involved - gamma ray  
9 spectroscopy in that case. In emission spectrography, you  
10 have spectroscopy involved. It happens to be emission lines  
11 in wave length.

12 Q. Now, what is -- occasionally you see in some  
13 of your F.B.I. Reports the use of the term, quantitative and  
14 qualitative, as applied to spectrographic results. Could  
15 you distinguish between these?

16 A. Well, qualitative results, basically, means  
17 you just identify the elements that are present in a material  
18 without any regard to how much of that element is present or  
19 not just element but any constituent -- put it that way --  
20 any constituent that's present. A qualitative analysis  
21 applies to just the fact that it's either there or not there.  
22 A quantitative analysis refers to, not only identifying what  
23 is there, but how much of it is there, that is, the concen-  
24 tration of that material.

25 Q. Now, are these two (2) different tests or is  
26 it the same test?

27 A. Well, you can conduct a qualitative analysis  
28 and a quantitative analysis by many analytical means. If

1 you were to take neutron activation, for instance, we can  
2 determine aqualitatively what is present in a material and  
3 we can also determine quantitatively. And other techniques  
4 are the same way.

5 Q. Let's go back. You have certain items of  
6 evidence in the Kennedy Assassination were subjected to  
7 spectrographic analysis and you -- I guess the terminology  
8 is you sparked or burned a sample, is that correct?

9 A. That's right.

10 Q. Now, and the -- as a result, there was created  
11 on a photographic plate some images.

12 A. Some lines, yes.

13 Q. Some lines. Now, from those lines, can you  
14 make both a quantitative and a qualitative analysis?

15 A. I'm not sure that you could make a quantitative  
16 analysis -- what I term a quantitative analysis, that is,  
17 telling you how much is present from the lines that were made  
18 on the plates that you're talking about here.

19 Q. Why are you not sure?

20 A. Because I don't know the standards that were  
21 used in that case.

22 Q. As I understood what you were saying, when the  
23 sample's sparked and the photographic plate receives the  
24 spectra that the intensity will be impressed upon the plate.

25 A. Yes.

26 Q. Now, isn't that basically how you measure the  
27 quantitative results?

28 A. We have to compare that -- you have to compare

1 the density of a line with a density of a known amount of  
2 material. So, what you have to run, along with your question  
3 sample, is a known amount of material that contains the ele-  
4 ments that you're interested in quantifying.

5 Q. But if you do that, then you can get the quan-  
6 titative results?

7 A. If you do that and if you know some other  
8 things about plates, you can do a strict quantitative  
9 analysis.

10 Q. Is there any reason why that could not have  
11 been done with respect to all of the items tested in 1963  
12 and 1964 by the F.B.I. in the Kennedy Assassination?

13 MR. COLE: I object to that question. First, I  
14 don't think you've established that it has not been done and  
15 I think you should ask that question first.

16 MR. LESAR: I asked whether it was done with re-  
17 spect to all of them but I'll break it down.

18 Q. What types of analysis were performed with  
19 respect to the items of evidence in the Kennedy Assassination  
20 spectrographically?

21 MR. COLE: I object. Would you state what items  
22 you're talking about? I think maybe that would be a good  
23 place to begin so we'll know just what the parameters of  
24 this discussion are.

25 MR. LESAR: Would you mark this as the next Exhibit,  
26 please?

27 Q. Mr. Kilty, I've handed you a copy of Defendant's  
28 response to Plaintiff's Interrogatories which was filed in

1 this case in May 7, 1981, I believe, and attached to it are  
2 some Xerox copies of Spectrographic plates that were pro-  
3 vided us. Can you just take a minute and examine each of  
4 the plates?

5 A. I have before me the plate you have out,  
6 evidently -- plate listed 78243?

7 Q. Yes.

8 A. What kind of examination do you want me to  
9 conduct of this?

10 Q. Well, just I want you to take a brief look at  
11 it and tell me whether or not each of these plates -- from  
12 these plates here, whether or not a quantitative analysis  
13 could be made of the items that were listed as tested.

14 MR. COLE: In every one of the plates that are  
15 shown in the attachments to these Interrogatories?

16 MR. LESAR: Yes.

17 A. Well, if these are reproductions of plates --  
18 of photographs of plates that were given you, a strict quan-  
19 titative analysis could not be done on these plates.

20 Q. Why not?

21 A. Because the standard -- the standards that  
22 were used here were not calibrated standards.

23 Q. How would that be reflected on the plate?  
24 What would a plate that is calibrated show that these do not?

25 A. Well, the notes that were accompanying them  
26 would show what the concentration of the elements were and  
27 would measure -- you would have densitometer measurements  
28 for each of the lines.

1 Q. So, as I understand that what you're saying is  
2 that only the examiner who took these at the time would be  
3 able to determine the quantitative results of these?

4 A. No, that's not so at all.

5 Q. Even he would not be able to?

6 A. No, he would not be able to.

7 Q. Okay, and what is it that you have to have to  
8 enable you to do that?

9 A. For these plates?

10 Q. Yes.

11 A. Too late. You cannot do quantitative analysis  
12 on these plates - strict quantitative analysis.

13 Q. Okay. What do you mean by strict quantitative  
14 analysis?

15 A. You can do semi-quantitative analysis on these  
16 plates...

17 Q. Would you distinguish?

18 A. That is an intercomparison of one sample with  
19 another based on the density of the lines. You can say, for  
20 instance, one sample has more antimony in it than another  
21 sample. One sample has no bismuth. Another sample has bis-  
22 muth. A third sample has copper; another sample has three  
23 (3) times as much copper. One sample has "X" amount of  
24 silver; the other sample has seven (7) "X" amount of silver.  
25 It doesn't tell you how much is there but it's a relation-  
26 ship of one sample to another.

27 Q. Now, what do you have to do to be able to get  
28 numbers - to get the quantitative measurements?

1 A. Off these plates?

2 Q. When you test a sample.

3 A. What you would do is have a standard material,  
4 the analysis of which is certified, and you would burn that  
5 under the same conditions as you burn the other specimens  
6 here and you would measure the density of the various lines  
7 produced for certain elements in your elements you're inter-  
8 ested in and compare those densities to the densities of  
9 lines in your question specimen.

10 Q. Alright. Now, would you look at the materials  
11 that were provided us in this case -- they should be in this  
12 Exhibit 2, I believe it is -- and see whether or not any  
13 such quantitative figures were provided in any of the tests  
14 made by the F.B.I.?

15 A. There is some quantitative figures produced by  
16 that, yes, in neutron activation analysis.

17 Q. On just the spectrographic we're talking about  
18 now. Would you locate this page and see...

19 A. Well, that page has nothing to do with activa-  
20 tion -- or spectrographic analysis.

21 Q. This is neutron activation?

22 A. Yes.

23 Q. Okay.

24 MR. COLE: Jim, I think, maybe, since you have  
25 asked for him to take a look at a substantial amount of  
26 material, we should probably take a break at this time and  
27 I'd like to talk with the witness and see if we can come up  
28 with the material you're talking about in Exhibit 2.

1 MR. LESAR: Okay.

2 (A brief recess was taken.)

3 Q. Mr. Kilty, could you look at Exhibit 2 and  
4 see if there are any -- start from the first and leaf through  
5 it until you come to any quantitative spectrographic results?

6 MR. COLE: I think we'd maybe best clarify the  
7 question, Mr. Lesar. Are you saying that he's looking for  
8 quantitative results? Does that mean any page that deals  
9 with quantitative analysis?

10 MR. LESAR: Yes, that's correct.

11 A. The closest one -- the closest item would be  
12 a -- whatever -- it's 78243 on the bottom. It's got some  
13 numbers.

14 Q. Alright, could we have that marked "2-A",  
15 please? Now, why do you say that this is the closest thing?

16 A. Well, it has some numbers on it and there were  
17 some standards run but it's not -- it's still a semi-quantitative  
18 analysis.

19 Q. Okay. Why couldn't they have made a stricter  
20 quantitative analysis?

21 A. Well, probably was no need for it, simply  
22 because in my view, there'd be no need.

23 Q. There was no technical reason that would have  
24 prevented them from doing it, given the state of the art at  
25 the time?

26 A. I'm not sure of the quality of the densitometer  
27 that they had in 1963 when this was done as to whether or  
28 not they could have made a strict quantitative analysis.

1 Q. Could they have done so in 1964?

2 A. I don't know. I wasn't in the laboratory.

3 Q. I thought you were in the laboratory in 1964?

4 A. No.

5 Q. When did you join the laboratory?

6 A. In February of 1965.

7 Q. Okay. Could they have done so in February,  
8 1965?

9 A. I don't think so. They were in the process of  
10 purchasing a different kind of a densitometer then. I don't  
11 think they had it.

12 Q. On the following page, there are some numbers  
13 on the lefthand margin. The one at the top says 72 C-Control  
14 and at the bottom...

15 MR. COLE: Mr. Lesar, if you're going to refer to  
16 this page, can we have this also marked as "2-B" so that  
17 we'll be...

18 MR. LESAR: Certainly.

19 MR. COLE: Keeping it straight?

20 Q. Now, I note that the last number in the left-  
21 hand margin on that page is -- it says 42 and then dash nine  
22 (9) and then it says scrapings from inside windshield "Q15".  
23 What does the 42 signify?

24 A. Well, that's the rack number.

25 Q. What does the rack number indicate?

26 A. The place on the plate.

27 Q. And what does the 9 indicate?

28 A. That's the ninth sample from the top.

1 Q. Now, referring back to the previous page, 2-A,  
2 is there -- are there any figures there that pertain to the  
3 "Q15" sample?

4 A. I don't see a notation that "Q15" is associated  
5 with page "2-A".

6 Q. Allright. Is there any reason why there are  
7 not the sort of numbers for "Q15" as there are for any of  
8 the other items that were -- for which there are numbers on  
9 "2-A"?

10 A. I don't know.

11 Q. Would it have been possible to have done the  
12 same type of -- obtained the same type of quantitative mea-  
13 surements for "Q15" as for the other samples?

14 MR. COLE: I object. I don't think that you have  
15 established that there was a type of quantitative analysis  
16 done for the others besides "Q15". If you'd like to ask the  
17 witness that, maybe that could clarify that point.

18 Q. Mr. Kilty, as I understand your testimony,  
19 "2-A" -- the figures on "2-A" -- represent a type of quanti-  
20 tative analysis.

21 A. Yes, called semi-quantitative analysis, I would  
22 characterize it as.

23 Q. Now, is there any reason why that semi-quantitative  
24 analysis could not have been done for "Q15"?

25 A. I don't know.

26 Q. Can you think of any reason why it might not have  
27 been done?

28 A. No. It would be pure speculation which I am

1 not going to do.

2 Q. What was your first association with this...

3 MR. COLE: Mr. Kilty, are you through with Exhibit  
4 2 for the time being?

5 MR. LESAR: Yes, for the moment, yes.

6 Q. What was your first association with this case  
7 that you can recall?

8 A. The John F. Kennedy Assassination Case?

9 Q. Yes.

10 A. My first association with it was when I de-  
11 livered some material to the laboratory in this matter when  
12 I was assigned to a field office.

13 Q. Did you participate in any of the testing of  
14 materials in connection with the Kennedy Assassination?

15 A. No, I did not.

16 Q. Do you recall the first time that you were  
17 asked to search for laboratory materials on the Kennedy  
18 Assassination?

19 A. No, I don't recall the first time at all or  
20 when it was.

21 Q. Any approximate date as to when it was?

22 A. We were still in the old building at the time --  
23 1974, 1975 -- in that category, I think.

24 Q. Allright. When you -- do you recall ever hav-  
25 ing made any search for any requestor other than Mr. Weisberg  
26 who has sought these materials?

27 A. What materials?

28 Q. Spectrographic and neutron activation analyses.

1 A. I remember searching for materials for other  
2 contributors -- or other requestors regarding activation  
3 analysis.

4 Q. Do you recall who they were?

5 A. If I'm not held to these names, I have some  
6 recollection of some of the names.

7 Q. Just your best recollection.

8 A. Cyril Wecht.

9 MR. LESAR: C-y-r-i-l W-e-c-h-t.

10 MR. COLE: Is that correct, Mr. Kilty?

11 A. Yes. I think Emory Brown.

12 Q. Does the name John Nichols ring a bell?

13 A. John Nichols, yes. I know John Nichols. I'm  
14 sure I sent him material.

15 Q. Do you know him personally or do you just...

16 A. I know him; I've met him a few times but...

17 Q. Okay. Robert P. Smith.

18 A. I don't have a recollection of that name.

19 Q. Now, could you describe the kinds of records  
20 that would be created in connection with spectrographic  
21 analysis?

22 A. Spectrographic plates and work sheets involved  
23 with the item that was being subjected to spectrographic  
24 analysis.

25 Q. Now, by work sheet, do you distinguish between  
26 work sheets and notes or...

27 A. Well, usually, the notes are either made on the  
28 work sheet or on plain paper or lined paper that's attached

1 to the work sheet.

2 Q. The work sheet is a particular form?

3 A. It's a F.B.I. form that lists some evidence  
4 and lists some administrative data regarding the case.

5 Q. So, there would be plates, notes, work sheets  
6 and the notes may or may not be on the work sheets.

7 A. That's right.

8 Q. Okay. Anything else?

9 A. I can't think of anything else which doesn't  
10 mean that nothing else exists. I can't, offhand, think of  
11 anything. If you could recollect or refresh my...

12 Q. How about tables - charts?

13 A. Those would be part of the -- that's part of  
14 the work on the notes.

15 Q. You'd include that as notes?

16 A. Yes.

17 Q. Okay. Reports?

18 A. Well, that's separate from -- that may include  
19 a lot of other material other than the spectrographic analy-  
20 sis but that will include the opinion formed by the spectro-  
21 graphic analysis.

22 Q. But that would be another type of record that  
23 would be created as a result of the test that was made.

24 A. I guess so as long as we're going to define it  
25 that way.

26 Q. In -- before a spectrographic examination is  
27 made, is it customary to make a microscopic examination of  
28 the specimen?

1 A. Well, for people I know that do this work now,  
2 examine the sample, microscopically, using an optical micro-  
3 scope.

4 Q. Would it have been done in 1963, 1964?

5 A. Well, I can only tell you what I think would  
6 be done then because I didn't see it being done and I would  
7 think the items that were examined, spectrographically, that  
8 at some time were subjected to an optical microscopic exam.

9 Q. Now, would there be any notes on such an exam?

10 A. Depending on what the exam was for.

11 Q. What would the examiner do when he examined it  
12 microscopically?

13 MR. COLE: This is still, Mr. Lesar, in the realm  
14 of what could have hypothetically happened in 1964 when  
15 these items would have...

16 MR. LESAR: Yes, I'm asking him what he thinks the  
17 procedures would have been.

18 MR. COLE: If the witness has an idea that's more  
19 than a conjecture, he may answer.

20 A. Well, you look at the sample to determine,  
21 basically, what it looks like -- whether it has a lot of  
22 contamination on it or whether it is one kind of metal or  
23 two (2) kinds of metal. Most things that people examine  
24 microscopically -- or examine spectrographically start out  
25 with a microscopic exam.

26 Q. Would you examine it to determine whether  
27 there were any marks present on it?

28 A. The person doing the emission spectroscopy

1 wouldn't do that. That has already been done.

2 Q. Now, if the sample is contaminated in some  
3 manner, would the...

4 MR. COLE: Excuse me, Mr. Lesar, are you now  
5 talking about any examination done and is this under present  
6 conditions or under conditions that he thinks, hypothetically,  
7 might have existed back before he joined the lab?

8 MR. LESAR: We're still asking about what the pro-  
9 cedures would have been in '63, '64.

10 MR. COLE: Before he joined the lab.

11 MR. LESAR: Right.

12 Q. What -- if there had been contamination, would  
13 the examiner have made (a) any note on it or (b) any report  
14 on it?

15 MR. COLE: Excuse me. If there are going to be  
16 interruptions, such as talking between Mr. Weisberg and Mr.  
17 Lesar, I think I'd like to have the court reporter repeat  
18 the question after that conversation is done so Mr. Kilty  
19 will know what the question is.

20 MR. LESAR: I have no objection to that if counsel  
21 will permit me to let the record reflect that there was no  
22 talking or interruption of Mr. Kilty. Mr. Weisberg whispered  
23 in my ear. He is seated to my left and away.

24 MR. COLE: Mr. Lesar, the reason I made that objec-  
25 tion was that you asked the question, then there was a loud  
26 enough colloquy between you and Mr. Weisberg to at least  
27 break my concentration as to what was being said as is again  
28 being done now. And I think that it is only courteous to

1 the witness, when you've asked your question, not to have  
2 any discussions before he begins his answer.

3 MR. LESAR: Well, he did not start to answer before  
4 we finished our...

5 MR. COLE: That's quite right. There was a long  
6 space of time while we waited for you to end your conversa-  
7 tion with Mr. Weisberg.

8 MR. LESAR: Can you repeat what you heard Mr.  
9 Weisberg whisper to me?

10 MR. COLE: Not at this stage, I cannot. My memory  
11 isn't good enough.

12 MR. LESAR: Alright, would the court reporter re-  
13 peat the question that was initially asked before this  
14 harangue began? I'll re-phrase the question.

15 Q. If there had been any contamination on any of  
16 the samples examined microscopically, would the examiner  
17 have made any note -- (a) any note or (b) any report on it?

18 A. I don't know.

19 Q. Would that be the customary procedure today?

20 A. Well, it would depend on the kind of contamina-  
21 tion, what stage along the line this examination was being  
22 conducted. It may or may not be done.

23 Q. Okay. Take an item of evidence that came into  
24 the lab within a day or two after President Kennedy was shot.  
25 Would you expect the item of evidence would have been exam-  
26 ined microscopically before spectrographic analysis was made?

27 A. You're talking about items of evidence, now,  
28 that was subjected to emission spectroscopy?

1 Q. Yes.

2 A. Well, in as much as most of that material was  
3 firearms type work, that Unit examines, microscopically,  
4 first before it was handled by the people that do the emission  
5 spectroscopy.

6 Q. And you would anticipate then that the people  
7 who did the emission spectroscopy would not conduct any ad-  
8 ditional microscopic examination?

9 A. No, they would conduct it for a different kind  
10 of reason than the people in Firearms Unit would have done.

11 Q. They would conduct what for a different type of  
12 reason?

13 A. The microscopic exam that they conduct.

14 Q. Why would they conduct it?

15 A. To get an idea of what the sample looked like --  
16 what they were putting in the electrode. It's a very small  
17 piece of metal and the people would like to look at that  
18 piece of metal that they're putting in the electrode.

19 Q. Okay. Now, if in, let's say, that an item of  
20 evidence came into the lab on the 22nd or 23rd of November,  
21 1963, and it was suggested that it be tested spectrographic-  
22 cally, would it have been -- or should it have been examined  
23 microscopically before the testing?

24 A. Depends on what the item is.

25 Q. Bullet fragment.

26 A. Well, the bullet fragments definitely were  
27 examined microscopically.

28 Q. By the spectrographic examiner?

1 A. I don't know if they were done by him or not.

2 Q. Would the spectrographic -- let me re-phrase  
3 that. Should the spectrographic examiner have made his own  
4 microscopic examination or could he rely upon one done by  
5 the Firearms Unit?

6 A. They make them for different kinds of reasons.

7 Q. So, apparently, there would have to be a new  
8 and separate microscopic examination.

9 A. The microscope there is being used as a tool to  
10 handle and manipulate a sample.

11 Q. Why -- what are the reasons that someone, who  
12 is going to examine an item of evidence spectrographically,  
13 would subject it to microscopic analysis?

14 MR. COLE: I believe that question has already  
15 been asked and answered by this witness. If he cares to  
16 answer it again...

17 A. To clean the sample up if it needed be; to cut  
18 it, using a scalpel, maybe, to cut a little piece off it; to  
19 use it to actually move the sample from one place to the  
20 electrode. Often times, you use a microscope to look right  
21 in the electrode to see if the sample is there.

22 Q. Could you determine by microscopic examination,  
23 whether or not it was contaminated by sodium, for example?

24 A. No.

25 Q. What sort of contamination would you detect?

26 A. If you were asked to examine a piece of lead,  
27 you would want to make sure that that piece of lead did not  
28 have a copper jacket on it or did not have a big piece of

1 tissue on it. So, that's what you would use a microscope  
2 for -- to look at it. Do I have a piece of what I think is  
3 lead here?

4 Q. What about blood?

5 A. Well, I'm using tissue, covering bone, blood,  
6 muscle, skin. That's what I'm using.

7 Q. Now, if an examiner...

8 MR. COLE: Mr. Lesar, are we still talking about  
9 '63, '64 period?

10 MR. LESAR: Yes, I am. You can assume, unless I  
11 state otherwise, that we're directed to the period that's  
12 relevant to this.

13 MR. COLE: Which is again before this witness was  
14 employed by the laboratory. Allright.

15 MR. LESAR: Yes.

16 Q. In 1963, 1964, if there had been some contam-  
17 ination of the type that you've described, would an examiner  
18 have made a note on it or included it in a report?

19 A. Emission spectroscopy examiner?

20 Q. Yes.

21 A. I've never found any notes about it that one  
22 of them may have made. I don't know if he would have or not.  
23 It would depend on the nature of the contamination whether it  
24 had some significance or not.

25 Q. Is -- do you wash specimens before testing them  
26 spectrographically?

27 MR. COLE: Is this current procedures you're talk-  
28 ing about now or are you again... I mean when you say, you,

1 you can't be talking about '63, '64 because this witness was  
2 not there.

3 Q. At that time, would the specimens have been  
4 washed before testing?

5 A. I don't know.

6 Q. Do you have any guess as to whether it would  
7 or would not have been?

8 MR. COLE: Objection. This witness is not required  
9 to guess. If he has an understanding of what the procedures  
10 were, then he can certainly give you his view.

11 Q. Let me ask you about neutron activation analysis.  
12 Now, could you... Mr. Kilty, one more question on the micro-  
13 scopic examination. Would an examiner who conducted a micro-  
14 scopic examination, make a note or report on any marks on the  
15 item subjected to examination?

16 A. What microscopic exam are you talking about?

17 Q. Well, you have mentioned two: One by the Fire-  
18 arms Unit and the other by a spectrographic examiner. Take  
19 both of them.

20 A. Well, first, I don't know that a microscopic  
21 exam was done by the spectrographic examiner. I'm telling  
22 you what I think would have been done then. I know that  
23 there's microscopic examinations done by the firearms people.  
24 So, in that line, I don't know what they would say about  
25 marks they found. If the marks had significance, they may  
26 comment on them. I think you could find out by reading the  
27 reports as to whether they commented on the marks that they  
28 allegedly found.

1 Q. Under today's standards, would they comment  
2 on marks that they found?

3 A. If the marks had some value or some significance,  
4 I would think they would comment about them.

5 Q. Alright. Now, with respect now to neutron  
6 activation testing, could you describe the kinds of records  
7 that are created or would have been created in 1964 when an  
8 item of evidence was subjected to neutron activation testing?

9 A. There would have been a product of the gamma  
10 ray spectrometer which would have been a series of data points  
11 produced by the spectrometer. There may have been some graphs-  
12 plots that they produced.

13 Q. Produced by...

14 A. The people who did the work.

15 Q. Okay.

16 A. There would be some calculations produced some-  
17 place. There would be a letter produced with the results of  
18 the examination produced.

19 Q. Could you describe the process of neutron  
20 activation testing, step by step?

21 A. Well, the elements that are present in a  
22 specimen are basically not radioactive elements, that is,  
23 the atoms are stable, and they're made artificially radio-  
24 active in a nuclear reactor by bombarding them with neutrons  
25 and some of the atoms that make up the specimen capture neu-  
26 trons in the nucleus and this produces an excitement in  
27 these atoms, called radioactivity. And these atoms are try-  
28 ing to get back to a stable state again and in doing so, they

1 give off energy. And this energy can be measured. And the  
2 energy and intensity of the energy are measurements of what  
3 element is present and how much of that element is present in  
4 the specimen.

5 Q. Now, what steps were taken prior to injecting  
6 a specimen into the reactor?

7 MR. COLE: Again, this is 1964...

8 MR. LESAR: Yes.

9 MR. COLE: Procedures?

10 A. I'm not sure. The sample had to be packaged  
11 some way before it could be put in the reactor and then re-  
12 moved from the reactor.

13 Q. Would it have been examined, microscopically?

14 A. With my qualifiers as the same qualifiers on  
15 emission spectroscopy, I would say, yes. I would expect that  
16 someone would look at the sample, using a optical microscope  
17 and make some judgment about it some way.

18 Q. Would it have been weighed?

19 A. In my view, yes. And in this case, the records  
20 reveal that items have a weight beside them that indicates  
21 they were weighed.

22 Q. Would the specimens have been washed or cleaned?

23 A. I would expect the specimens were cleaned. How  
24 they were cleaned, I don't know.

25 Q. Would that have taken place at the F.B.I. lab-  
26 oratory?

27 A. I don't know.

28 Q. Or at the Oak Ridge?

1 A. I don't know whether the samples were prepared  
2 at the F.B.I or at Oak Ridge.

3 Q. You say that there would have been a series of  
4 data points. Would that be another way of saying computer  
5 printouts?

6 A. Yes.

7 Q. Would there be -- if an item is put in the  
8 reactor, would there necessarily be some computer printouts  
9 on any sample?

10 A. If they so chose to make one, there would be.

11 Q. What would determine whether or not they would  
12 choose to do so?

13 A. I don't know.

14 Q. Wouldn't it be done routinely?

15 A. No. Many times, nowadays, we would radiate a  
16 sample, we, for some reason or other, never present it to a  
17 gamma ray spectrometer.

18 Q. And there are no computer printouts that result  
19 from that?

20 A. Yes.

21 Q. Would that have been true in 1964?

22 A. I don't know.

23 Q. If there were, in fact, computer printouts for  
24 many of these specimens, were there not?

25 MR. COLE: Many of what specimens?

26 MR. LESAR: Many of the specimens that Agent  
27 Gallagher subjected to testing.

28 A. With respect to subjected neutron activation?

1 Q. To neutron activation testing.  
2 A. Yes. Yes.  
3 Q. They were. Is there any reason why there would  
4 be no printouts of specimen "Q3"?  
5 A. No.  
6 Q. There should be. If the others had printouts,  
7 you would assume that "Q3" also would?  
8 A. That's wrong. I don't assume that at all,  
9 no.  
10 Q. Why not?  
11 A. Well, because one thing exists doesn't make --  
12 mean that another thing should exist. I don't see the con-  
13 nection.  
14 Q. Well, these specimens were tested at the same  
15 time, were they not?  
16 A. Which specimens?  
17 Q. The specimens that Agent Gallagher took down  
18 and tested on May 15, 1964?  
19 A. I don't exactly know what he did on May 15,  
20 1964. I know that the testing was much more extensive than  
21 that day.  
22 Q. There was additional testing by neutron activa-  
23 tion analysis?  
24 A. Yes.  
25 Q. What day -- what's your basis for saying that?  
26 A. The records that you have indicate that.  
27 Q. Are you referring to the paraffin cast?  
28 A. Well, that's one thing. Yes, that's true.

1 Q. Was there anything else that was tested by  
2 means of neutron activation analysis other than on that May  
3 15 date?

4 A. Well, May 15 day was the day that some of the  
5 items or the items were put in the reactor.

6 Q. Yes.

7 A. That certainly doesn't mean neutron activation  
8 analysis testing. That's just one -- that's just the start  
9 of the testing.

10 Q. Well, what transpires after that?

11 A. Then you have to present the sample to a gamma  
12 ray spectrometer to determine what radioactivity is present.

13 Q. Does that take place the same time and same  
14 place?

15 A. Sometimes, it does and sometimes, it doesn't.

16 Q. In this case, do you know whether it did?

17 A. Did what?

18 Q. Whether it took time at the same place -- same  
19 date and same place?

20 A. Sometime it took place the same day; some of  
21 it took place other days.

22 Q. How do you know that?

23 A. By reading the dates on the documents.

24 Q. You have the documents that we've been given  
25 in front of you. Could you go through them and point out an  
26 example of that?

27 A. Well, here's a measurement taken - a hundred  
28 and eighty-nine point six five (189.65) hours after it was

1 irradiated. So, obviously that is something after.

2 MR. COLE: Mr. Lesar, since we're going to be  
3 looking at this, why don't we mark this as "2-C" on the  
4 court's copy.

5 A. That's a standard -- that was part of the --  
6 unless you want to get a "Q" number.

7 Q. Could you get a "Q" number for it?

8 A. "1-A" -- that's the first "Q" number.

9 MR. COLE: This is about ten (10) back from the end,  
10 Mr. Lesar.

11 A. "Q1A" - that's it there.

12 MR. COLE: Would you mark that "2-C"?

13 Q. Alright. You've -- directing your attention  
14 to the Exhibit "2-C", what does that reflect with respect  
15 to the date of testing?

16 A. Well, I see a date, May 15, here. It went in  
17 the reactor at 19:01 and out at 19:01 plus twenty (20)  
18 seconds.

19 Q. Okay. Above that is another date. What does  
20 that reflect - 5/26/64?

21 A. It reflects that day. I don't know.

22 Q. Would that have been the date that these cal-  
23 culations were made?

24 A. I don't know.

25 Q. You don't know what it signifies?

26 A. No. And right underneath that date, though, it  
27 says counted May 26, 08:08, and you can see on the right side  
28 they calculated the decay time there of two hundred and fifty-

1 three point four four (253.44) hours.

2 Q. Okay. Let me -- the specimen is put in the  
3 reactor and then you -- what's the next step?

4 A. Removed from the reactor.

5 Q. And then -- are there any records created at  
6 that point? No?

7 A. No, I don't think there would be any.

8 Q. Then what about the time that it went in and  
9 the time that it went out?

10 A. That would be noted.

11 Q. That would be noted by the examiner.

12 A. Yes.

13 Q. Then the examiner takes it and you described  
14 an instrument that it's presented to.

15 A. Yes.

16 Q. And that is?

17 A. A gamma ray spectrometer.

18 Q. Okay. Now, is that gamma ray spectrometer,  
19 would that have been at the Oak Ridge laboratory?

20 A. Yes.

21 Q. Now, are you aware of any items, other than this  
22 "Q1", that were tested after they were submitted for nuclear --  
23 they were irradiated after the May 15 date?

24 MR. COLE: Mr. Lesar, I object. This witness was  
25 asked before whether everything was done on the fifteenth.  
26 He agreed to look through this material to see whether he  
27 could find an example of something that showed a later date.  
28 He has done so.

1 MR. LESAR: My question was different than that one.  
2 I'm asking now not about the date that it was presented to  
3 the spectrometer; I'm asking about the date that it was ir-  
4 radiated -- whether anything was irradiated after the May 15  
5 date.

6 MR. COLE: If he knows.

7 A. I don't know.

8 Q. I'd like to have this marked as the next Exhibit,  
9 please. Would you take just a minute to refresh your recol-  
10 lection and read over this? This is an Affidavit that you  
11 executed on May 13, 1975.

12 MR. COLE: I would like to ask again that we just  
13 have a few minutes and we'll walk outside and take a look at  
14 this document and be back in about three (3) minutes.

15 MR. LESAR: That's fine.

16 (A brief recess was taken.)

17 Q. Mr. Kilty, have you had a chance to read over  
18 your Affidavit of May 13, 1975?

19 A. I recognize this Affidavit as having been pro-  
20 duced by me.

21 Q. Prior to executing this Affidavit, could you  
22 describe what search you had made for spectrographic and  
23 neutron activation records?

24 MR. COLE: Are you talking about for your client,  
25 Mr. Weisberg?

26 MR. LESAR: Yes.

27 A. Let's see. What day did I do this? I don't  
28 know what searching I did. I would -- before that, I would

1 have to have some other dates available to me. If I knew  
2 dates that material was released, I could say I did it be-  
3 forehand but I don't know exactly. For the creation of this,  
4 that is, before March 14, 1975, or before the creation of  
5 this Affidavit?

6 Q. No, before the Affidavit.

7 A. I don't know what search I did before the cre-  
8 ation of this Affidavit.

9 Q. Could you recall what you did, initially, in  
10 response to the request that you look for records of this  
11 kind?

12 A. No, I can't remember my initial response.

13 Q. Did you -- how did the request come to you?

14 A. It was given to me by a member of the legal  
15 counsel division at that time.

16 Q. Who was that?

17 A. I think it was Agent Tom Bresson.

18 Q. And what did he say to you?

19 A. I don't remember him saying anything to me.

20 I don't know whether he personally gave it to me or it came  
21 through him.

22 Q. Gave what to you?

23 A. Your request or the request of Mr. Weisberg.

24 Q. Normally, when you receive a Freedom of Inform-  
25 ation Request that's referred to the laboratory, what do you  
26 get -- how do you get it?

27 A. Now?

28 Q. Let's take at in 1974, 1975.

1           A. I don't have any recollection of a procedure  
2 that was followed then. A procedure was developed later on  
3 as more requests came in but, originally, sometimes it came  
4 attached to a memo -- sometimes a man would deliver it by  
5 hand.

6           Q. Do you recall whether or not you consulted  
7 anyone in locating the materials that you have produced here as  
8 Exhibit 2?

9           A. I don't have any recollection of consulting  
10 any specific people, no.

11          Q. Did anyone search for the materials other than  
12 yourself?

13          A. I have no recollection of another person  
14 searching for them.

15          Q. Were you aware of any searches that had been  
16 made by any other Agents or employees of the F.B.I. prior  
17 to the time you began searching for these materials?

18          A. No, I wouldn't have any knowledge of what  
19 kind of a search was made by other people.

20          Q. Were you aware that these materials had been --  
21 these and similar materials -- had been requested before by  
22 other requestors?

23          A. Before this?

24          Q. Before 1974, 1975.

25          A. I remember people talking about it. I don't  
26 know who the people were who requested it. I remember Agents  
27 talking about people requesting.

28          Q. What did they talk about?

1 A. That they had requests in that legal counsel  
2 division had a request for some documents in the Kennedy  
3 Assassination.

4 Q. Do you recall that Dr. Nichols had made a  
5 request?

6 A. No, I am not aware of him at that time making  
7 a request.

8 Q. Were you aware that he had filed a lawsuit  
9 against the Department for and which included these materials?

10 A. No.

11 Q. Were you aware that -- do you know F.B.I. Agent  
12 by the name of Jevons?

13 A. Yes.

14 Q. How long have you known Mr. Jevons?

15 A. He was my Section Chief when I was assigned to  
16 the laboratory in 1965 and he retired.

17 Q. This is Mr. Roy H. Jevons?

18 A. Yes.

19 Q. Yes. When did he retire?

20 A. I don't remember the year. We were located in  
21 the old building when he retired.

22 Q. But he was your Section Chief?

23 A. Yes.

24 Q. Did you ever have any discussion with him about  
25 locating these materials?

26 A. I don't recollect any discussion with him.

27 Q. Do you -- did you know an F.B.I. Agent by the  
28 name of Marion Williams?

1 A. Yes.

2 Q. How did you know him?

3 A. He was the Assistant Section Chief when I came  
4 to the laboratory and, subsequently, was, several years later,  
5 promoted to Section Chief and retired.

6 Q. Did you ever have any discussion with him about  
7 locating these materials?

8 A. I don't recollect any discussion with him. I  
9 might have had one but I don't recollect it.

10 Q. Are you aware that Mr. Jevons and Mr. Williams  
11 both executed Affidavits stating that they had examined the  
12 spectrographic file in response to (1) the request by Mr.  
13 Nichols and (2) the request by Mr. Weisberg?

14 A. My...

15 Q. Are you aware of that?

16 A. That they did that?

17 Q. That they had sworn that they had examined the  
18 spectrographic file?

19 A. No, I'm not aware of that.

20 Q. Is there such a thing as "the spectrographic  
21 file"?

22 A. I don't know what they're talking about - the  
23 spectrographic file. There are plate files that contain  
24 spectrographic plates.

25 Q. But you never had any conversation with either  
26 of them about locating these materials?

27 A. Jevons, no. I don't know about Williams. I  
28 have no recollection of Williams. Williams followed Jevons

1 by several years and I may have talked to him at some time  
2 about Freedom of Information requests. I don't recollect it,  
3 though.

4 Q. Did you ever examine any file -- does the F.B.I.  
5 keep a record of previous searches that are made for records?

6 A. I don't know. That's not my business. I  
7 simply don't know that.

8 Q. So, when you began to undertake searching for  
9 these materials, there was nothing for you to consult to de-  
10 termine whether or not they had been located previously?

11 A. I did not come across any documents which  
12 indicated that they had been searched for previously.

13 Q. Okay. How did you go about making your search?

14 A. I don't recollect how I searched for these  
15 items in 1975.

16 Q. Well, where did you finally locate them?

17 MR. COLE: Mr. Lesar, I'm going to let the witness  
18 answer this but he's already said he doesn't recollect any-  
19 thing about the search.

20 A. I located them in file cabinets.

21 Q. Okay. Where were the file cabinets located?

22 A. In the F.B.I. laboratory.

23 Q. Where was the F.B.I. laboratory at that time?

24 A. It was in the seventh floor of the Justice  
25 Building.

26 Q. What room?

27 A. There was a lot of rooms. I don't remember any  
28 of the room numbers.

1 Q. Okay.

2 A. Dozens and dozens of rooms.

3 Q. Were they all in the same file?

4 A. Same file cabinet?

5 Q. Yes.

6 A. No.

7 Q. How many different file cabinets were there?

8 A. Two (2) file cabinets -- two (2) different

9 file cabinets.

10 Q. How were they labelled?

11 A. I don't know.

12 Q. What file were they part of?

13 A. What file they were part of?

14 Q. Yes.

15 A. The Kennedy Assassination file.

16 Q. Are all the Kennedy Assassination files kept

17 in the F.B.I. laboratory?

18 A. No.

19 Q. Can you identify the file cabinets as to con-

20 tent?

21 A. I can, yes, by opening the drawers and looking

22 what's in them.

23 Q. Well, what did they contain?

24 A. Well, it contained material in the Kennedy

25 Assassination.

26 Q. On any other subject?

27 A. If it did, I didn't pay any attention to it.

28 I wasn't interested in another subject.

1 Q. How did you know to go to these file cabinets?  
2 A. I asked at least one (1) other Agent who was  
3 there -- maybe two (2) others.  
4 Q. Who were they?  
5 A. Well, the one I know of was Bob Frazier, Agent  
6 Robert Frazier.  
7 Q. What did Frazier tell you?  
8 A. He showed me where the cabinets were.  
9 Q. How were those file cabinets identified?  
10 A. I don't remember how they were.  
11 Q. Well, they had a label?  
12 A. Yes, there was some sort of a label on it.  
13 Q. File number?  
14 A. I don't know if there was or not.  
15 Q. Did -- what did Frazier say to you when -- what  
16 did you ask Frazier?  
17 A. I don't remember what I asked him at the time.  
18 I'm looking for something on the Kennedy Assassination and  
19 he knew more about it than anyone in the laboratory because  
20 he worked it.  
21 Q. Now, you say there were two (2) file cabinets?  
22 A. I found the material in two (2) different file  
23 cabinets, yes.  
24 Q. Now, were those -- the material in those file  
25 cabinets, was it all Kennedy Assassination material?  
26 A. I don't know.  
27 Q. Was it all laboratory tests or did it contain  
28 other types of material?

1 A. I didn't go through it all. Just searched  
2 places where I could find spectrographic plates or material  
3 that...

4 Q. Did you have a specific reference when you went  
5 there? How did you -- you had two (2) file cabinets. How  
6 did you determine what you were looking for and where did you  
7 get it without having a reference?

8 A. I don't remember.

9 Q. Can you recall how the file was organized? Was  
10 it alphabetically, was it by subject matter, was it by file  
11 number?

12 A. Well, it was not by those ways. It was organ-  
13 ized but I don't remember how it was organized.

14 Q. Okay. Then how did you locate the material --  
15 these materials -- without making a page-by-page search of  
16 both of these file cabinets?

17 MR. COLE: Mr. Lesar, the witness has already said  
18 that there was some organization. He cannot recall the form  
19 of organization. He was able to find these materials. He  
20 did not say that it was not organized so that there wasn't  
21 a way for him to find them and I think your question accepts  
22 that hypothesis.

23 Q. Do you adopt your counsel's statement?

24 A. Yes. I could not -- I wouldn't have just --  
25 I had to go someplace to find what was logically available to  
26 me. I don't remember how -- what the format of it was.

27 Q. Well, were you looking under spectrographic  
28 analysis? Was there such a file?

1 A. No, there wasn't. I know that it was not one  
2 labelled spectrographic analysis, no.

3 Q. What kind of containers were these records in?  
4 Were they in file folders or...

5 A. Some of it was in file folders.

6 Q. Some of it was not?

7 A. Well, as you can see, some of it was in note-  
8 books -- spiral notebooks. You can see the spiral edge of  
9 the Xeroxed for you.

10 Q. Are those -- were those spiral notebooks kept  
11 in file folders?

12 A. Yes, they were in a file folder, a brownish,  
13 reddish type that has a string around it -- that kind of a  
14 file folder, yes.

15 Q. File jacket might be a more accurate descrip-  
16 tion?

17 A. I don't know. Whatever you want to describe it  
18 as.

19 Q. Allright. Now, what kinds of -- I take it --  
20 you had -- did you consult central records in making your search

21 A. I don't recollect if I did or did not consult  
22 what you call central records -- that's the people that search  
23 for records and I don't recollect whether I did or not.

24 Q. Okay. If you didn't, how did you know there  
25 were no records there?

26 A. Who said there were no records?

27 Q. In central records?

28 A. Was there no records in central records?

1 Q. Did you ever make a search of central records?

2 A. Of the F.B.I. -- the central records division  
3 of the F.B.I. Laboratory or the F.B.I.?

4 Q. Would you describe the procedure for searching  
5 files through the central records index?

6 A. Well, you can ask someone what you need to find --  
7 what you're looking for and you will be delivered the materi-  
8 al. If you want Section 18 of some file, you can ask them  
9 for Section 18 and...

10 Q. Well, suppose you want spectrographic analysis  
11 on items of evidence in the Kennedy Assassination, what do  
12 you do to locate them?

13 A. Well, what I did was look in places where the  
14 spectrographic analysis for the Kennedy case was kept.

15 Q. And that was based on information provided to  
16 you by Agent Frazier?

17 A. Yes, it was. If I may add, John F. Gallagher,  
18 too, was the other agent that knew where this material was.  
19 Whether he was in the laboratory at the time this request came  
20 in or not, I don't remember, but based on my working for him  
21 for a number of years, I knew the file drawer where that  
22 material was.

23 Q. Did you ever search any other locations for  
24 materials related to Mr. Weisberg's request?

25 MR. COLE: Do you mean at that time, Mr. Lesar?

26 MR. LESAR: Yes.

27 A. Yes.

28 Q. What locations did you search?

1 A. I didn't search locations; I searched files.  
2 Q. Okay, what other files did you search?  
3 A. Well, excuse me, I did not search files, I  
4 searched sections of files.  
5 Q. Sections of what files?  
6 A. Of the Kennedy case and the Oswald case. I  
7 don't remember what the section numbers were.  
8 Q. Now, how did you determine what Sections you  
9 were going to search?  
10 A. I don't remember.  
11 Q. Do you recall how many sections there are in  
12 those files?  
13 A. Oh, tremendous numbers.  
14 Q. You didn't go through -- say there were a hun-  
15 dred sections in the J.F.K. Assassination file; you didn't go  
16 through all of those sections, did you?  
17 A. I went through cart after cart after cart of  
18 sections of files in that case.  
19 Q. In the Kennedy Assassination file?  
20 A. Yes.  
21 Q. Did you go through the -- any field office  
22 files?  
23 A. No, I did not.  
24 Q. Did you consult any examiners to determine if  
25 they had files relevant to the request?  
26 A. I didn't consult with them for that purpose.  
27 I consulted with other examiners. I did not consult with  
28 them to determine if they had files.

1 Q. Why not?  
2 A. They don't keep files.  
3 Q. Well, is that always true?  
4 A. What is always true?  
5 Q. Are there any exceptions to that?  
6 A. Well, sometimes an Agent will have a file in  
7 his desk or in the work box.  
8 Q. Well, did you make any search to determine  
9 whether or not any of the Agents who participated in these  
10 tests might have kept materials in their desk or in their  
11 work box?  
12 A. I talked to a number of Agents -- anyone who  
13 had any familiarity with this case at all -- asking them if  
14 they had anything concerning the case. If they did to give  
15 it to me.  
16 Q. Did you talk with Agent Cunningham?  
17 A. Yes.  
18 Q. Did you talk with Agent Heilman?  
19 A. Yes.  
20 Q. Did you talk with any other of the F.B.I. Agents  
21 that you can recall who conducted these tests?  
22 A. Yes.  
23 Q. Heiberger?  
24 A. Heiberger, yes.  
25 Q. Anyone else?  
26 A. Gallagher.  
27 Q. Okay. What did they tell you?  
28 A. I don't remember specifically what they told

1 me. They may have said, yes or no to my questions. I don't  
2 know -- I mean I have no recollection of the individual  
3 statements made by any of them.

4 Q. Did they suggest any place where you could look?

5 A. I don't remember if they did or not.

6 Q. You're familiar with the phrase, tickler file,  
7 are you not?

8 A. Yes, I am.

9 Q. Did you make a search of any tickler files?

10 A. Any that I could find.

11 Q. Did you find any?

12 A. Yes.

13 Q. Whose were they?

14 A. I don't know whose they were.

15 Q. Where were they?

16 A. In the -- where I found the material.

17 Q. In the two (2) file cabinets?

18 A. Yes.

19 Q. That was a tickler file?

20 A. No. It was a file cabinet. It had lots of  
21 material in it.

22 Q. But these were tickler files.

23 A. Well, I think I'd have to get a definition..  
24 of a tickler file then.

25 Q. Alright, what do you mean by the phrase,  
26 tickler file?

27 A. Carbon copy of something.

28 Q. Kept by whom?

55

1 A. I don't know. This was not under anyone's  
2 custody; it was under F.B.I. custody. It was not in a person-  
3 al file. File drawers.

4 Q. Okay. I believe you testified that you did  
5 not make a search of central files, is that correct?

6 MR. COLE: I object to that characterization but,  
7 Mr. Kilty, you may answer.

8 A. Whatever you mean by that -- I don't know.  
9 What is a search of central files?

10 Q. It's the central records files. Well, could  
11 you state your understanding of the F.B.I.'s central records  
12 system?

13 A. It's the location of the various files and all  
14 the parts thereof.

15 Q. Is there a particular location for the central  
16 records files in the F.B.I. Building?

17 MR. COLE: Are you talking about now or previous?

18 MR. LESAR: Previously -- let's take 1963, 1964.

19 MR. COLE: So that would have not been in the F.B.I.  
20 Building but the Justice Building.

21 MR. LESAR: Excuse me, let's take 1974, 1975, when  
22 you were looking for these records.

23 A. They were in the Justice Building someplace.  
24 They might have been, too. I don't know if the identifica-  
25 tion division -- didn't they store some files in the ident-  
26 ification division then, too?

27 Q. Would the file cabinets that you located these  
28 materials in in the F.B.I. Laboratory, do you consider those

1 to be central record files?

2 A. I don't know what I consider them to be. I  
3 think it's immaterial what I consider them to be. The fact  
4 is, I searched them. Whether they're central records or  
5 laboratory records or whatever they are, they were searched.

6 Q. What is the distribution of records pertaining  
7 to your spectrographic and neutron activation testing? Who  
8 gets what records when an item is tested?

9 MR. COLE: Are you talking, again, Mr. Lesar, about  
10 1964 or presently?

11 MR. LESAR: In 1964.

12 A. Well, these records became part of the F.B.I.  
13 file in the Kennedy Assassination or Oswald -- one or the  
14 other.

15 Q. Let's take the reports on the spectrographic  
16 and neutron activation analysis.

17 MR. COLE: The reports. Do you have specific re-  
18 ports in mind, Mr. Lesar?

19 MR. LESAR: It's plural -- any...

20 MR. COLE: Any and all reports on spectrographic  
21 and neutron activation analysis.

22 MR. LESAR: Report is drawn up by an Agent. Where  
23 does that report go?

24 A. Goes to the contributor.

25 Q. And who would be the contributor?

26 A. Sometimes, it was the Chief of Police in  
27 Dallas; sometimes it was the Warren Commission; and sometimes  
28 it was the U.S. Secret Service; sometimes it was the F.B.I.

1 Dallas. Whatever was on the title -- to whoever it is.

2 Q. Alright, now, where -- who else would get  
3 copies, other than the contributor?

4 A. I don't know. I'd have to check the copy count  
5 on it as to who -- it says right on the report as to where  
6 all the copies go.

7 Q. Well, would the examiner get a copy?

8 A. I think so. I think you could tell by looking  
9 at the reports and see if the examiner's name is on them.

10 Q. You have some copies of reports in front of you  
11 as an Exhibit 2.

12 A. Here's a letter to Mr. Rankin with a copy to  
13 several Agents. I don't see an F.B.I. Laboratory Report,  
14 as such, in this material.

15 Q. How about this one?

16 MR. COLE: This one is...

17 A. A laboratory work sheet.

18 MR. COLE: What you have pointed to, Mr. Lesar,  
19 says at the top of it Laboratory Work Sheet.

20 Q. Is it your understanding that the -- with re-  
21 spect to the reports that were furnished the Warren Commission,  
22 that the reports went to the Dallas field office and that the  
23 Dallas field office incorporated the findings of the F.B.I.  
24 Laboratory in a report which they submitted to headquarters  
25 and that this report was then transmitted to the Warren Com-  
26 mission?

27 MR. COLE: I object, Mr. Lesar. That was a very  
28 compound question -- a lot of parts. Can we take it one at

1 a time to see whether this witness agrees with any part of  
2 them?

3 MR. LESAR: He can state if he disagrees with any  
4 part of them.

5 MR. COLE: Or if he feels that that question is  
6 difficult to answer.

7 MR. LESAR: Can the witness answer the question?

8 A. Basically, I can answer it, yes. Sometimes  
9 that occurred and sometimes it didn't occur.

10 Q. Now, how can you determine what -- whether or  
11 not we were provided with all the reports without making a  
12 search of central records?

13 A. All reports of what?

14 Q. All reports of the laboratory examinations?

15 A. I don't know. I mean I'm not aware of the  
16 request for all the reports on laboratory examinations in  
17 this case.

18 Q. Well, wasn't that part of your obligation to  
19 find that out?

20 MR. COLE: I object to that question. This witness  
21 isn't required to answer what his obligations were. I be-  
22 lieve that your foyer request speaks for itself as to what  
23 was requested.

24 Q. If you had requested that a search be made of  
25 the central records index for laboratory reports on the  
26 Kennedy Assassination, would that have assisted your search?

27 A. I don't know.

28 Q. But you did not make such a request?

1 A. I requested tremendous numbers of sections of  
2 the Kennedy file.

3 Q. From central records?

4 A. Yes.

5 Q. Now, would your search of central records --  
6 of documents in central records have revealed the existence  
7 of tests supplied to the Dallas field office, say?

8 A. Tests supplied?

9 Q. Reports on tests.

10 A. Yes.

11 Q. Allright, did you make any request of the  
12 Dallas field office for any reports pertaining to the spec-  
13 trographic and neutron activation analysis?

14 A. No.

15 Q. Why not?

16 A. Well, copies of those reports were available  
17 from the F.B.I.

18 Q. How could you be certain that we were provided  
19 with all of the reports on the spectrographic and neutron  
20 activation analysis testing without making a page-by-page  
21 search of the entire headquarters files and the entire Dallas  
22 field office files on the assassination of President Kennedy?

23 A. I gave you all the reports that existed. Is  
24 he asking the question or are you?

25 Q. I'm asking the question. How could you know?

26 A. Based on my search of the records and knowing  
27 the items that were subjected to examination, I have found  
28 the reports pertaining to those specimens.

1 Q. How could you be sure that the files that you  
2 located contained all of them?

3 A. By reading the report and by reading the report  
4 and knowing something about scientific examinations, you can  
5 determine if that's a partial report or a complete report or  
6 states something.

7 Q. How did you know you were going to get the  
8 reports on all the specimens?

9 A. All the specimens pertaining to what the re-  
10 quest was?

11 Q. Yes.

12 A. That's what I'm limiting myself to.

13 Q. How did you know you were going to get all of  
14 them?

15 A. Well, in order to be -- if the request was for,  
16 let's say, spectrographic examinations of certain items, I  
17 would look for the reports applying to those items.

18 Q. Now, what -- and you went to Frazier and he  
19 said, look in these file cabinets. What made you think that  
20 all of the reports were in that file cabinet -- in those file  
21 cabinets?

22 A. I don't think any of the reports were in those  
23 file cabinets.

24 Q. Where were the reports?

25 A. In central files.

26 Q. I thought you told me that you did not look at  
27 central files?

28 A. I thought I had said several times, I looked

61

1 at numerous sections of this file.

2 Q. Okay. How did you determine what sections to  
3 look at?

4 A. I don't remember how I did that.

5 Q. You didn't look at all of them?

6 A. No, certainly not.

7 Q. In order to comply with the request, wouldn't  
8 you have to get a list of all of the specimens?

9 A. That possibility is a good one. I mean you  
10 might start at that, I don't know.

11 Q. Did you do that?

12 A. I don't remember if I did or not.

13 Q. Okay. How would you get a list of all the  
14 specimens?

15 A. Well, you could look at a listing of the speci-  
16 mens to get the list of specimens.

17 Q. Where would the listing be?

18 A. There's one kept in the laboratory.

19 Q. Where in the laboratory?

20 A. In file cabinets.

21 Q. Well, how are the file cabinets labelled?

22 A. Well, these are the file cabinets I've been  
23 talking about.

24 Q. There was a listing of the items of the speci-  
25 mens tested in that cabinet?

26 A. Yes.

27 Q. Okay. Now, did you have reference to any  
28 indices in the F.B.I. Laboratory?

1 A. If you want to call a listing of specimens an  
2 indices, I guess I had reference to that or availability to  
3 that.

4 Q. Did you check the Dallas index?

5 A. No. As far as any questions about Dallas, I  
6 did not check Dallas about anything in this matter. I per-  
7 sonally did not.

8 Q. Did anyone else that you know of?

9 A. I don't know.

10 Q. Was anybody else doing the search?

11 A. Search for what?

12 Q. Search for these materials?

13 A. No, I was assigned the job of doing it or I  
14 was responsible -- other people helped.

15 Q. Is it your testimony that we have been given  
16 everything that you have on all the specimens that were  
17 tested?

18 A. Certainly not. Certainly not.

19 Q. What have we not been given?

20 A. Oh, Mr. Lesar, you know a number of things you  
21 haven't been given. I've showed you things in the F.B.I.  
22 Laboratory and Mr. Weisberg things that you know you have  
23 not received.

24 Q. What were those things?

25 A. At least some computer printouts regarding  
26 activation analysis work that was done.

27 Q. How many pages of those printouts are there?

28 A. What's a page?

1 Q. Ordinarily, a sheet of paper.

2 A. Okay, in order to get all of that, it would be  
3 many hundreds and hundreds of pages of Xeroxed material.  
4 This is on adding machine style paper with channel numbers on  
5 one side, data counts on the other side. So you can't put a  
6 lot of it on one piece of paper. You just have one little  
7 strip on a piece of paper.

8 Q. Now, what specimens do these printouts relate  
9 to?

10 A. Specimens that were irradiated.

11 Q. By Agent Gallagher at Oak Ridge National Lab-  
12 oratory?

13 A. Yes.

14 Q. And this would include the paraffin casts?

15 A. Yes.

16 Q. And it would include the bullet fragments?

17 A. Yes.

18 Q. Were there any other items that were subjected  
19 to neutron activation analysis?

20 A. I would categorize the items as the metal items  
21 and as paraffin. Those are the only items that I know of  
22 that were examined.

23 Q. The clothing was not tested by neutron activa-  
24 tion?

25 A. No, it was not.

26 Q. You testified that Mr. Weisberg was offered  
27 certain materials and didn't get them and you described  
28 them as computer printouts.

1 MR. COLE: Excuse me, you said he testified. Was  
2 this at a hearing or was it...

3 MR. LESAR: Just right now.

4 A. I didn't testify that he didn't get them. I  
5 just said that he was shown them.

6 MR. COLE: That's what I heard but anyway your  
7 question is...

8 Q. Was he given them?

9 A. He was not given them, no, in response to a  
10 question that he had everything and I told you he didn't have  
11 everything. There was one item he didn't have.

12 Q. Okay, that he didn't have. Are you aware that  
13 Mr. Weisberg made a subsequent request for them? First of  
14 all, let me backtrack -- strike that. When was he shown  
15 these?

16 A. It was during a meeting with you, Mr. Weisberg,  
17 Tom Bresson, Bob Frazier and myself in the Department of  
18 Justice a number of years ago -- I think it was 1975.

19 Q. Would March, 1975, be approximately correct?

20 A. Yes.

21 Q. Are you aware of any subsequent request that  
22 he made for those computer printouts?

23 A. I don't recollect any. I know I've never fur-  
24 nished these computer printouts to anyone, so I...

25 Q. To anyone?

26 A. No, I don't think I've ever...

27 Q. Not to Mr. Nichols or Mr. Vincent -- Dr. Vin-  
28 cent Gwynn?

1 A. We have never released any information to Dr.  
2 Vincent Gwynn.

3 Q. How about the House Select Committee on Assas-  
4 sinations?

5 A. I have no recollection of them ever getting  
6 those documents.

7 Q. How about the Senate Select Committee on In-  
8 telligence Activities?

9 A. I don't know what that thing was. I don't  
10 know that one.

11 Q. The Church Committee.

12 A. I have no recollection of ever -- of those com-  
13 puter printouts being released to anyone.

14 Q. Do you have any recollection of having made a  
15 search for the Senate Select Committee on Intelligence  
16 Activities?

17 A. Search for what?

18 Q. Search for spectrographic materials?

19 A. No, I don't have a recollection of that.

20 Q. Would the court reporter mark this the next  
21 Exhibit number?

22 MR. COLE: It is now 12:15. I think we're probably  
23 going to want to go out for lunch. As a matter of fact, if  
24 you have as many exhibits as you can give us now, we can  
25 look those over and that way we can do this at lunch and not  
26 have to take any more time.

27 MR. LESAR: Okay. Let me -- would the reporter  
28 mark this as Exhibit 6, please? Would you mark this as

1 Exhibit 7?

2 MR. KILTY: Are these mine or yours?

3 MR. LESAR: These are mine. That's Exhibit 7  
4 there.

5 MR. COLE: This is the November 10th letter is "5"?

6 MR. LESAR: The November 10th letter is "6". Well,  
7 there are two (2) November 10th letters, I think.

8 MR. COLE: The one -- they both have the same head-  
9 ings, too. The one with all the stamps all over it is  
10 Exhibit 5, isn't it, and the other one is Exhibit 6?

11 MR. LESAR: Exhibit 6, yes.

12 MR. COLE: Exhibit 6 doesn't have any marks on it.

13 MR. LESAR: Exhibit 6 is the one that has the para-  
14 graphs numbered one (1) through seven (7).

15 MR. COLE: Allright, okay. Now, what else do you  
16 have?

17 MR. LESAR: Well, there will be more this afternoon  
18 but I think that's probably about as much as we can handle  
19 at the moment.

20 MR. COLE: Okay.

21 (A luncheon recess was taken.)

22 Q. Mr. Kilty, before we broke for lunch, you had  
23 described some records that were shown to Mr. Weisberg in  
24 March, 1975, at a conference with you and me and Agent Frazier  
25 and Mr. Weisberg and said that we had not been provided com-  
26 puter printouts. Are there any other materials that we have  
27 not been provided?

28 A. I don't know.

1 Q. Were there any others that were shown to us at  
2 that time that we've not been provided?

3 A. I think all the paraffin cast material.

4 Q. Any other materials...

5 A. I don't recollect any other materials that were  
6 shown to you.

7 Q. Okay. Have you had a chance to look at Exhi-  
8 bits 5, 6, and 7?

9 A. Yes.

10 Q. And does this reflect your recollection about  
11 search that you made for the Senate Select Committee --  
12 Senate Select Committee on Intelligence Activities?

13 MR. COLE: Objection. I don't think that he ever  
14 indicated that he did make a search for Senate Select Com-  
15 mittee documents before we broke. Perhaps he did but you  
16 may answer it.

17 A. I don't remember making a search for it. Ob-  
18 viously, I prepared this memorandum.

19 Q. Yes. Which one are you looking at now?

20 A. Exhibit No. 5.

21 Q. And does that indicate that the Senate Select  
22 Committee requested materials pertaining to the spectrographic  
23 tests?

24 A. It indicates, yes, item 4 - whatever item 4 was.

25 Q. Do you -- you still have no recollection of  
26 making a search for them?

27 A. No, I don't.

28 Q. Do you have -- before we broke for lunch, you

1 had indicated that you didn't believe that anyone had ever  
2 been provided the computer printouts. Is that still your  
3 recollection?

4 MR. COLE: Objection. I think that what he said was  
5 that he had not provided anyone with the computer printouts.

6 MR. LESAR: The record will reflect that.

7 MR. COLE: I'm sure of it. You may answer what  
8 you think...

9 A. I have no recollection of anyone getting the  
10 computer printouts.

11 Q. And did you handle the provision of such records  
12 for the Senate Select Committee on Assassinations and the  
13 Senate -- excuse me, the Senate Select Committee on Intelli-  
14 gence Activities?

15 A. From what I see of this item, Exhibit 6, I  
16 have gathered some notes together and material and gave them  
17 to someone for that Committee..

18 Q. Okay. Now, did you also handle the provision  
19 of records for the House Select Committee on Assassinations?

20 A. I don't remember if I did or not.

21 Q. Do you recall whether or not they asked for  
22 any such materials?

23 A. I don't remember. I don't know if they did or  
24 not.

25 Q. Okay. Item -- excuse me, Exhibit No. 5 indi-  
26 cates that Section 21 of 62109060 is on locate and states  
27 that this Section contains some spectrographic work sheets  
28 that pertain to item 4. How would Mr. Stack know this?

1 MR. COLE: Objection. Could you explain to us  
2 that you are asking the witness to comment on this sentence  
3 what item 4 is, Mr. Lesar?

4 MR. LESAR: Well, we apparently have not been pro-  
5 vided with the request which refers to item 4 -- at least  
6 I did not find it in the materials that I had. However, it's  
7 something that we should be provided with. But I don't have  
8 it, so I don't know except, I think you can ascertain from  
9 the context of it, it had something to do -- that it included  
10 a request for spectrographic materials.

11 MR. COLE: I don't know if you can or not. Maybe  
12 Mr. Kilty knows.

13 A. Well, if it says this, it appears that the  
14 laboratory will be able to meet the deadline. This section  
15 contains some spectrographic -- so it must have something to  
16 do with whatever was in item 4.

17 Q. Okay. How would Mr. Stack know that Section  
18 21 contained spectrographic work sheets?

19 A. He wouldn't.

20 Q. Isn't he -- did you write this memorandum?

21 A. Yes.

22 Q. You did. How did you know?

23 A. I must have seen it someplace or somehow I  
24 must have, at some time, looked at that Section and seen  
25 something in there that was appropriate.

26 Q. And you kept a record of that?

27 A. I don't know. Again, I don't know -- I don't  
28 remember the production of this document and what I was

1 doing. But whatever it is, that Section 21 must have, for  
2 some reason, I had to know that Section 21 had some informa-  
3 tion of interest in it. At least I thought it did.

4 Q. How could you have known that?

5 A. It's probably one of the Sections I looked at  
6 at some time or another.

7 Q. And you maintain you made a list of what you  
8 had looked at, would that be...

9 A. I don't think I did.

10 Q. Did you just recall that Section 21 had the  
11 materials?

12 A. I would not think that I did but I can't remem-  
13 ber how I -- how that information came to me.

14 Q. This says that Section 21 is on locate. What  
15 does that mean?

16 A. Well, evidently, I called the file and it wasn't  
17 where it was supposed to be or I called the Section and it  
18 wasn't where it was supposed to be, so I asked the people to  
19 locate it for me.

20 Q. You called the file?

21 A. Excuse me, I called the Section.

22 Q. The Section -- what Section?

23 A. Section 21 of that file.

24 Q. Who did you ask for Section 21?

25 A. I don't know whether it's service unit or  
26 central records -- whoever keeps -- 3421 is the number.

27 Q. Okay. So, you had some record that indicated  
28 that this might contain some materials and then you called

1 central records and asked them to produce the Section 21?

2 A. Yes.

3 Q. And does the fact that it is on locate indicate  
4 that they had some difficulty finding it?

5 A. I don't know if they did or not.

6 Q. Would -- how soon -- you called them up and  
7 asked them to find -- to give you Section 21. How soon would  
8 they be able to tell you that they'd provide it?

9 A. Well, when it's on locate, they can't tell you  
10 how long it will take them to locate it.

11 Q. Wouldn't they simply go to the appropriate file  
12 and pull it?

13 A. Sure. It wasn't there.

14 Q. It wasn't there.

15 A. No.

16 Q. Do you recall where it was?

17 A. Someone else had it.

18 Q. Who?

19 A. I don't know.

20 Q. Was it another Division?

21 A. I say I don't know who had it.

22 Q. Okay. Is there a record of who checks out such  
23 materials?

24 A. I think so. I mean that's usually how they  
25 find it. Go and see who checked it out last like a book in  
26 a library.

27 Q. Allright, Exhibit 6 states that -- which is a  
28 memorandum from Mr. Stack to Mr. Cochran, dated November 10,

1 1975 -- states that four (4) pages of worksheets and notes  
2 prepared by former Special Agent...

3 MR. COLE: You are referring to numbered paragraph  
4 three (3), Mr. Lesar?

5 MR. LESAR: That's correct.

6 MR. COLE: Okay.

7 Q. Four (4) pages of work sheets and notes prepared  
8 by former Special Agent John F. Gallagher concerning the  
9 spectrographic analysis of "Q14" and "Q15" (scrapings from  
10 inside of the window.)

11 A. Windshield.

12 Q. Windshield. Were provided to the Senate Select  
13 Committee on Assassinations.

14 A. I don't know if they were or not, sir. These  
15 were delivered to someone else in the F.B.I. I did not  
16 furnish the Senate Select Committee with anything.

17 Q. Did you write this memorandum?

18 A. Yes, I did.

19 Q. Do you know whether those materials were pro-  
20 vided us?

21 A. I have no idea.

22 Q. Can you determine by examining the materials  
23 that you brought with you today?

24 A. I probably could.

25 Q. Would you take a minute to do so?

26 A. It looks like this is the work sheet that cor-  
27 responds to this material.

28 Q. Okay. Could you identify it by date?

1 A. Well, it's work sheet labelled PC-78243BXJVGH  
2 made up of two (2) pages of work sheet and two (2) pages of  
3 notes.

4 Q. Alright.

5 MR. COLE: Just for the record, I'd like to add  
6 that the two (2) pages of notes have been previously marked  
7 as "2-A" and "2-B" Exhibits in this deposition.

8 Q. There is a note on page two (2) of Exhibit 6  
9 which indicates that -- says many of the enclosures have ad-  
10 ministrative notes and file numbers typed or written on them.  
11 In FOIA requests, these are normally deleted. However, ac-  
12 cording to ground rules set down in the November 7, 1975,  
13 meeting, excisions cannot be made except for certain confi-  
14 dential items such as informant's names. Did you -- were  
15 excisions made in the materials that were provided to Mr.  
16 Weisberg?

17 A. Well, you can look at the materials that were  
18 been provided him and I can tell you if there were or not.

19 Q. Well, let's...

20 A. I can see a little area where it may have been  
21 covered when it was Xeroxed.

22 Q. What area is that that you...

23 A. I don't -- there's nothing on this one that  
24 has been. It looks like, at this point right here, something  
25 was taken out.

26 Q. Now, what -- would you look at Exhibit 8, which  
27 I believe was not identical with the one that you were refer-  
28 ring to but to the next document in Exhibit 2, is that correct?

1 MR. COLE: Exhibit 8. This has been marked as  
2 "Exhibit 8?  
3 MR. LESAR: Exhibit 8, yes.  
4 A. Yes.  
5 Q. Is it identical with it?  
6 A. Well, it's not identical.  
7 Q. Is it the same document?  
8 A. It's the same document, yes.  
9 Q. What's the difference?  
10 A. This part here is Xeroxed out.  
11 Q. All the file numbers were Xeroxed out?  
12 A. This is where all the file numbers are, there  
13 is...  
14 Q. File number, lab number, PC number, date?  
15 A. Yes.  
16 Q. The name of the examiner?  
17 A. Yes.  
18 Q. Why was that done?  
19 A. I don't know.  
20 Q. Were you the one who did it?  
21 A. Yes. I did this because I was told to do it.  
22 Q. Who told you?  
23 A. I don't know who told me directly.  
24 Q. You don't recall who told you to do it?  
25 A. No.  
26 Q. Was there any Freedom of Information Act ex-  
27 emption that you were relying on?  
28 A. I wasn't...

1 MR. COLE: Objection. Asking for a legal conclu-  
2 sion by this witness.

3 A. I was not relying on any Freedom of Information.  
4 I was told what to do by someone in legal counsel.

5 Q. In the legal counsel's office?

6 A. Yes.

7 Q. Would that have been a Mr. Blakey, by any  
8 chance -- Bresson?

9 A. Might have been. It might have been him.

10 Q. Okay. Allright. Okay, going back to Exhibit  
11 7, which is a November 26, 1975, letter from the Senate Select  
12 Committee on Intelligence Activities to Mr. Shaheen. I  
13 direct your attention to item seven (7) on page two (2).  
14 This is a request for items of evidence and item seven (7)  
15 is for, it says, with respect to the investigation of the  
16 assassination of President Kennedy, all materials pertaining  
17 to any spectrographic analyses performed, including that per-  
18 formed by Special Agent John Gallagher. Did you handle this  
19 request?

20 A. I don't recollect handling it.

21 Q. Did you ever see this document before?

22 A. I don't remember. Well, it has something wri-  
23 ten on it by me.

24 Q. So, you did see it.

25 A. Evidently, so. I don't remember seeing  
26 it.

27 Q. Did you, in response to this request, provide  
28 any further materials to the Select Committee on Assassina-

1 tions?

2 A. Well...

3 Q. Excuse me, Select Committee on Intelligence  
4 Activities.

5 A. I didn't ignore it, so I will assume that I did  
6 supply something to them.

7 Q. But you don't know what you supplied?

8 A. I don't have a recollection of what I supplied,  
9 no.

10 Q. You have no recollection that you provided com-  
11 puter printouts to them?

12 A. I have no recollection of supplying computer  
13 printouts to anyone.

14 Q. In response to the earlier Exhibit -- Exhibit  
15 5 -- I think you said that you did not get the records for  
16 the Senate Select Committee on Intelligence Activities, was  
17 that your testimony?

18 A. I did not give the records to them?

19 Q. Yes.

20 A. No, I did not.

21 Q. You did not. Did you get them for somebody else  
22 to give to them?

23 A. Yes. I am assuming that these records got  
24 there some way. I know I did not deliver them to them.

25 Q: But you conducted the search for them and some-  
26 body else turned them over.

27 A. I prepared the documents, evidently, and gath-  
28 ered them together.

1 Q. Wouldn't the -- let's look at this request on  
2 item seven (7) on Exhibit 7 again. It says, all materials  
3 pertaining to any spectrographic analysis performed. Would  
4 that include the computer printouts?

5 A. No.

6 Q. I want to go back to Exhibit 4 which is your  
7 Affidavit of May 13, 1975. Paragraph five (5) says -- oh,  
8 excuse me -- paragraph four (4) has four (4) paragraphs, "a",  
9 "b", "c", "d", and I note that in some of them, particularly --  
10 let me go to paragraph five (5). Paragraph five (5) and  
11 this is a statement of material that you have provided Mr.  
12 Weisberg in connection with this case and says, all available  
13 data relating to the above consists of twenty-two (22) pages  
14 also furnished to Mr. Lesar by SA Bresson on March 31, 1975.  
15 Why did you use the word, available?

16 A. I have no recollection why I used the word,  
17 available.

18 Q. At that time, were you aware that there was any  
19 material that you could not locate that Mr. Weisberg want --  
20 had requested?

21 A. I don't remember.

22 Q. Going down to the seventh paragraph of your  
23 Affidavit, you state, with regard to the interrogatories  
24 submitted by Mr. Weisberg, the affiant states that the FBI  
25 Laboratory employed methods of elemental analysis, namely,  
26 neutron activation analysis and emission spectroscopy. Neu-  
27 tron activation analysis and emission spectroscopy were used  
28 to determine the elemental composition of the borders and

1 edges of holes in clothing and metallic smears present on  
2 windshield and curbstone. What did you base that statement  
3 on?

4 A. I don't remember what I based it on.

5 Q. What could you have based it on?

6 A. Information that I had.

7 Q. Information from who or what?

8 A. I know what you're interested in there. Why  
9 don't you ask the question?

10 Q. Well, why don't you answer my question first.

11 A. I don't know.

12 Q. Well, did somebody tell you that this was true?

13 A. No.

14 Q. You knew it of your own personal knowledge?

15 A. Knew what?

16 Q. That these statements in this -- that I've just  
17 read are true -- that neutron activation analysis and emis-  
18 sion spectroscopy were used to determine the elemental com-  
19 position of the borders and edges of holes in clothing and  
20 metallic smears present on windshield and a curbstone?

21 MR. COLE: Mr. Lesar, I think I would like to object  
22 at this point. We all know that there was a supplemental  
23 correction to this paragraph. You're aware of that; I'm  
24 aware of that. The witness is aware of that. There was a  
25 statement in here that was incorrect which he clarified a  
26 short time after this paragraph was written.

27 Q. I would like an answer to my question is what  
28 was the basis for this statement?

1 A. I don't know.

2 Q. Did you search any records prior to making this  
3 statement?

4 A. I don't know.

5 Q. Well, how could you have made this statement  
6 without checking the records?

7 A. I don't know.

8 MR. COLE: I object to that question. This is  
9 getting to the point that it is badgering the witness.

10 Q. Was the statement, in fact, correct?

11 A. Which statement?

12 Q. The last sentence of paragraph seven (7)?

13 A. There is a mistake in that statement as you  
14 know.

15 Q. What is the mistake?

16 A. The fact that neutron activation analysis was  
17 applied to the clothing and windshield and curbstone.

18 Q. Now, was it -- which -- was it not applied to  
19 any of those?

20 A. Neutron activation analysis examinations were  
21 not conducted, were not performed and results not obtained  
22 from...

23 Q. Now, wait, which -- let's...

24 A. All those items; all those things -- on anything  
25 other than metal fragments and paraffin casts.

26 Q. So that -- well, let's see. You state that  
27 it was performed here on a windshield.

28 A. Yes.

1 Q. Is that true?  
2 A. It was not performed on a windshield.  
3 Q. It was not performed on a windshield.  
4 A. On a windshield.  
5 Q. What was it performed on?  
6 A. It was performed on some metal objects.  
7 Q. You mean -- was it performed on a scraping from  
8 a windshield?  
9 A. The test was not completed on a scraping from  
10 the windshield. Spectrographic analysis was used to examine  
11 the metal scrapings from the windshield of the automobile.  
12 Q. And neutron activation analysis was not used  
13 at all?  
14 A. On what?  
15 Q. On the scraping from the windshield?  
16 A. Yes, it was used. It started the -- the materi-  
17 al, evidently, was put in the nuclear reactor as you know.  
18 Q. Why do you say evidently?  
19 A. Because of the documents that I searched and  
20 that you have, it clearly shows that it was.  
21 Q. Okay. It was put in the reactor.  
22 A. Yes.  
23 Q. Would you mark this, please, as the next Exhibit?  
24 MR. COLE: Mr. Lesar, maybe if we knew where you  
25 were headed, we could take a little less time to go through  
26 this. Is there any kind of -- is there anything that you  
27 are searching for that perhaps you could just say...  
28 MR. LESAR: We will be getting to that shortly.

1 MR. COLE: Maybe if you told us now what you were  
2 trying to do, you might get it a little faster.

3 MR. LESAR: I'd prefer to just examine in the  
4 regular course.

5 MR. COLE: And I certainly disagree that this is  
6 anybody's regular course but you have the option of doing it  
7 however you like.

8 Q. Is...

9 MR. COLE: Now, this is Exhibit 9.

10 MR. LESAR: Exhibit 9, yes.

11 Q. Directing your attention to Exhibit 9, is  
12 that the Exhibit that you were referring to just a minute ago?

13 A. I wasn't referring to any Exhibit; I was refer-  
14 ring to a page of information I gave you...

15 Q. Is that it?

16 A. On which this appears.

17 Q. Yes. This is the page, is that correct?

18 A. Yes.

19 Q. Yes. Now, if the -- at the time that you pro-  
20 vided these materials to Mr. Weisberg back in 1975, did you  
21 provide this to Mr. Weisberg in 1975?

22 A. I don't know. I don't know when it was.

23 Q. Could you check the materials that you provided  
24 us. I think you'll find it there.

25 A. I agree you will. You know when it was pro-  
26 vided.

27 Q. Okay. The letters that you have brought here  
28 in Exhibit 2 will state when it was provided.

1 A. Go to that, sir, if you want to know.

2 Q. Did you -- at the time that you provided this  
3 to Mr. Weisberg, did you search for any other records relevant  
4 to this test?

5 A. No, I did not.

6 Q. Why not?

7 A. Well, these are the items that he wanted -- the  
8 pages in that spiral notebook.

9 Q. Ordinarily, would there not be additional records,  
10 such as work sheets, that would reflect calculations on them?

11 A. It's quite clear if you look at this in context  
12 with all the pages that were given to you, you will find that  
13 there are all sorts of calculations and items of interest on  
14 the pages.

15 Q. Yes. Now -- but there are no such calculations  
16 on "Q15"?

17 A. That's right.

18 Q. Now, when you saw that, did that cause you to  
19 institute a search for such pages?

20 A. No.

21 Q. Why not?

22 A. Because I knew what "Q15" was.

23 Q. What was it?

24 A. Scraping from a windshield.

25 Q. Why did that explain to you why no further  
26 search was necessary?

27 A. Because the piece of lead was so small that it  
28 could not produce the activity that would be worthwhile

1 measuring.

2 Q. There was a piece of lead?

3 A. Yes. Haven't you seen the results of the  
4 spectrographic examination?

5 Q. What happened to that specimen?

6 A. I don't know.

7 Q. What quantity of material is necessary to per-  
8 form a neutron activation analysis?

9 A. Depends entirely on the material.

10 Q. Well, let's assume that it was bullet lead from  
11 a windshield scraping.

12 A. What are you trying to do by neutron activation  
13 analysis?

14 Q. Perform the test that -- to determine its ele-  
15 mental composition.

16 A. Well, based on what we know about lead, you  
17 should not, probably, examine a specimen less than a milligram  
18 in size. Once in awhile, that happens that we do. Simply,  
19 is not very worthwhile.

20 Q. Now, was this specimen less than a milligram in  
21 size?

22 A. I don't know what the weight of it was.

23 Q. How big a specimen do you need to test it by  
24 spectrographic analysis?

25 A. In bullet lead you're talking about?

26 Q. Same sample.

27 A. Oh, a few micrograms, you can get a spectrum  
28 from.

1 Q. Does it take more or less than neutron activa-  
2 tion analysis?

3 A. Now, I don't want to give an answer positively  
4 because, simply, that's too broad a question for this. I  
5 think -- if you want to come to our laboratory sometime or  
6 consult with you on some weekends about this or something, I  
7 can tell you about it but I think it's just ridiculous to try  
8 to pin myself down as to whether one thing requires more of  
9 a sample than another method of analysis. There are lots of  
10 parameters that go into determining what you examine, how you  
11 examine it, what you're looking for.

12 Q. Let's talk about "Q15".

13 A. Yes.

14 Q. Assuming that you could perform spectrographic  
15 analysis on it, could you also perform neutron activation  
16 analysis on it?

17 A. Not necessarily.

18 Q. Why not?

19 A. Maybe the sample wasn't clean enough for activa-  
20 tion and we couldn't get an accurate weight of it. Maybe it  
21 wasn't big enough. Maybe we didn't have enough there.

22 Q. Well, now, if it was big enough -- do I under-  
23 stand you to say that if it was big enough for neutron activa-  
24 tion analysis, it would not be big enough for spectrographic  
25 analysis?

26 A. No, I don't know if you understand whether  
27 that's right or not but this is exactly going into a situation  
28 that I simply don't think you're capable of understanding.

1 Q. Would Gallagher know whether or not it was  
2 capable of neutron activation analysis?  
3 A. You could have asked him.  
4 Q. Would he know before he made the test?  
5 A. I don't know.  
6 Q. Would he take it down to Oak Ridge without know-  
7 ing the answer?  
8 A. I don't know.  
9 Q. Does "Q15" exist any longer?  
10 A. I don't know.  
11 Q. Are you familiar with the testimony of Dr.  
12 Vincent Gwynn before the House Select Committee on Assassina-  
13 tions?  
14 A. I've heard part of it, yes.  
15 Q. Have you heard that when he went to examine  
16 "Q15" by means of neutron activation analysis that there was  
17 no specimen there?  
18 A. I don't remember him saying that, no, but if  
19 you said that...  
20 Q. Assuming that's true, what would be the explana-  
21 tion for it?  
22 A. I don't know.  
23 Q. Is it possible that the specimen was consumed  
24 in spectrographic analysis?  
25 A. I don't know.  
26 Q. Is it possible, I'm asking. I'm not asking...  
27 A. Anything, sir, is possible.  
28 Q. Is it possible that the entire specimen was

1 consumed in spectrographic analysis and so there was nothing  
2 left for neutron activation testing?

3 MR. COLE: Objection. The witness has already  
4 answered the question. He said anything is possible. That  
5 includes what you just said.

6 Q. Allright, would you answer? Would the court  
7 reporter read the question back?

8 A. You have to re-phrase it. I can't make intel-  
9 ligence of it.

10 Q. The question was whether or not it's possible  
11 that the "Q15" specimen was consumed during the spectrographic  
12 examination of it?

13 A. If a sample is subjected to spectrographic anal-  
14 ysis, it is consumed.

15 Q. The entire sample?

16 A. Whatever is in the electrode is consumed.

17 Q. Now, did -- I presume that the F.B.I. knew this  
18 in 1963 or 4 when they tested this.

19 MR. COLE: That is not a question to this witness.

20 MR. LESAR: I'm asking him.

21 MR. COLE: You're asking him what?

22 MR. LESAR: Would that have been within the realm  
23 of knowledge of the F.B.I. in 1963, '64 -- that the testing  
24 would destroy the sample?

25 A. That item analyzed it would destroy -- emission  
26 spectrographic examination would destroy the item that's in  
27 the electrode.

28 Q. So that if the entire "Q15" sample was put --

1 was sparked, then it would be destroyed?

2 A. Assuming that entire "Q15" material was put in  
3 the electrode, it would all be consumed.

4 Q. Now, if the specimen had been -- specimen "Q15"  
5 had been subjected to neutron activation analysis prior to  
6 any spectrographic testing, would the same also have occurred?

7 A. What do you mean the same?

8 Q. Would it have been destroyed?

9 MR. COLE: You mean during the neutron activation  
10 analysis or during the subsequent spectrographic analysis?

11 MR. LESAR: During the neutron activation testing.

12 A. For metal material, like lead, neutron activa-  
13 tion does not consume the material.

14 Q. And this was within the knowledge of the F.B.I.  
15 in 1963 and '64?

16 A. Yes.

17 Q. Given that fact, why would you test it by means  
18 of spectrographic analysis rather than neutron activation  
19 analysis?

20 A. I don't know. Mr. Lesar, you had the man who  
21 did all that work.

22 Q. I'm still puzzled about his testimony.

23 A. Why ask me?

24 Q. It's evident from Exhibit 9 that "Q15" was placed  
25 in the reactor, does it not?

26 A. Yes, that's right.

27 Q. Now, why would Agent Gallagher have placed a  
28 non-existing specimen in the reactor?

1 A. We're not aware that there was a non-existent  
2 specimen.

3 MR. COLE: I certainly object to that question. It  
4 assumes a lot of things that I don't think this witness has  
5 indicated are true.

6 Q. Okay. So, I draw the inference from your  
7 comment, that you think there was a "Q15" in existence at the  
8 time it went into the reactor.

9 A. There was an item of material labelled "Q15",  
10 yes.

11 Q. And it, presumably had some bullet fragment  
12 scraping in it.

13 A. I'm not presuming what it had in it.

14 Q. Assuming that it -- there was something there...

15 A. Yes.

16 Q. To be tested, would there have been a computer  
17 printout of the results?

18 A. Yes.

19 Q. Would there have been a computer printout if  
20 there had been anything at all?

21 A. Yes.

22 Q. Okay. Did you make any check to see whether  
23 there was any computer printout of this specimen?

24 MR. COLE: Objection. I believe that the subject  
25 of computer printouts at the time that the original search  
26 was done has already been addressed and the witness has  
27 indicated that that was not something that Mr. Weisberg  
28 wanted.

1 MR. LESAR: Since then, there's been a subsequent  
2 request.

3 Q. Have you made any search to determine...

4 MR. COLE: Objection. What subsequent request are  
5 you talking about before we go into that?

6 MR. LESAR: Mr. Weisberg says - informs me - that  
7 he has made a request, in writing, for the computer printouts.

8 MR. COLE: If we're going to talk about something  
9 of that sort, we'd certainly like to know when that request  
10 in writing was made and have a look at it before we pursue  
11 that line of questioning.

12 MR. LESAR: Okay. I would like to have this marked  
13 as an Exhibit, please.

14 MR. COLE: Okay, I'd like to take a five (5) minute  
15 recess to look at, I guess, what you are going to have marked  
16 as Exhibit 10, is it?

17 MR. LESAR: Ten (10).

18 (A brief recess was taken.)

19 MR. COLE: Before we proceed any further, I'd like  
20 to put something on the record regarding the computer print-  
21 out for "Q15". We have spent a lot of time discussing this  
22 and while I previously asked Mr. Lesar to explain what it was  
23 that he wanted and he refused to give me an answer on that,  
24 I would like to state that if what Mr. Lesar is interested in  
25 is the computer printout which previously his client told us  
26 that he did not want, we have brought those with us.

27 MR. WEISBERG: Wait a minute! I didn't say that.

28 MR. LESAR: I'll object to it, Harold.

1 MR. WEISBERG: I never said that.

2 MR. COLE: I would also object to Mr. Weisberg in-

3 serting himself into the situation rather than...

4 MR. WEISBERG: Well, you said that I didn't say...

5 MR. COLE: Rather than counsel which is capable of

6 acting on his behalf. If that is what is desired by this

7 line of questioning, we have those documents with us today

8 and we are willing to give them to you and your client at this

9 time.

10 MR. LESAR: You have all of the computer printouts?

11 MR. COLE: We have the computer printouts for "Q3"

12 and "Q15".

13 MR. LESAR: Oh, certainly, we would -- Mr. Weisberg

14 has stated that he had requested them and we want them.

15 MR. COLE: Maybe Mr. Weisberg has stated that but

16 I can assure you that none of us was aware of that.

17 MR. LESAR: Mr. Weisberg has informed me that he

18 recalls that prior counsel for the Department had assured the

19 Court that we had been given all these materials which was

20 not true but we would be happy to accept them.

21 MR. COLE: I am incapable... I don't know which

22 statement you're saying is untrue but all I'm saying is that

23 we have them here. If that's what you are interested in,

24 that will be provided to you at this time.

25 MR. LESAR: Do you have all the printouts?

26 MR. COLE: For "Q3" and "Q15".

27 MR. LESAR: But not for the others -- the other

28 items?

1 MR. COLE: These are items which, as I said before,  
2 we had understood were things that were not desired by your  
3 client. In the context of what has gone on in the last few  
4 months, we assumed that maybe these were things that you  
5 would now want to have.

6 MR. LESAR: We would -- we would accept the computer  
7 printouts for "Q3" and "Q15" today but we would also request  
8 that the computer printouts for all the remaining evidence be  
9 provided also.

10 MR. COLE: Let me just adjourn for a moment with  
11 others here and see if that's something that can be consid-  
12 ered.

13 (A brief recess was taken.)

14 MR. COLE: Mr. Lesar, I would now hand you the items  
15 that we are turning over to you today, which are the spectro-  
16 graphic analysis of -- pardon me -- neutron activation analy-  
17 sis of "Q3" and "Q15". I would like to ask that these be  
18 marked as Exhibits so that they will be a permanent record in  
19 this proceeding. I will state that, even though it is, I  
20 think, beyond any doubt, that this was not within the scope  
21 of your client's request and that he, specifically, denied, at  
22 one point, that he wanted these items. We will make the  
23 others available within the next two (2) weeks. It is a sub-  
24 stantial problem for the F.B.I. to do this. It will take a  
25 great deal of time and the information -- there is no inform-  
26 ation that anyone, other than a trained researcher in this  
27 field, can make out of this material but you have requested  
28 it and, in order to attempt to end this litigation finally,

1 we will make them available to you and your client. Just to  
2 clarify for the record, Mr. Kilty informs me that these are  
3 not neutron activation analyses; they are computer printouts  
4 that, themselves, have to be interpreted to form the basis  
5 for any subsequent analysis.

6 MR. LESAR: Alright, Mr. Weisberg has asked me to  
7 state, for the record, that, not only did he not refuse these  
8 records but that when he learned that this was the F.B.I.'s  
9 position, that he wrote, protesting that and denying that.  
10 Now, there are three (3) copies of each of these, I see.

11 MR. KILTY: No, there are not. It's one (1) copy  
12 of everything. There's only one (1) copy.

13 MR. LESAR: This is different. You're right. There  
14 is only one (1) copy. Alright, let's mark them separately.  
15 Let's -- there are three (3)... Why don't you identify each  
16 one that is stapled together and we'll have it marked with an  
17 Exhibit number.

18 MR. KILTY: To the best of my knowledge, this is  
19 a spectrum of an item identified "Q3".

20 MR. LESAR: Would you mark that, please, with the  
21 next Exhibit number?

22 MR. KILTY: To the best of my knowledge, this is an  
23 item that is marked -- or it has data in it from items marked  
24 "Q3A, B, and C".

25 MR. LESAR: Would you mark this, please?

26 MR. KILTY: To the best of my knowledge, this is an  
27 item that is neutron activation data that was obtained from  
28 item identified as "Q3".

1 MR. LESAR: Would you mark that, please?

2 MR. KILTY: And this is a neutron activation print-  
3 out, identified as "Q15".

4 MR. LESAR: Would you mark that, please?

5 Q. Now, Mr. Kilty, just directing your attention  
6 to Exhibit 14, which you've identified as computer printout  
7 for the testing of "Q15", does that reflect that there were  
8 some results obtained as a result of the neutron activation  
9 analysis?

10 A. What are results?

11 Q. Some data indicating the composition of the  
12 specimen?

13 A. I don't know.

14 Q. Well, there are a variety of figures there and  
15 they're not all zeroes. Does that indicate that there was  
16 some detectible presence of some substance was measured?

17 A. Might have been. Might have been. That could  
18 be.

19 Q. So that you would -- it would be your inference  
20 from these figures that there was something in the "Q15"  
21 specimen that was tested.

22 A. No, my inference -- that's your inference.

23 Q. Do you join me in that inference?

24 A. No.

25 Q. Why not?

26 A. Because I don't know what it is. I don't know  
27 what's producing the radioactivity. If there is radioactivity  
28 produced, I don't know what the background for the counting

1 room at that time was or anything. So, I'm simply not infer-  
2 ring anything from that.

3 Q. Allright, now, directing your attention to your  
4 June 23, 1975, Affidavit, you state, in paragraph eight (8),  
5 concerning Plaintiff's allegation that, although NAA testing  
6 was conducted on the clothing of President Kennedy and Governor  
7 Connally, he has not been furnished the results of this test-  
8 ing: further examination reveals that emission spectroscopy  
9 only was used to determine the elemental composition of the  
10 borders and the edges of holes in clothing and metallic smears  
11 present on a windshield and curbstone. NAA was used in exam-  
12 ination of certain metal fragments, and plaintiff has already  
13 been furnished material relating to these examinations. NAA  
14 was not used in examining the clothing, windshield, or curbing.  
15 What was the basis for that statement?

16 A. Information that I had.

17 Q. Where did you get the information?

18 A. Evidently, from something in the F.B.I.

19 Q. This is directly -- directly contradicts your  
20 prior Affidavit, does it not?

21 A. No.

22 Q. Well, didn't you state in the prior Affidavit  
23 that the clothing, the windshield and the curbing had been  
24 subjected to testing by neutron activation analysis?

25 A. Yes. It does not directly and opposite to  
26 everything that was said in that paragraph. I added neutron  
27 activation analysis in the first Affidavit which I shouldn't  
28 have. This is clarifying it, as you know.

1 Q. So, there was no basis for neutron activation  
2 analysis in the first Affidavit for including that?

3 A. It was a mistake. I should not have included  
4 it.

5 Q. How did the mistake occur?

6 A. Being born, I guess, causes one to make mistakes  
7 sometime before they die.

8 Q. Now, in this second Affidavit, you stated that  
9 NAA was not used in examining and you have here the windshield.  
10 You have just given us Exhibit 14 which is a computer printout  
11 for the NAA on "Q15". How do you reconcile the statement in  
12 this Affidavit with that fact?

13 A. Quite clear. I knew that something was present-  
14 ed to a nuclear reactor at the time because of the notes I  
15 gave you that you could see "Q3" and "Q15". There are no  
16 calculations regarding the quantitative analysis done on those  
17 specimens which indicated to me that there was -- nothing was  
18 done to completion on those specimens for some reason.

19 Q. Your Affidavit does not indicate that. It states  
20 flatly that it was not used in examining the curbstone. What  
21 you're telling me is now that you knew that it was examined.

22 A. Well, what do you mean by examine then?

23 Q. Well, you used it in...

24 A. Okay, I'll tell you what I use -- I mean, then  
25 maybe... It means an examination, to me, is the total analy-  
26 sis and handling of a specimen which produces some kind of a  
27 report or final comment or final opinion regarding the total-  
28 ity of all the tests and material that you went through on

1 that specimen.

2 Q. Well, this produced a computer printout, didn't  
3 it?

4 MR. COLE: Mr. Lesar, I think you've gotten to the  
5 point now that you're really badgering the witness. He's  
6 told you exactly what he did and what he means by these terms.

7 Q. As I understand what you're saying -- are you  
8 saying that if you submit something for testing and you don't  
9 like the results, it's not a test?

10 MR. COLE: I think that's badgering the witness,  
11 Mr. Lesar.

12 MR. LESAR: Does the witness concur?

13 A. Oh, that's a ridiculous question unworthy of an  
14 attorney.

15 Q. Are you an attorney by the way?

16 A. No, I'm not.

17 Q. Were there any examiner's notes on "Q15"?

18 A. None that I can locate. These notes -- page  
19 that I took with all the other pages of data here, I think  
20 might have something over here. I don't know but that's what  
21 I find on "Q15".

22 Q. Okay. Could calculations be made from the data  
23 that you just gave me in Exhibit 14?

24 A. What kind of calculations?

25 Q. The same kind of calculations that the examiner  
26 made on the other items subjected to NAA?

27 A. I don't know.

28 Q. In... Okay. In paragraph three (3) of your

1 June 23 Affidavit, you state that a thorough -- the last  
2 sentence of it -- a thorough search has uncovered no other  
3 material concerning the spectrographic testing of the metal  
4 smear on the curbing. What was the nature of the search that  
5 you made?

6 A. I don't, offhand, know what search I made then.

7 Q. Do you recall that you called Agent Heilman?

8 A. Yes, I do. Yes, I do. I remember talking to  
9 him on the phone from Florida.

10 Q. Who was in Florida?

11 A. He was.

12 Q. He was. And what did you ask him?

13 A. I remember asking him if he had any idea where a  
14 spectrographic plate could be.

15 Q. And what did he say?

16 A. He told me that he didn't remember what he did  
17 with the plate. Basically, that is my recollection of it.  
18 That it might have been put in the plate drawer which caused  
19 it to be subsequently destroyed.

20 Q. Put in a plate drawer?

21 A. Yes.

22 Q. What's the plate drawer?

23 A. It's a drawer you put plates in.

24 Q. Is it also called a file or what is it, where  
25 is it -- describe it for me, please.

26 A. It's a drawer in which you put spectrographic  
27 plates in.

28 Q. Now, are these glass plates?

1 A. Yes, they are.

2 Q. And they're different, therefore, than the photo-

3 graphs or the photoplates that you were talking about earlier?

4 Are there two (2) different types of spectrographic plates?

5 A. Well, there are many, many, many types of spec-

6 trographic plates.

7 Q. Alright, the ones made in this case. Are they

8 glass or some other...

9 A. They are glass.

10 Q. Alright. And they're kept in a drawer where?

11 A. After they're used -- or, I mean, after they're

12 exposed?

13 Q. After the test is made, yes. After the test is

14 made.

15 MR. COLE: Are you talking about plates in this

16 case or plates, generally?

17 MR. LESAR: In this case.

18 MR. COLE: Alright.

19 A. Well, the plates in this case...

20 Q. Let's talk about -- okay, do it, generally, first

21 and then we'll take this case. Generally, where are the plates

22 stored?

23 A. In a plate drawer.

24 Q. Okay. Where is the plate drawer located?

25 A. It's in the room where they do the emission

26 spectrography in the F.B.I. Laboratory.

27 Q. Okay. In this case, what happened to them?

28 A. Plates were put in one of the drawers that I

1 searched to find materials in this matter -- in the box.

2 Q. Okay. This is different than the two (2) file  
3 cabinets you were talking about earlier.

4 A. No, it's not.

5 Q. They were in that file cabinet?

6 A. Yes. Yes.

7 Q. All of the spectroplates in this case were in  
8 those file cabinets that you testified earlier that you  
9 searched?

10 A. All the plates that I found in this case were  
11 in that file cabinet.

12 Q. Allright. Now, did you consider it unusual that  
13 you did not find a plate for the curbstone, "Q609"?

14 A. I had no feeling whether unusual. I wanted to  
15 find one because it was, obviously, the sample was burned,  
16 so I know that there should have been a plate created.

17 Q. What did Agent Heilman suggest to you? Did he  
18 make any other suggestion as to where it might be?

19 A. Any other suggestion than what?

20 Q. Than -- I think you testified that he said it  
21 might be in the spectro drawer.

22 A. I don't remember him suggesting that. I thought  
23 he suggested that it was thrown away. That was the only  
24 suggestion he gave me. That if it wasn't with all the Kennedy  
25 Assassination plates, that it would have been destroyed.

26 Q. Did you believe that explanation?

27 A. Of course, I did.

28 Q. You didn't consider it unusual that just one,

1 (1) plate would be thrown away?

2 A. Well, this was done completely at a different  
3 time and by a different examiner that did all the other work  
4 in this case and he may not have attached his plate to where  
5 the other plates were.

6 Q. Well, what would he have done with it.

7 A. Put it in the plate drawer with all the other  
8 cases.

9 Q. Aren't you -- aren't they -- aren't -- isn't the  
10 F.B.I. required to keep plates for a certain amount of time?

11 A. Yes.

12 Q. How long is that?

13 A. Whatever the memorandum of destruction says,  
14 which, I think...

15 Q. Would you say five (5) years?

16 A. No, I don't know what it says.

17 Q. And if the plate were removed from that file  
18 drawer, would there be a record of that?

19 A. What do you mean removed from the file drawer?

20 Q. Well, if somebody takes the plate, I assume  
21 that somebody just can't go in and take it home with him or  
22 something without making a record.

23 MR. COLE: Mr. Lesar, are you talking about within  
24 the period before the destruction mandated by the F.B.I.  
25 memorandum?

26 MR. LESAR: At any time.

27 A. There is no record maintained as to when a plate  
28 is removed from the plate drawer.

1 Q. Okay. Is there any record that must be main-  
2 tained as to the destruction of a plate?

3 A. No.

4 Q. You can destroy the plate without making any  
5 record of it?

6 A. Record is made of the plates that were created  
7 prior to a certain date are destroyed.

8 Q. Okay. Now, do you destroy plates in an open  
9 case?

10 A. I don't destroy plates.

11 Q. Does anyone at the F.B.I.?

12 A. We don't destroy any records any more.

13 Q. Okay. Would you have destroyed them at any  
14 time since the Assassination of President Kennedy?

15 A. Any plates -- the plates in the Kennedy case,  
16 you're talking about?

17 Q. Yes.

18 MR. COLE: When you say, would you have, are you  
19 speaking of Mr. Kilty or the F.B.I.?

20 MR. LESAR: Would the F.B.I.?

21 A. Well, again, are you assuming the Kennedy case  
22 is an open case?

23 Q. Well, to the best of my recollection, the  
24 Director of the F.B.I. declared that it would always remain  
25 an open case and I know of no one who has declared that it was  
26 a closed case.

27 A. Well...

28 Q. As a matter of fact, the F.B.I. just recently

1 incited exemption...

2 MR. COLE: Rather than having testimony on this  
3 subject, why don't we have a question to the witness.

4 Q. Mr. Weisberg's -- alright, did you ask Agent  
5 Heilman if he destroyed it?

6 A. No, I didn't.

7 Q. Did you ask him who might have destroyed it if  
8 he didn't?

9 A. No.

10 Q. Did you make any investigation to determine who  
11 might have destroyed it?

12 A. Yes.

13 Q. What did you find?

14 A. I just -- my investigation involved determining  
15 what the time limit was on destruction of spectrographic  
16 plates, thinking that could have been one of the possibilities  
17 as to what happened to the plate.

18 Q. Well, now, what would have happened -- at the  
19 time the plate was created, it would have been filed some-  
20 where, is that correct?

21 A. Yes.

22 Q. Alright. It would have been filed with the  
23 other spectrographic plates, would it not?

24 A. I wish it had been. Obviously, it wasn't.

25 Q: Well, how do you know that?

26 A. Well, it's true, I don't know that of my own  
27 mind whether that was done at the same time as the other  
28 plates.

1 Q. Okay. Now, if it were filed with the other  
2 plates, it would be most unusual if that plate, alone, were  
3 destroyed, would it not?

4 MR. COLE: You're assuming the hypothetical, Mr.  
5 Lesar?

6 MR. LESAR: Yes.

7 A. I agree that it would be unusual to have one (1)  
8 plate destroyed.

9 Q. Almost sinister.

10 MR. COLE: Objection, Mr. Lesar.

11 Q. Mr. Weisberg made a request for spectrographic  
12 reports back in 1966. Would that have prevented destruction  
13 of such a plate?

14 A. I have no idea what was going on with Mr. Weis-  
15 berg's request in 1966 -- what that caused or anything about  
16 it.

17 Q. Wasn't it -- isn't it true that the F.B.I. had  
18 a regulation that materials that had been requested under the  
19 Freedom of Information Act could not be destroyed?

20 A. I don't know.

21 Q. You've never been made aware of any such regu-  
22 lation?

23 A. No.

24 Q. Did you call it -- did you ask Agent Heilman --  
25 he was former Agent at this time -- did you ask him about  
26 spectrographic notes for "Q15" -- or, excuse me, for "Q609",  
27 the curbstone?

28 A. I don't know. You have a copy of the memorandum.

1 Why don't you look at that and I think you can get...

2 Q. You don't recall whether or not you did?

3 A. My recollections are put down on that memorandum

4 which was made contemporaneously with the phone call.

5 Q. Alright, could you give this an Exhibit number?

6 MR. COLE: This is Exhibit 15?

7 Q. Okay. I direct your attention to a sentence

8 which says that an exhaustive search of pertinent files and

9 storage locations has not turned up the spectrographic plates

10 nor the notes made therefrom -- refers to the plates and notes

11 of the examination of the curbstone, spectrographically. Did

12 you ask Mr. Heilman about his notes?

13 A. I don't recollect if I did or not.

14 Q. Would this memorandum indicate that you did?

15 MR. COLE: Objection. I think the memorandum

16 speaks for itself.

17 Q. Well, you prepared this memorandum, didn't you?

18 A. Yes, I did.

19 Q. Yes. And you indicate that -- in here -- that

20 there had been a search for the notes as well as for the plate.

21 A. Yes.

22 Q. And that you had not turned them up.

23 A. That's right.

24 Q. Okay. What is usually done with the Agent's

25 notes? Where are they stored and kept?

26 A. In this case or in any case?

27 Q. Well, let's take this case. Where were they?

28 A. Some were sent to central records files in the

1 main file and others were in part of the two (2) drawers --  
2 or two (2) file cabinets in the F.B.I. Laboratory.

3 Q. Allright. Now, were the ones that were in the  
4 two (2) drawers in the F.B.I. Laboratory duplicative of the  
5 ones sent to central records or were they different?

6 A. Both.

7 Q. Both. So that central records did not contain  
8 all of the notes on the spectrographic examinations.

9 A. That plus a lot of other things it didn't con-  
10 tain.

11 Q. Okay. This refers to an exhaustive search of  
12 pertinent files. What pertinent files did you search?

13 A. I don't remember.

14 Q. What files could you have searched?

15 A. Ones that I thought were pertinent.

16 Q. Well, what files could be pertinent? You're  
17 looking for spectroplates and for notes. Let's just take  
18 spectroplates. What files could be pertinent?

19 A. I think you're probably using the term, file,  
20 there in -- no, I used storage locations, too, so, the Kennedy  
21 file, the Oswald file, parts thereof. They would be the two  
22 (2) logical files to search.

23 Q. Allright. Did you look in all Sections of the  
24 F.B.I. Laboratory and all the Units of the F.B.I. Laboratory?

25 A. No.

26 Q. Did you consult all of the examiners who have  
27 performed spectrographic plates about where they might be?

28 A. Heiberger, Heilman and Gallagher were consulted

1 regarding the location of all the spectrographic plates in  
2 this case.

3 Q. Marion Williams?

4 A. He did not conduct any spectrographic examina-  
5 tions.

6 Q. He had made a prior search in this case. That's  
7 why I made...

8 MR. COLE: Is that a question to the witness, Mr.  
9 Lesar?

10 MR. LESAR: Yes.

11 A. What is the question?

12 Q. No. The question was did you consult with Mr.  
13 Marion Williams?

14 A. No.

15 Q. Or Mr. Jevons?

16 A. No.

17 Q. Alright. What did they tell you?

18 A. I didn't...

19 MR. COLE: I'm sorry, Mr. Lesar, you just got the  
20 answer that he didn't consult with them. Why do you then say  
21 what did they tell you?

22 MR. LESAR: The examiners who you did confer with.

23 MR. COLE: Oh, alright.

24 MR. LESAR: That you've named. What did they tell  
25 you about it?

26 A. Well, I don't recollect what they told me.

27 Q. Did you tell them that the curbstome spectro-  
28 plate was missing?

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1 A. Yes.

2 Q. What was their reaction?

3 A. I don't remember.

4 Q. Were they disturbed by it?

5 MR. COLE: The question has already been asked. He  
6 answered that he did not remember.

7 MR. LESAR: I'm trying to refresh his recollection.

8 A. Well, I have no recollection at all of the re-  
9 sponse I got when I asked the question, where's the curbstone  
10 plate.

11 Q. Did they suggest -- the other examiners other  
12 than Heilman -- suggest any place you might look?

13 A. I'm not -- I don't recollect whether if they  
14 did or not. I mean they were helpful. I certainly didn't  
15 get any go find it yourself attitude from them or anything  
16 like that.

17 Q. Did you search any divisions of the F.B.I. other  
18 than the Laboratory division?

19 A. Well, I searched material furnished by other  
20 divisions -- another division, the files division. I don't  
21 consider myself searching a division when I search files that  
22 are stored by someone else.

23 Q. How about the General Investigative Division?

24 A. Spectrographic plates in the General Investiga-  
25 tive Division?

26 Q. You are certain they would not be there.

27 A. I am certain spectrographic plates would not be  
28 in the General Investigative Division.

1 Q. How about notes and other information pertaining  
2 to the spectrographic plates?

3 A. What about it?

4 Q. Would they be in the General Investigative  
5 Division -- could they be?

6 A. Only if the serials or the file sections that  
7 any of that material was in happened, at that time, to be in  
8 the General Investigative Section for some other matters or  
9 whatever.

10 Q. You mean materials would not ever be sent to  
11 the General Investigative Division?

12 A. If they call a section of a file and it happens  
13 to have some laboratory material in it, they've got it. So,  
14 you know, I don't know.

15 Q. General Investigative Division does have its  
16 own files, doesn't it?

17 A. I don't know what they have.

18 Q. Never been there?

19 A. I've been in General Investigative Division.  
20 They've got file drawers. I don't know what's in those  
21 drawers. I never looked in them.

22 Q. Did you provide every pertinent record relating  
23 to the curbstone testing?

24 A. I've provided all the records pertinent or  
25 impertinent regarding the curbstone testing.

26 Q. Let me ask this. The -- are you aware that Mr.  
27 Weisberg has charged that the curbstone was patched before it  
28 was tested by the F.B.I.?

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1 A. No, I'm not aware of that.

2 Q. Assuming that to be the case, is it possible to  
3 conduct tests on that specimen, today, to determine what the  
4 material is?

5 A. What material where?

6 Q. There is a mark or it was alleged that there  
7 was a mark on the curbstone and the F.B.I. tested this spectro-  
8 graphically. This is what we're looking for. It was not sub-  
9 jected, apparently, to neutron activation analysis. The House  
10 Select Committee attempted to do so but Dr. Gwynn concluded  
11 that he could not because there was no -- insufficient metal  
12 present to determine whether or not the bullet had struck it.  
13 He said, in fact, that it had been scraped off. Now, what  
14 I'm asking is is it possible to conduct a test by neutron  
15 activation analysis to determine what the material is that is  
16 in that location on the curbstone?

17 MR. COLE: You mean if it has been scraped off, Mr.  
18 Lesar?

19 MR. LESAR: No. What Mr. Weisberg says is that  
20 there was a chip where a bullet allegedly struck and that that  
21 chip was patched prior to the time the F.B.I. examined it  
22 spectrographically.

23 A. Okay.

24 Q. Now, my question is whether or not it's possible  
25 to determine through neutron activation analysis to subject  
26 that to testing or spectrographically?

27 A. What to test -- the patch?

28 Q. The patch -- the alleged patch and to determine

1 what material that is?

2 A. Neutron activation would not be the method of  
3 choice for doing that. There are many other analytical  
4 methods that you would use to do that.

5 Q. What would they be?

6 A. Probably, X-Ray fluorescence techniques. What  
7 you want to do is have a building -- material scientist look  
8 at that. Different kinds of concrete that are used. They  
9 can tell the difference between a patching material and a  
10 permanent material. It's not a very difficult thing but you  
11 wouldn't use activation analysis to show it is different.

12 Q. I'd like to ask you to take a look at Exhibit 3  
13 again.

14 MR. COLE: Is Exhibit 3 the Interrogatories?

15 MR. LESAR: Yes, it is.

16 A. No.

17 MR. LESAR: No, excuse me, no, Exhibit 3 is, yes,  
18 it's the Answers to Interrogatories.

19 MR. COLE: That's what I thought.

20 Q. There are dates given on -- first of all, it  
21 appears that each of these...

22 MR. COLE: Which page are you referring to, Mr.  
23 Lesar?

24 MR. LESAR: Let's just take the first page that has  
25 a Xerox of a plate which is identified on my copy as PC78243.

26 Q. There appear to be, in affect, two (2) plates  
27 here, is that correct, on each page?

28 A. No. It's two (2) pieces of glass - one spectro-

1 graphic plate.

2 Q. One spectrographic plate. Okay. Why are there --  
3 why are there two (2)?

4 A. Well, one piece of glass is simply too long and  
5 chance of it fracturing very easy. So, you put one piece in  
6 and then right next to it another piece slides in.

7 Q. I see. I notice that the dates on these start  
8 out with November 23, 1963, and then there is, apparently,  
9 a testing on March 24, 1964. Do you see that?

10 A. What page? How far along is that?

11 Q. I think that it's the third page.

12 A. The third page?

13 Q. I think it's the third page.

14 A. Okay. Looks that way, doesn't it?

15 Q. Yes. And then below, I guess it's... Is that  
16 the same date below or a different date on that same page?

17 A. That would be the same letters.

18 Q. Have to be the same...

19 A. The other half of the plate.

20 Q. So, it would have to be the same date?

21 A. Yes.

22 Q. Okay. And then, the next plate is 11/25/63 and  
23 another 11/25/63. I find no date on the next plate.

24 A. Well, I won't comment about that. There may  
25 well be a date on there that we can't read.

26 Q. It's not visible. Next one, 12/4/63; the next  
27 one has two (2) dates - 12/2/63 and 3/20/64. Why would they  
28 be different dates if that's the same spectrographic plate?

1 A. I don't know.

2 Q. It should be the same date, shouldn't it?

3 A. I don't know. I mean, I don't why I would  
4 label -- put two (2) dates on a spectrographic plate. Maybe  
5 there was some reason he had. The man is still living who  
6 did the work.

7 Q. But that should be one (1) spectrographic plate  
8 and all the examinations on it should have been at the same  
9 time.

10 A. The burn was done at the same time if I can see  
11 it looks like four (4) burns on there, yet I'd have to look  
12 at the plate. This is kind of poor to Xerox them.

13 Q. I notice on these, they have carbon and iron at  
14 the top of most of them.

15 A. Yes.

16 Q. What does that indicate?

17 A. Well, to determine where the lines are for the  
18 various elements. The wave lengths of the various elements  
19 are known and you have to -- it's on a reader on your...

20 Q. As you're going from left to right, would there  
21 be different elements or where does it...

22 A. Well, there might be. I mean, it depends on  
23 where the lines are. Some elements have many lines. Some are  
24 long wave length; some are short wave length. So, you skip  
25 all around. You usually get several lines to prove that an  
26 element is present and you need to have is make sure that the  
27 densitometer that you have calibrates, exactly, with the plate  
28 you have in it so that you don't misread the wave length of

1 any lines.

2 Q. Then, on the next page, I see no dates and,  
3 apparently, one of these was mounted upside down and backwards.

4 A. Might have been when they were put together to  
5 be photographed if that is...

6 Q. Does this, in this area over here, is that an  
7 indication of a glass fracture?

8 A. Yes. Yes.

9 Q. Okay. Now, there was a test made, apparently,  
10 on PC78378, dated March 20, 1964, on "Q189" and "Q2".

11 MR. COLE: Is this the first of the pages, Mr. Lesar,  
12 or is this someplace else?

13 MR. LESAR: It's 78378. I'll have to locate it.  
14 You found it?

15 A. Yes, "Q188" and I don't know what the other  
16 number is.

17 Q. Yes. March 20, 1964. Now...

18 A. Wait a minute, now! Okay, there it is.

19 Q. On the bottom part. Now, did you locate any  
20 report on that examination?

21 A. I don't remember.

22 Q. Could you check the -- you've brought the  
23 materials that you've located with you. Could you check and  
24 see whether there was any that would be relevant to that date?

25 A. I'm sure there's no reports in that -- any of  
26 that material that we brought that I have here. There is no  
27 reports.

28 Q. Would there be a report on this test?

1 A. I -- well, I don't know but I would think there  
2 would be someplace.

3 Q. So, if we have not been provided it, you could  
4 locate it somewhere.

5 A. I'd just go to the Warren Commission. They have  
6 it all. They have those reports?

7 Q. Are you sure that they have all of them?

8 A. Well, on this testing, laboratory testing,  
9 they've got everything.

10 Q. How do you know they have all?

11 A. Well, I don't know from my own knowledge because  
12 I haven't searched for things that they have.

13 Q. How would you make a search to determine to get  
14 that report -- a report on that test?

15 A. I don't know right now how I'd do it.

16 Q. Sometimes, documents have numbers at the top --  
17 they have a PC number. What does that indicate?

18 A. That's the Physics and Chemistry laboratory  
19 number.

20 Q. Okay. Is there any index made that correlates  
21 to that number?

22 A. Yes.

23 Q. What do the index cards on that show?

24 A. There are no index cards any more.

25 Q. What do you refer to them as if they're not  
26 cards?

27 A. Well, we have it computerized, now, the system.

28 Q. You have it computerized. So, if you punch the

1 PC number, what does the computer spew out? What information  
2 does it give you?

3 A. I don't think there's any PC numbers stored  
4 anymore. I'd have to go back. I think about 1976, they  
5 started a new numbering system. There's no PC numbers stored,  
6 I don't think, anymore.

7 Q. What about in 1963, 1964?

8 A. They had file cards.

9 Q. They did have file cards.

10 A. Yes.

11 Q. And are those still maintained?

12 A. No. Oh, no.

13 Q. Have they been destroyed?

14 A. Certainly.

15 Q. For Kennedy Assassination records or for all  
16 records?

17 A. There's no -- well, for all records -- those old  
18 cards. I don't know what the destruction was on that but it  
19 was every few years. I don't think we kept those over four  
20 (4) or five (5) years.

21 Q. There are some other numbers that sometimes  
22 appear on the laboratory documents. On Exhibit 8, for example,  
23 there is a...

24 MR. COLE: Excuse me, Mr. Lesar, don't you have your  
25 own copy of this?

26 MR. LESAR: I do but I have misplaced it, Mr. Cole.

27 MR. COLE: Okay. We'd just like to be able to look  
28 at it while you are.

1 Q. Could you explain what those numbers represent?  
2 MR. COLE: Which numbers do you mean?  
3 MR. LESAR: The -- is there a number that says lab  
4 number?  
5 A. Yes.  
6 Q. What does that represent?  
7 A. That's a document number..  
8 Q. Is there an index for that?  
9 A. There was, yes.  
10 Q. There was.  
11 A. Yes.  
12 Q. It no longer exists?  
13 A. No.  
14 Q. Is it on computer?  
15 A. No. All the -- that lab files doesn't -- all  
16 those are gone. As I say, I think about 1975 or 6 is probably  
17 the last ones that we have. Now, it's on computer and we  
18 can't destroy anything, so...  
19 Q. And did you place the -- the ones that were  
20 destroyed, did you place that information on the computer?  
21 A. I didn't place anything on computer?  
22 Q. Did the F.B.I.?  
23 A. I have no idea.  
24 Q. So the information still may be available through  
25 computer.  
26 A. No. No, it isn't. The cards are destroyed.  
27 The laboratory...  
28 Q. How about the information on the cards -- was

1 that placed into a computer?

2 A. Well, the information on it is just the fact  
3 that we have a -- it has this lab number on it and it's a  
4 "Q" listing and where it came from. I think that's the only  
5 things that are on that card.

6 Q. Allright. Now, would there be -- if you wanted  
7 to find what specimens that were examined in connection with  
8 a certain case, could you go -- how would you -- how would  
9 you do that?

10 A. I would call the file.

11 Q. Meaning central records?

12 A. Yes.

13 Q. And you would say I want all of the specimens  
14 on...

15 A. No, I would say I want file such and such. Send  
16 me that file.

17 Q. Okay. Now, how would you locate the file -- how  
18 would you know what file to give them -- what file number?

19 A. Because the man when he calls in and asks me  
20 what specimens were examined on something, he gives me the  
21 file number.

22 Q. Suppose he doesn't have a file number?

23 A. Then we would search the name.

24 Q. You have a name index in F.B.I. lab?

25 A. Yes.

26 Q. Is it a subject or a name of a victim or what?

27 A. Whatever the title that the police department  
28 or the F.B.I. puts on the case goes in the computer just like

1 was on the little card.

2 Q. Okay. Allright. And that would tell you --  
3 give you file numbers.

4 A. It would give me the file number, yes.

5 Q. Now, would it correlate specific items of evi-  
6 dence or specific reports with particular serials or sections  
7 in that file?

8 A. No.

9 Q. If all these file numbers were destroyed -- file  
10 cards were destroyed, what was the point in obliterating that  
11 in the records that we were given?

12 A. That's out of my bailiwick. That's a lawyer's  
13 type work there. I don't know what the lawyers have to say  
14 about that.

15 Q. Could you tell me what you mean by chemical  
16 separation?

17 A. Well, I bet you're saying that in context with  
18 neutron activation analysis.

19 Q. Yes -- no, not necessarily. The question arose,  
20 I believe, we asked you an interrogatory as to "Q3", I think,  
21 and you used the term and I wondered what it meant.

22 A. Okay.

23 MR. COLE: Mr. Lesar, could we see the interrogatory  
24 first so we'll know what context this was used in?

25 Q. Directing your attention to your answer to  
26 interrogatory number twenty-one (21).

27 MR. COLE: Which Interrogatories are these, Mr.  
28 Lesar?

1 MR. LESAR: These...

2 MR. COLE: What date?

3 MR. LESAR: October 28, 1976. It's actually Mr.

4 Kilty swore to it on October 20, 1976.

5 MR. COLE: Is this something that is introduced

6 into evidence or...

7 MR. LESAR: Yes, I will.

8 MR. COLE: Did we miss it.

9 MR. LESAR: Has it been given an Exhibit number yet?

10 I gave you a copy at lunch. I think it was marked as an

11 Exhibit but maybe not. Let's mark it as an Exhibit.

12 MR. COLE: I don't see it there. Now, you are

13 asking, Mr. Lesar, about Interrogatory number twenty (20)?

14 MR. LESAR: Twenty-one (21).

15 MR. COLE: Twenty-one (21).

16 MR. LESAR: And in part "d".

17 A. "D" as in dog?

18 Q. Yes.

19 A. Yes?

20 Q. Now, what do you mean by the term, chemical

21 separation, as you used it there?

22 A. Well, the only reason you would examine bullet

23 jacket material is to help characterize it by its trace ele-

24 ments and in this bullet jacket material contains a tremendous

25 amount of zinc, the balance being copper. And you produce so

26 much activity by irradiating a sample like that that, in order

27 to find these trace elements, we have to separate out the

28 copper and zinc from everything else and then examine the

1 residue or the material left over after removing as much  
2 copper and zinc as you can. That is a chemical separation  
3 done after irradiation.

4 Q. It has to be done after the radiation. Okay.

5 A. No, not necessarily. You can do it pre to ir-  
6 radiation separations are usually not too good to do.

7 Q. Allright. Now, could you do such chemical sep-  
8 aration on only a sample from "Q3"? Do you take a small por-  
9 tion of it...

10 A. Of the jacket?

11 Q. Yes.

12 A. I guess someone could do it, yes, but providing  
13 there was nothing that -- you have to be able to destroy the  
14 material in order to do it. So, if you don't want to destroy  
15 something, it's a technique you don't choose.

16 Q. Understood. But how much of a sample would you  
17 need in order to examine it that way - to do that?

18 A. For jacket material, in my experience, I'd like  
19 to have a sample at least fifty (50) milligrams. If they  
20 had more than that, I'd want it.

21 Q. Now, could that have been in 1963, 1964?

22 A. What?

23 Q. Could "Q3" have been -- a part of "Q3" have been  
24 subjected to chemical separation and then examined by means  
25 of NAA?

26 A. I don't know. I don't think anyone was really --  
27 thought much about trace element characterization of jacket  
28 material in 1963.

1 Q. Do they now?

2 A. Yes. We've thought a lot about it.

3 Q. Your department has carried on -- or had carried  
4 on some studies of it, have they not?

5 A. We've done it because I've done it personally.

6 Q. Then -- so, now, in the answer to this, you've  
7 indicated that -- you seem to indicate that the reason that  
8 it wasn't done in '63 was because it might destroy the mark-  
9 ings on the items of evidence, is that correct?

10 A. That's what I said here, yes.

11 Q. What markings are you talking about?

12 A. As I recollect, item "Q3" had some firearms  
13 identification element to it. Those are the markings I'm  
14 talking about.

15 Q. And that would have precluded performing these  
16 other tests on it?

17 A. If it involved removing those markings, it cer-  
18 tainly would have.

19 Q. Why?

20 A. Well, the markings associated with the firearm  
21 from which it was fired and to destroy those is just simply  
22 not done. The value of this test is nothing compared to the  
23 value of identifying the item with a gun. This, certainly,  
24 this is...

25 Q. What was the value at that point? Oswald was  
26 dead, was he not?

27 A. Well, I'm talking, generally, the value of fire-  
28 arms identification markings. Its application in this case,

1 I don't know, but I know that nobody destroys markings on a  
2 bullet whether Oswald was dead or not.

3 Q. Why not take a portion of "Q3", which had no  
4 markings, and subject it to chemical separation and test it?

5 A. I'm not aware that there was a portion that did  
6 not contain markings.

7 Q. What about the inside of the bullet. That's  
8 not normally marked, is it -- the jacket?

9 A. Well, there are some problems with getting  
10 samples from the inside of a jacket...

11 Q. Well, you can make a scraping, couldn't you?

12 A. Scrapings are not good. Nobody likes to take...  
13 Those are really very poor materials to examine for anything.

14 Q. Or you can shave off the edge.

15 A. Shavings...

16 MR. COLE: I object to any further questions along  
17 this line. I mean the witness has already told you what he  
18 thinks. To go into his mental processes as he makes his  
19 decisions as a scientist, I think, just is pursuing a dead  
20 horse.-- beating a dead horse.

21 Q. If you have several samples and they don't all  
22 have markings, how can you tell that they don't all have a  
23 common source?

24 A. I don't know that you can.

25 Q. Let me ask this. Is it possible... There were  
26 samples taken from the President's clothing for spectrographic  
27 analysis. Is it possible to subject those to neutron activa-  
28 tion analysis?

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1           A. You can subject anything to the core of a nu-  
2 clear reactor and try to make it radioactive. Whether you  
3 can make an analysis of it or not is another story. Now, if  
4 you're talking about -- we can put some clothing in the core  
5 of the reactor. We take some fibres off and do it. Now,  
6 what are we trying to do?

7           Q. Well, I suppose that one thing you might want  
8 to do would be to determine whether or not copper was present  
9 at certain points in the cloth and then the second thing  
10 would be to determine, possibly, the presence of other ele-  
11 ments in whatever struck the cloth. Could you do that?

12           A. Yes, you could.

13           Q. Is there any reason why it could not be done,  
14 today, to the clothing of President Kennedy?

15           A. By activation analysis?

16           Q. Yes.

17           A. I would never... It would be a waste.

18           Q. Why?

19           A. Because it's not the best -- the best technique  
20 available is not...

21           Q. What's the best technique available?

22           A. Well, in my view, it's scan electron microscopy  
23 with X-ray fluorescence is the best way now.

24           Q. Does that give you quantitative results?

25           A. No. Nothing will give you quantitative results  
26 has any value in determining whether a piece of clothing  
27 touched something.

28           Q., Or whether something touched a piece of clothing.

1 A. Yes.

2 Q. Like a bullet.

3 A. Yes.

4 Q. Why not?

5 A. Well, you are trying to demonstrate whether you  
6 have some smears around a hole. What difference does it make  
7 whether you have one (1) microgram of smears or two (2) micro-  
8 grams of smears or one point five (1.5) micrograms of smears?  
9 What you're trying to demonstrate there are some foreign  
10 metal deposits around the periphery of this hole.

11 Q. Suppose you want to demonstrate whether or not  
12 the missile that struck the clothing can be identified or  
13 distinguished from other missiles associated with the crime?

14 A. In my view, you would have to have a good size  
15 sample of material to do that and a good size sample, I mean,  
16 at least one (1) miligram of lead and something probably a  
17 little less than that of copper.

18 Q. And you would not expect to find that on the  
19 clothing?

20 A. No, unless the projectile broke up in the cloth-  
21 ing and was sticking someplace around it.

22 MR. LESAR: Do you want to take a short break while  
23 I go over some things here?

24 MR. COLE: Do you need a break here?

25 MR. LESAR: Yes, I think it would be helpful to  
26 have a short break.

27 MR. COLE: Allright.

28 (A brief recess was taken.)

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1 MR. LESAR: I'd like to have this marked as an  
2 Exhibit.

3 MR. COLE: Mr. Lesar, are we getting the final  
4 Exhibits now of the deposition?

5 MR. LESAR: Oh, there will probably be a couple more.

6 A. What number is this?

7 Q. This is Number 17. And I'd like to have this  
8 marked as 18. Mr. Kilty, have you had a chance to look at  
9 Exhibits 17 and 18?

10 A. Just since you gave them to me. I have not read  
11 them totally through.

12 Q. Are they a report on the same test?

13 A. I'd have to sit here and read it first.

14 Q. Okay, then take the time. If you're having any  
15 trouble reading it, I could give you this reprint of it that  
16 would make it somewhat easier to read.

17 A. Allright, I'm finished reading it. I see what  
18 you're worried about. What's the question?

19 Q. Did you note -- are these two (2) documents,  
20 reports on the same test?

21 A. I don't know anything about these. I've never  
22 seen these documents before. They're FD302's made up by  
23 Agents in Dallas. I don't know what they are.

24 Q. Do they describe results of a test that was  
25 made in the F.B.I. Laboratory?

26 MR. COLE: I think the documents speak for them-  
27 selves. The witness says he doesn't know anything more than  
28 is contained in the document itself.

1 Q. Is that correct...

2 A. I do not know anything more about this matter  
3 than is contained in these documents.

4 Q. Well, do you disagree with the statement that  
5 they reflect that they are reports on the same laboratory  
6 test of the same item?

7 MR. COLE: I object. This witness isn't required to  
8 make his own opinions about a document that you've just hand-  
9 ed him if he doesn't know anything independent about them.  
10 And he does assure me that these are not reports from the  
11 F.B.I. Laboratory.

12 Q. Mr. Kilty, correct me if I'm wrong, but didn't  
13 you testify earlier that the information from the F.B.I. Lab-  
14 oratory got to the Warren Commission in the form of reports  
15 from Dallas field office?

16 A. And communications directly from the F.B.I.

17 Q. Okay. Now, would this be one such report?

18 A. No. No.

19 Q. Directing your attention to the document, do  
20 you see a Commission document number on it?

21 A. Yes, number five (5).

22 Q. Number five (5). Allright. So that it was a  
23 report that was transmitted to the Warren Commission.

24 A. Exhibit 18 is that..

25 Q. Is that.

26 A. Such document, yes.

27 Q. Okay. Now, is there a discrepancy between --  
28 in the content of the two (2) documents?

1 A. Yes.

2 Q. One report says -- Exhibit 17 says that the  
3 examination revealed that the bag was consistent and the  
4 other says that it is not identical with the paper gun case  
5 found at the scene of the shooting, is that correct?

6 A. These are not reports. I have to go back to  
7 that again. These are not reports.

8 MR. COLE: Mr. Lesar, this witness has already said  
9 he doesn't know anything about these two (2) documents and I  
10 object to any questions that would attempt to make him state  
11 something about an object that he has said he knows nothing  
12 about.

13 MR. LESAR: My question is about F.B.I. Laboratory  
14 procedures.

15 MR. COLE: And what is that question? We haven't  
16 heard one thus far.

17 Q. The question is, how is it possible to have two  
18 (2) different versions of the same test given...

19 MR. COLE: Mr. Lesar, that is not a question about  
20 the laboratory procedures. It is a question about something,  
21 I suppose, that might have gone on down in Dallas. If this  
22 witness knows anything about it, I certainly think he should  
23 tell you.

24 A. This is not a laboratory report. It is not a  
25 insert to a F.B.I. Laboratory -- F.B.I. report which contains  
26 the document that was produced by the F.B.I. Laboratory. This  
27 is an interviewer report form - FD302.

28 Q. Now, how would the interviewer -- you're talking

1 about Special Agent Vincent Drain, is that it?

2 A. Yes.

3 Q. Who would he have gotten the information from?

4 A. That's a question that would be perfectly  
5 directed to Vincent E. Drain.

6 Q. Doesn't it say that he got it from the F.B.I.  
7 Laboratory?

8 A. No.

9 Q. He says -- he says that the specimen was exam-  
10 ined by the F.B.I. Laboratory.

11 A. Yes.

12 MR. SLICKS: Do you have an extra copy of this?

13 MR. LESAR: Sure.

14 MR. SLICKS: Is it alright if I keep this one?

15 MR. LESAR: You may have it.

16 MR. SLICKS: You know. I'll look into this.

17 Q. What -- Mr. Kilty, you're aware that the Court  
18 of Appeals remanded this case for a second time and to probe  
19 the thoroughness of the search. Has any further search been  
20 made by the -- by the F.B.I. subsequent to the Court of Appeals  
21 remand?

22 A. Yes.

23 Q. Could you describe that search?

24 A. I've searched all the places where spectrographic  
25 plates or data concerning spectrographic plates could be kept  
26 and of items that you do not have, namely, the curbstone  
27 plate. That was the main item. And I have looked for every-  
28 thing again and I found what I've given you and I can't find

1 anything that I haven't given you.

2 Q. You say you looked for everything, including  
3 the spectrographic plates...

4 A. Yes.

5 Q. The spectrographic notes.

6 A. Yes.

7 Q. What about the -- are you aware that Agent  
8 Frazier testified in this case back in 1977 that he had in-  
9 structed Agent Stombaugh to make a -- conduct an examination  
10 to determine whether or not the holes in the shirt collar  
11 overlapped when the collar was buttoned together? Are you  
12 aware of that?

13 A. Yes.

14 Q. Did you conduct any search for that -- for any  
15 report or any notes on any such examination?

16 A. Indeed, I did.

17 Q. What did you find?

18 A. I found the report that contained the informa-  
19 tion about that.

20 Q. Do you have that with you?

21 MR. COLE: This?

22 A. Do I have it or who has it here? Maybe I've  
23 got it. Wait a minute! Is it a two (2) page report? Do  
24 I have that or...

25 MR. COLE: For the record, this is an item that is  
26 not in the Stombaugh report. It is the report which Mr.  
27 Weisberg has previously received.

28 MR. LESAR: Could you put an Exhibit number on that?

1 MR. COLE: What is the number?

2 Q. Who is the author of this report?

3 A. Mr. Frazier.

4 Q. And where did you find in it that it indicates  
5 that an examination was made to see whether or not the slits  
6 in the shirt collar would coincide if it was buttoned together?

7 A. The fourth paragraph from the bottom on page  
8 two (2) addresses that.

9 Q. Well, it doesn't say that, does it?

10 A. This hole is through the bottom -- or through  
11 the button and buttonhole portions of the shirt due to the  
12 overlap. This hole has the characteristics of an exit hole  
13 for...

14 Q. That doesn't state that the shirt was buttoned  
15 together and that any examination was made to see whether or  
16 not the slits coincided, does it?

17 MR. COLE: Objection. Mr. Lesar, the statement  
18 speaks for itself. Whatever it says, it says.

19 Q. This is all you located in searching for that.  
20 You say that you made a further search. Did you contact  
21 Agent Stombaugh?

22 A. No.

23 Q. Why not?

24 A. He didn't produce this.

25 Q. Well, but you were supposed to conduct a search  
26 to determine...

27 A. I found no notes produced by Stombaugh involved  
28 with the examination of President Kennedy's shirt.

1 Q. Where did you look?

2 A. All where the laboratory materials that are  
3 kept in this case.

4 Q. Did you -- you were aware, were you not, that  
5 Agent Frazier testified that he ordered Stombaugh to make the  
6 examination.

7 A. I'm not -- the characterization of him ordering,  
8 I'm not familiar with.

9 Q. Well, he, would you agree, have directed or  
10 told?

11 A. He might have consulted with him. I would think  
12 if Stombaugh made this determination -- well, if he made this  
13 determination, he would have contributed to this report.

14 Q. Did you ask Frazier if this is the report?

15 MR. COLE: Are you speaking of in the course of  
16 this latest search, whether or not Mr. Kilty did that?

17 MR. LESAR: Yes.

18 A. No, I did not.

19 Q. You did not ask him whether or not...

20 A. No.

21 Q. This is what he was talking about when he  
22 testified that he -- that...

23 A. I had no idea what he testified to. All I read  
24 is a statement in a Court of Appeals thing which may have  
25 been taken out of context. I don't know anything about it.  
26 I've not seen Frazier's transcript of his testimony.

27 Q. Is there anything in this report that indicates  
28 that Stombaugh had anything to do with it at all?

1 A. Nothing.

2 Q. Now, you did not -- you did not ask Frazier and  
3 you did not ask Stombaugh.

4 A. Right.

5 Q. What was your reason for not asking Stombaugh?

6 A. I don't know. I never thought about asking  
7 Stombaugh. If the record exists, the record exists; whether  
8 Stombaugh remembers or doesn't remember or anything else has  
9 nothing to do with it.

10 Q. Well, if Frazier testified that he had Stombaugh  
11 make the examination...

12 A. I don't know that Frazier testified to that.  
13 I've never seen that Frazier testified that he asked. That  
14 doesn't necessarily mean it was done or that he produced any  
15 notes regarding it.

16 Q. Well, assuming that Frazier did make -- did  
17 testify to that...

18 MR. COLE: I object to this line of questioning.  
19 The witness can tell you who he asked and who he didn't ask  
20 and what he searched for and if you want to make something of  
21 that, you can, but I don't think that it is proper to ask him  
22 why he didn't talk to someone or under certain hypothetical  
23 situations, why he should not have or should have.

24 Q. Well, you've... How do you know that this is  
25 the document that Mr. Weisberg is seeking?

26 A. I am not aware of any document Mr. Weisberg  
27 seeks.

28 Q. Well, the Court of Appeals adverted to his quest

1 for a report on an examination of whether or not the slits  
2 coincided, is that correct?

3 MR. COLE: I object to any questions that regard  
4 the Court of Appeals opinion asked of this witness. What is  
5 in that decision, is certainly known to you, Mr. Lesar. You  
6 can ask this witness what he did in the course of the search.

7 Q. What was the basis of your search, if it was  
8 not the Court of Appeals opinion?

9 MR. COLE: Objection. What do you mean basis? You  
10 mean what was the reason for his search or what was the scope  
11 of his search?

12 MR. LESAR: How did he determine what he was looking  
13 for?

14 A. I was looking for anything that was produced by  
15 Stombaugh that could be related to an overlap situation...

16 Q. How did you make that search?

17 A. By looking through all the documents produced  
18 by Stombaugh.

19 Q. All of the documents produced by Stombaugh?

20 A. Yes.

21 Q. How did you locate all the documents produced  
22 by Stombaugh?

23 A. In the files in here.

24 Q. You mean you went through the entire headquart-  
25 ers files again?

26 A. No. No, I went through the files where the  
27 laboratory materials are located.

28 Q. And that's all you did?

1 A. What do you mean that's all I did. That's one  
2 heck of a job. I did -- searched hundreds of pieces --  
3 thousands of pieces of paper. Good heavens!

4 Q. You searched hundreds of thousands of pieces of  
5 paper?

6 A. No. Thousands of pieces of paper.

7 Q. Thousands of pieces of paper. Okay. All of  
8 them headquarters records.

9 A. Yes, headquarters.

10 Q. How about -- were they all lab records?

11 A. Stombaugh was assigned to the F.B.I. Laboratory.

12 Q. His reports might make their way into other  
13 locations, might they not?

14 A. Well...

15 Q. They would go to Dallas, wouldn't they?

16 A. Okay. I'm interested in what the man -- you're  
17 looking for something that he did. He couldn't have produced  
18 a report without having a work sheet, without having some  
19 kind of information that goes to make up a report.

20 Q. Right. Okay. Now,...

21 A. If he doesn't have that, a report can't exist.

22 Q. What are the possible locations for the report  
23 and the worksheets?

24 A. Possible locations are a number of file cabinets  
25 at F.B.I. Headquarters where I've looked.

26 Q. How about in Dallas?

27 A. I did not look in Dallas. Not in the wildest,  
28 wildest imagination could I ever think that notes produced by

1 an Agent in the F.B.I. Laboratory would be in Dallas.

2 Q. How about reports?

3 A. Reports -- some reports went to Dallas, no  
4 doubt about it. They may have gotten all reports. I don't  
5 know that. But Dallas got...

6 Q. Could Dallas have reports that Headquarters does  
7 not have?

8 A. That would be something that would have to be  
9 generated -- a request generated by somebody else. I don't  
10 know. You can produce a report in Baltimore. It may go to  
11 Dallas that Headquarters doesn't get a copy of it or something.  
12 I don't know. Those possibilities exist.

13 Q. Suppose there are reports that are missing in  
14 Headquarters, is it possible you would find them in Dallas?

15 A. I wouldn't even know they were missing.

16 Q. In that case, you would be required to search  
17 Dallas as well, wouldn't you?

18 A. No, I'm not required to search Dallas.

19 Q. Well, unless you search Dallas, according to  
20 what you've just testified to, you have no way of determining  
21 whether or not something was missing from Headquarters.

22 A. It doesn't mean it's going to be in Dallas if  
23 it's missing from Headquarters.

24 Q. But it might be.

25 MR. COLE: Well, I think this has gone on an awful  
26 long time, Mr. Lesar. Do you have any more questions of  
27 this witness?

28 Q. Did you make a good faith diligent search after

1 the recent remand of the Court of Appeals to find everything  
2 that Mr. Weisberg is seeking in this case?

3 A. I don't know everything Mr. Weisberg is seeking  
4 in this case.

5 Q. Okay.

6 A. I made a diligent good faith search for items  
7 that basically, Agent Slicks and Attorney Cole told me about  
8 to answer the request that Mr. Weisberg made in '74 or '75.  
9 I'm not -- or other times. And I'm certainly not saying that  
10 I've searched for everything that Mr. Weisberg's ever asked  
11 for in this case.

12 Q. Did you make a search that, in your opinion, was  
13 so thorough, that it would turn up any and all testing of  
14 bullets or bullet fragments in connection with the Kennedy  
15 Assassination?

16 A. Yes, I did.

17 Q. So, that there should be no other test that  
18 we're aware of on any fragments or bullets in connection with  
19 the Kennedy Assassination.

20 A. I've not located any records on any other materi-  
21 als.

22 MR. LESAR: I think we're concluded.

23 MR. COLE: I may want to ask a few questions. Let  
24 me retire for a moment with...

25 MR. LESAR: Okay.

26 CROSS EXAMINATION -

27 BY MR. COLE:

28 Q. Mr. Kilty, you have, today, presented Mr. Lesar,

1 as counsel for Harold Weisberg, some strips -- some copies of  
2 some strips of paper with numbers on them that you have  
3 identified as computer tapes for "Q3" and "Q15". Why have  
4 you not presented these prior to today?

5 A. I was not aware of a request from Mr. Weisberg.  
6 and my recollection is that Mr. Weisberg did not want these  
7 items based on the meeting that I and a number of other people  
8 had with him when they saw these items.

9 Q. What can you remember about that meeting?

10 A. With regard to the computer tapes and notebooks  
11 with data in them, these were shown to him in a folder some-  
12 thing like this red paper folder and he said something about  
13 the fact that I can't make head nor tails out of those things;  
14 I don't want those things.

15 Q. Subsequent to that time, did you learn from  
16 anyone that these items -- that Mr. Weisberg had changed his  
17 mind regarding these items?

18 A. Well, some of the notes that were in the note-  
19 books, yes, he asked for those subsequent to this and he got  
20 those.

21 Q. As to the computer...

22 A. Printouts?

23 Q. Printouts?

24 A. I have no knowledge that he's ever asked for  
25 those.

26 Q. As far as the computer printouts go, are these  
27 items that, with your scientific background, you can make  
28 heads or tails out of looking at them now?

1 A. It would be tough. I'd have to spend quite a  
2 bit of time working on those.

3 Q. But on the face of them, do they make any sense  
4 to a layman at all?

5 A. Well, not to someone who's not in the business  
6 of activation analysis, certainly not.

7 Q. You have testified just a few minutes ago that  
8 you did undertake a recent search for documents on behalf of  
9 Mr. Weisberg. When did you make that recent search?

10 A. Over several days in the last month or six (6)  
11 weeks.

12 Q. Can you tell us how many days you spent on this?

13 A. I spent ten (10) days, at least, on this -- parts  
14 of ten (10) days, at least.

15 Q. And what were you looking for?

16 A. Anything that I could find that would respond  
17 to that 1974 letter that he sent us.

18 Q. Was it something that you considered very re-  
19 stricted request or was it a -- were you looking for anything  
20 that was conceivably implied by that request?

21 A. Well, anything we had that had any connection  
22 with it at all, I was interested in identifying.

23 Q. Were you also looking, specifically, for the  
24 items that the Court of Appeals had mentioned in its recent  
25 Order?

26 A. Yes, I looked, specifically, for those items.

27 Q. Where did you search for all of these items,  
28 including the general search?

1           A. I'd have to look at my notes to make sure I get  
2 the room numbers straight.

3           Q. That's fine.

4           A. I looked in file cabinets located in Room 2B456,  
5 file cabinets located in Room 3342, plate drawers located in  
6 two (2) parts of Room 3971.

7           Q. Why did you look in these rooms?

8           A. Because, based on my knowledge of where things  
9 are stored in the F.B.I. Laboratory, based on my announcing  
10 to my colleagues in the F.B.I. Laboratory that I was looking  
11 for items responsive to this request, these were the places  
12 that -- only places that these kinds of documents would be  
13 stored.

14           Q. Did you request of your colleagues that they  
15 also search or did they tell you whether they -- if they knew  
16 of the location of any of these items?

17           A. I did, yes.

18           Q. When did you do this and in what manner?

19           A. At a Unit Chief meeting a few weeks ago, I  
20 advised that I was involved in this matter and that if anyone  
21 could give me any tips as to where we could locate anything  
22 associated with the Kennedy Assassination case to please tell  
23 me and I was specifically looking for a spectrographic plate,  
24 the most difficult thing. And I was advised by the -- every-  
25 one that they had nothing that would be responsive to this.

26           Q. When you speak of looking specifically for a  
27 plate, was this the spectrographic plate of "Q609"?

28           A. Yes, the curbstone plate.

1 Q. Right. In the course of your search, what did  
2 you find?

3 A. Well, I found a lot of the documents that I've  
4 already released.

5 Q. Did you find anything that had not been turned  
6 over to Mr. Weisberg through Mr. Lesar before?

7 A. Yes.

8 Q. What were those items?

9 A. Some computer printouts.

10 Q. And are those -- are the computer printouts  
11 relating to "Q3" and "Q15" the ones that you turned over today?

12 A. Yes.

13 Q. And did you also find a lab report?

14 A. I found a lab report, yes. It pertained to  
15 the examination of President Kennedy's shirt that addressed  
16 the problem of some kind of overlapping situation.

17 Q. That was the lab report that I put on the record  
18 a few minutes ago had been turned over to him on an earlier  
19 occasion, is that right?

20 A. I don't know if that was turned over to him on  
21 an earlier occasion but he had that report, however.

22 Q. I have no further questions.

23 RE-DIRECT EXAMINATION -

24 BY MR. LESAR:

25 Q. Do you recall that, in connection with the  
26 meeting in March of 1975 at which you say Mr. Weisberg turned  
27 down the computer printout data, that Mr. Weisberg requested  
28 that that conference be tape recorded so that there would be

1 no dispute about what occurred?

2 A. I think I do, now that you bring that up. It  
3 was refused.

4 Q. Why was it refused?

5 A. I don't know. Who refused it? I don't remember  
6 who refused. -- Bresson.

7 Q. Did you ever have any subsequent conversation  
8 with Mr. Weisberg and tell him that you had given us all the  
9 records that you had found?

10 MR. COLE: Mr. Lesar, can you specify when this  
11 conversation might have been?

12 Q. Withdraw the question. Withdraw the question.  
13 Okay. Mr. Cole's referred to the 1974 request - the December,  
14 1974, request that Mr. Weisberg made. That request was, in  
15 effect, amended during our meeting in March, 1974, was it not?

16 MR. COLE: I object. I think that's a question  
17 that is calling for a legal conclusion from the witness.

18 A. It's the wrong date anyway.

19 Q. March, 1975, yes.

20 A. Now your objection is valid.

21 MR. COLE: The objection still stands. There's no  
22 requirement for you to repond to that.

23 Q. Did you, at that meeting in March, 1975, at  
24 which Mr. Weisberg and I and Mr. Frazier were present, agree  
25 to clarify what materials he was seeking in this case?

26 A. We thought we were. That's why we called the  
27 meeting.

28 Q. Allright. And you showed him a number of

1 different types of materials at that meeting.

2 A. Yes.

3 Q. Including both spectrographic and neutron activa-  
4 tion analysis?

5 A. I think I did, yes.

6 Q. Now, that included, not only reports but in-  
7 cluded the raw data -- some of the raw data -- calculations,  
8 work sheets, those types of materials?

9 A. That was the kind of material that was there,  
10 yes.

11 Q. And as a result of that meeting, you agreed that  
12 you would provide him with those materials, did you not?

13 MR. COLE: Which are those materials?

14 MR. LESAR: Those materials would be the materials  
15 that have been provided here in -- the long sheets...

16 A. The long sheets of paper, yes.

17 Q. The long sheets of paper.

18 A. Yes.

19 Q. You did.

20 A. Yes.

21 Q. You did. Okay. I just wanted to clarify it  
22 because you referred to the December, 1974, request and that  
23 was limited to final reports.

24 A. Yes.

25 Q. Okay. As a matter of fact, are there not a  
26 number of F.B.I. memoranda which reflect an understanding that  
27 Mr. Weisberg must have been seeking more than just final  
28 reports?

1 A. There might be if you have copies of them, that's  
2 how they got...

3 MR. COLE: Again, those documents, Mr. Lesar, will  
4 speak for themselves. This witness has already stated that  
5 he has looked for items within the broadest parameters.

6 Q. Okay. Just briefly, where did you -- in this  
7 most recent search, where did you look that you didn't look  
8 before?

9 A. Different building.

10 Q. Well, for the record, didn't the F.B.I. move its  
11 offices in the interim?

12 A. Yes.

13 Q. Okay. Different files?

14 A. Yes, I expanded it to some more unreasonable  
15 places.

16 Q. What were those?

17 A. The files in 2B456.

18 Q. What is in 245B6.

19 A. 2B456.

20 Q. 2B456?

21 A. There are some files containing old data gener-  
22 ated by neutron activation analysis and spectrographic work.

23 Q. Is that just general or with respect to the  
24 assassination?

25 A. Oh, no, this is general thing, but I thought  
26 that a possibility existed that the plates could be in there  
27 or that something like that. So, I looked there.

28 Q. Alright. In one of these memorandums, you say

1 that it -- before this most recent search, you said that an  
2 exhaustive search had been made of all pertinent files and  
3 storage locations. What do you mean by storage locations?

4 A. Where we keep plates - the spectrographic plates.  
5 And we have two (2) places where they're kept.

6 Q. Those are?

7 A. There's a -- let me get the exact name of the  
8 two (2) things. One is called a plate drawer and the other's  
9 a plate locker. In the plate drawer, they keep the current  
10 plates of currently open cases; in the plate locker, they  
11 keep old cases and ones that are deemed to have some historical  
12 significance that they do not throw away.

13 Q. And you checked both of them.

14 A. Yes, I did. I went through them. I went  
15 through them with the Unit Chief in that Unit.

16 Q. And did that involve a plate-by-plate examina-  
17 tion?

18 A. In certain areas, it did, yes.

19 Q. You say you have a file for spectroplates in  
20 historical cases?

21 A. Yes.

22 Q. How is it determined that they go into that  
23 file?

24 A. Well, a year or two (2) ago, the Chief of the  
25 Elemental -- the Instrumental Analysis Unit where the spectro-  
26 graphic work is done decided to maintain a record or a place  
27 where you could store plates that -- of any case that -- you  
28 know -- may have something like this. We've learned from this

1 case and lots of other cases that, simply, you can't put the  
2 plates where you put all the other plates. You've got to  
3 keep them separate.

4 Q. This did not exist prior to two (2) years ago?

5 A. Right.

6 Q. Then why did you search it at this time?

7 A. Well, to look what was in there because there  
8 were some -- there are some old cases that we have five (5),  
9 eight (8) years ago that people have kept, just like the  
10 Kennedy case was kept, but they were kept in a separate file  
11 drawer. Now, we know where to go to find -- if the Jones  
12 case becomes -- I can't think of a case, offhand, that is  
13 put there -- but there's a case...

14 Q. How about the King Assassination?

15 A. Well, I think that's too old, too.

16 Q. Allright. Did you, in your mind, exhaust all  
17 reasonable locations for all of these materials?

18 A. Yes, sir, I did.

19 Q. You don't consider it reasonable that there  
20 should also be a similar search in Dallas field office?

21 A. Not for laboratory materials. I just...

22 Q. How about laboratory reports?

23 A. Well, if laboratory report's addressed to the  
24 Dallas field office, they would have the original laboratory  
25 report there.

26 Q. Who would?

27 A. The files in Dallas.

28 Q. Yes.

1 A. The - a copy of that, the so-called yellow,  
2 would be kept in the F.B.I. with the date as to when it was  
3 mailed out and...

4 Q. Now, but suppose that's missing? Then you need  
5 to go to Dallas, don't you?

6 MR. COLE: I think we've gone through this before,  
7 Mr. Lesar. I don't think...

8 MR. LESAR: Could I get an answer?

9 MR. COLE: You mean if something's missing, whether  
10 it would not be there? I think that's pretty clear. If it  
11 was sent somewhere else and that one were missing, then it  
12 wouldn't be there.

13 MR. LESAR: I would appreciate if counsel didn't  
14 testify.

15 MR. COLE: This is not testifying. This is just  
16 trying to understand the logic of your question, Mr. Lesar.

17 Q. Would you concede that it's possible that the  
18 Dallas field office could have laboratory reports that you  
19 were not able to find in F.B.I. Headquarters?

20 A. Well, I didn't look for every laboratory report  
21 that exists.

22 Q. Well, I hope you did, sir.

23 A. But...

24 Q. Those pertaining to the items of evidence that  
25 Mr. Weisberg has requested.

26 A. Only under the caveat that anything is possible.  
27 I mean that's the only thing I can say. Anything is possible.

28 Q. Did you, in this most recent search, ask any

1 of the examiners if they had ever taken any materials from  
2 the Kennedy Assassination file home?

3 A. I didn't talk to any of the examiners who did  
4 work in this case.

5 Q. You didn't talk to Heilman again?

6 A. No, I did not.

7 Q. The first time when you did -- back in '75,  
8 when you did talk to Heilman...

9 A. Yes.

10 Q. Did you ask him, at that time, if there was any  
11 chance he could have taken them home?

12 A. No, I didn't. I wouldn't get it back had he  
13 taken it home. So, it wouldn't have done any good.

14 Q. You never know. Do you recall that there was  
15 an item in the papers a couple of years ago that an F.B.I.  
16 Agent had taken home a spectroscope...

17 MR. COLE: I'm going to object to this. It doesn't  
18 sound terribly relevant, Mr. Lesar.

19 Q. Okay. I think I have no further questions.  
20

21 CERTIFICATE OF STENOGRAPHIC REPORTER

22 I, PATRICIA E. CRUM, the Notary Public before whom  
23 the foregoing deposition was taken, do hereby certify that  
24 the witness, John W. Kilty, was, by me, duly sworn and that  
25 said transcript is a true copy of the testimony given; and  
26 said testimony was taken by me, stenographically and there-  
27 after reduced to typewriting by me; that I am neither counsel  
28 for, related to, nor employed by any of the parties to this

1 case and have no interest, financial or otherwise, in its  
2 outcome.

3 Signature was not waived in connection with this  
4 deposition. An errata sheet has been forwarded to counsel  
5 for Defendants in this case, together with a copy of this  
6 deposition. This errata sheet will be signed by the deponent  
7 and filed with this Court to become a part hereof.

8 IN WITNESS WHEREOF, I have hereunto set my hand and  
9 affixed my Notarial Seal this 29th day of June, 1981.

10  
11 *Patricia E. Crum*

12 Patricia E. Crum, Notary Public

13 My Commission Expires July 1, 1982  
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1 HAROLD WEISBERG : CIVIL ACTION NO. 75-0226  
2 PLAINTIFF : IN THE UNITED STATES  
3 VS. : DISTRICT COURT FOR THE  
4 U. S. DEPARTMENT OF JUSTICE, : DISTRICT OF COLUMBIA  
5 ET AL. :  
6 DEFENDANTS  
\* \* \* \* \*

7 I, JOHN W. KILTY, have read the deposition taken  
8 of me on Friday, June 19, 1981, before Patricia E. Crum,  
9 Notary Public of the County of Frederick, State of Maryland,  
10 consisting of pages 1 through 139, and I hereby endorse it as  
11 my testimony (with the following exceptions:  
12  
13  
14  
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23

24 )  
25 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

26 WITNESS:  
27 \_\_\_\_\_  
28 \_\_\_\_\_ John W. Kilty

150

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. White

FROM : Mr. W. E. Williams MEW/R

1 - Mr. White  
1 - Office, 7133  
1 - Mr. Cunningham  
DATE: January 24, 1975

1 - Mr. Kilty  
1 - Mr. Mintz  
Attn: Mr. Bresson

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST  
OF HAROLD WEISBERG

- Asst. Dir. \_\_\_\_\_
- Dep. AD Adm. \_\_\_\_\_
- Dep. AD Inv. \_\_\_\_\_
- Asst. Dir.:
- Admin. \_\_\_\_\_
- Comp. Syst. \_\_\_\_\_
- Ext. Affairs \_\_\_\_\_
- Files & Com. \_\_\_\_\_
- Gen. Inv. \_\_\_\_\_
- Ident. \_\_\_\_\_
- Inspection \_\_\_\_\_
- Intell. \_\_\_\_\_
- Laboratory \_\_\_\_\_
- Plan. & Eval. \_\_\_\_\_
- Spec. Inv. \_\_\_\_\_
- Training \_\_\_\_\_
- Legal Coun. \_\_\_\_\_
- Telephone Rm. \_\_\_\_\_
- Director Sec'y \_\_\_\_\_

Reference is made to Legal Counsel to J. B. Adams' memorandum of December 17, 1974, wherein it was recommended that the Laboratory Division review Weisberg's request for information concerning the assassination of President Kennedy and identify pertinent material available which may satisfy his request.

Weisberg indicates in his letter that he is interested in "the report itself" or "the complete report only"; however, since these are available to him at National Archives, his request must extend beyond these documents.

The material available in this case falls into three categories. 1. All of the background information and data accumulated during the actual examinations of the evidence specimens. 2. The compositional analyses arrived at from calculations of the ray data. 3. The final reports.

Spectrographic analyses were conducted on bullets and/or fragments therefrom, lead fragments and several items of clothing. Examinations by neutron activation were conducted on the above-mentioned bullet and lead materials and on paraffin casts taken from the hands of Oswald. The results of all these examinations, with the exception of the neutron activation studies of the bullet and lead materials, have been included in the FBI Laboratory reports. The results of the neutron activation examinations of the bullet and lead materials are contained in a letter to J. Lee Rankin, General Counsel, The President's Commission, dated July 9, 1964. This letter and the FBI Laboratory reports are available in the National Archives.

The Laboratory has on hand spectrographic plates and neutron activation analysis data which were used to calculate answers and make judgments regarding the compositions of the materials examined. As with most scientific data, interpretations of these plates and neutron activation analysis data will not stand alone but must be accompanied by technical

C  
A  
M.D.  
D.C.

7-10-75  
J. B. Adams

W  
J. B. Adams

REC 44 62-109660-7156

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7 FEB 12 1975

62-109060  
70 MAR 25 1975  
51 FEB 25 1975

(CONTINUED - OVER)

EXHIBIT # /

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Memorandum to Mr. White  
FREEDOM OF INFORMATION ACT (FOIA) REQUEST  
OF HAROLD WEISBERG

information which explains the parameters involved. Some of this explanatory information could be obtained by an inquirer from outside experts in emission spectroscopy and neutron activation analysis, but in the absence of detailed procedural data, the raw information is not subject to interpretation by non-technical individuals.

Notes were made at the time the examinations were conducted which contain the actual analyses including percentage of some elements present, relative concentrations of other elements and absence of detectable concentrations of elements. Some of these notes are physically in the Laboratory and others are assumed to be interspersed in the case file. The search for this material will be extensive and time-consuming. It is estimated that approximately 50 pages of technical notes may be involved. The costs of reproduction will vary according to the physical dimensions and nature of the material to be furnished.

If we are requested to produce copies of the actual spectrographic plates and neutron activation data, costs will be substantial because of the various formats involved. In the case of the spectrographic plates, the Special Photographic Unit of the Laboratory is investigating the possibility of accurately reproducing the plates so that the recorded information can accurately be assessed from the "duplication." Estimates of the costs involved in such reproduction; if they can be made, are not presently available. In the case of the neutron activation data, the total reproduction of this material will involve the equivalent of approximately 1,000 pages. Much more clerical time than that normally required to reproduce 1,000 pages will be involved due to the nature and size of the pages to be copied. It is not unreasonable to assume that the time involved would be approximately ten times greater than the time needed to reproduce 1,000 normal pages.

Accordingly, it will be necessary to evaluate each request in terms of the material to be furnished, and the overall costs will depend on what materials are to be reproduced in response to a specific request.

ACTION: None. For information only.

*W*

*JR*

# Memorandum

TO : Mr. J. B. Adams

DATE: 12-17-74

FROM : Legal Counsel

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST OF  
HAROLD WEISBERG

Assoc. Dir. \_\_\_\_\_  
Dep. AD Adm. \_\_\_\_\_  
Dep. AD Inv. \_\_\_\_\_  
Asst. Dir.:

- Admin. \_\_\_\_\_
- Comp. Syst. \_\_\_\_\_
- Ext. Affairs \_\_\_\_\_
- Files & Com. \_\_\_\_\_
- Gen. Inv. \_\_\_\_\_
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- Training \_\_\_\_\_
- Legal Coun. \_\_\_\_\_
- Telephone Rm. \_\_\_\_\_
- Director Sec'y \_\_\_\_\_

Attached is a proposed letter to captioned individual. Incoming correspondence was addressed to the Deputy Attorney General dated 11-27-74, and was received by the FOIA Unit on 12-6-74.

It will be recalled Weisberg's initial lawsuit, referred to in his letter, concerned spectrographic analyses made by the FBI for the Warren Commission in connection with the Kennedy assassination. This suit culminated in an appeal to the Supreme Court, which on 5-13-74 denied certiorari, leaving the District of Columbia Circuit Court decision which upheld our withholding the documents under the exemption provisions of Section (b) (7), FOIA (investigatory files).

Weisberg now reinstitutes his request under the amended FOIA which limits the former investigatory files exemption to certain enumerated categories and types of information, none of which initially appear applicable to the material Weisberg requests. He additionally requests results of neutron activation testing, but specifies he is interested only in final reports, not raw materials or Laboratory work.

RECOMMENDATIONS:

1. That the Laboratory Division review the request of Weisberg for the purpose of identifying reports and material requested, and furnish the FOIA Unit with observations regarding the volume of material requested and any unusual cost factors regarding release of the information.

Enclosure - letter sent 12/19/74

- 1 - Mr. Adams - Enclosures (2)
  - 1 - Mr. White - Enclosures (2)
- Attn: Mr. Frasier

FEB 12 1975

70 MAR 25 1975  
FBI:law (5)

RECOMMENDATIONS CONTINUED ON PAGE TWO

04 FEB 18 1975

153

Legal Counsel to Mr. J. B. Adams memo  
Re: FOIA Request of Harold Weisberg

RECOMMENDATIONS:

2. That the FOIA Unit review the material identified by the Laboratory Division as being within the scope of Weisberg's request to determine the applicable provisions of the FOIA.

3. That the attached letter be sent to Mr. Weisberg.  
(2-19-74)

JCF/ahm

BW/ok

gma

TK/EF

Mr. Kelleher

3/12/81

Robert P. Finzel

FREEDOM OF INFORMATION ACT (FOIA) REQUEST OF  
HAROLD WEISBERG FOR SPECTROGRAPHIC AND NEUTRON ACTIVATION  
ANALYSIS MATERIAL CONCERNING THE ASSASSINATION OF PRESIDENT  
KENNEDY

Purpose: To request the Laboratory Division to conduct a search for any material which may be responsive to Mr. Weisberg's request dated November 27, 1974, (copy attached).

Details: In its written opinion dated April 23, 1980, the U. S. Court of Appeals for the District of Columbia Circuit reversed an earlier District Court ruling granting summary judgment in favor of the Government in captioned matter. A summary of this ruling appears in a Legal Counsel memorandum to the Director dated May 16, 1980, (copy attached).

Because the Appellate Court found "issues of fact" present, with respect to the existence of three items that were not furnished to Mr. Weisberg, summary judgment as to the adequacy of the search could not be affirmed. The Court also focused on the previous affidavit of John Kilty, the FBI Laboratory Division representative who conducted the search for responsive records, and found his description of the search conducted inadequate. In this regard, the Court also found that reversible error occurred when the District Court denied plaintiff the opportunity to depose Kilty on his search methodology.

Due to the passage of time (about 6 years) since the search for records described in the above mentioned Kilty affidavit was conducted, a search for all records responsive to Weisberg's request of November 27, 1974, should be conducted ab initio. Because of the technical aspect associated with this request, the search should again be conducted by the Laboratory Division, with the location searched extending anywhere in which those responsive records may be located.

- 1 - Legal Counsel  
Attention: Jack Slicks
- 1 - Laboratory Division  
Attention: John Kilty

CONTINUED OVER

wan:tac (5)

155

March 31, 1975

- 1 - Mr. White
- Atten: Mr. Kilty
- 1 - Mr. Mintz

James H. Lesar, Esq.  
 1231 Fourth Street, S. W.  
 Washington, D. C. 20024

Dear Mr. Lesar

I am enclosing 17 pages of material described in my letter to you dated March 26th, plus five pages of documents relating to the curbstone examination which your client, Mr. Weisberg, has requested.

Sincerely yours,

Clarence M. Kelly  
 Director

Enclosures (5)

- 1 - Honorable Michael Ryan  
 Assistant United States Attorney  
 Room 3421  
 United States District Courthouse  
 3rd Street and Constitution Avenue, N. W.  
 Washington, D. C. 20001

15 APR 3 1975

- Asst. Dir. \_\_\_\_\_
- Dep. AD Adm. \_\_\_\_\_
- Dep. AD Inv. \_\_\_\_\_
- Asst. Dir.:
- Adm. \_\_\_\_\_
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- Telephone Rm. \_\_\_\_\_
- Director Sec'y \_\_\_\_\_

THE:RS (9)

NOTE NEXT PAGE

HAND DELIVERED

APR 23 1975

APR 17 1975

MAIL ROOM TELETYPE UNIT

EXHIBIT # 2

157

with  
cc to Mr. Kelly  
10-10-75

10-10-75  
10-10-75

ENCLOSURE

W

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF JUSTICE, et al.,

Defendants

AFFIDAVIT

I, John W. Kilty being duly sworn, depose as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) assigned to the Laboratory Division of the FBI, Washington, D. C., in a supervisory capacity.
2. I have personal knowledge that Harold Weisberg directed a Freedom of Information Act request to the FBI for documents relating to spectrographic and neutron activation analysis examinations conducted in the John F. Kennedy assassination case.
3. On March 14, 1975, I was present at a meeting with Mr. Weisberg, his attorney, Mr. James H. Lesar, and two other representatives of the FBI, SAs Robert A. Frazier and Thomas H. Bresson. The purpose of this meeting was to identify specifically the scope of Mr. Weisberg's request since he had been advised that all final reports with regard to the requested data had been furnished to the Warren Commission and are available to the public.
4. At this meeting Mr. Weisberg requested the following:
  - a. Specific spectrographic and neutron activation material which consists of tables and pages with results of readings, representing examinations of metal fragments from the bodies of President Kennedy and Governor Connally.
  - b. Spectrographic analysis from the areas on the clothing of President Kennedy and Governor Connally where the bullets may have passed.

EXHIBIT # 4

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C.A. 75-226

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c. Available material relating to examination of the windshield of the President's automobile and examinations regarding metal fragments from the President's automobile.

d. Laboratory examination data which may be available regarding testing done on a curbstone near the crime scene.

5. All available data relating to the above consists of 22 pages also furnished to Mr. Lesar by SA Bresson on March 31, 1975.

6. I have personal knowledge that Mr. Lesar thereafter advised the FBI's Freedom of Information Unit that Mr. Weisberg had intended his request as defined at the meeting of March 14, 1975, to include certain data which was shown to him at the close of that meeting. This material, consisting of 54 pages of data and results of neutron activation examinations conducted on certain metal fragments from the body of President Kennedy, the stretcher, and the President's automobile, is referred to in a letter from Director Clarence M. Kelley to Mr. Lesar dated April 10, 1975, and attached hereto. All this material was furnished to Mr. Weisberg by letter from Director Kelley to Mr. Lesar dated April 15, 1975, a copy of which is also attached.

7. With regard to the interrogatories submitted by Mr. Weisberg, the affiant, states that the FBI Laboratory employed methods of elemental analysis namely neutron activation analysis and emission spectroscopy. Neutron activation analysis and emission spectroscopy were used to determine the elemental composition of the borders and edges of holes in clothing and metallic smears present on a windshield and a curbstone.

8. I have conducted a review of FBI files which would contain information that Mr. Weisberg has requested under the Freedom of Information Act. I have had compiled the materials

~~159~~ 159

which have been furnished to Mr. Weisberg through his attorney,  
Mr. Lesar. The FBI files to the best of my knowledge do not  
include any information requested by Mr. Weisberg other than  
the information made available to him.

Enclosures - 2

John W Kilty

John W. Kilty  
Special Agent  
Federal Bureau of Investigation  
Washington, D. C.

Before me this 13<sup>th</sup> day of May, 1975, affiant  
John W Kilty, has appeared and signed this affidavit  
first having sworn that the statements therein are true.

Margaret I. Lewis

Notary Public - District of Columbia

My commission expires 12/12/78.

~~151~~ 160

TO

Mr. Cochran

DATE: November

Mr. Xilty  
10, 1975

FROM

M. J. Stack, Jr.

SUBJECT:

REQUEST FOR INFORMATION  
FROM THE SENATE SELECT COMMITTEE  
CONCERNING THE J.F.K. ASSASSINATION

Attached are two letters from the Senate Select Committee. The letter dated November 6, 1975, sets out requests for information pertaining to various aspects of the J.F.K. assassination.

On November 7, 1975, the following Agents met to determine what material is applicable to the requests and the responsibilities of the various Divisions in seeing that the material is available on November 11, 1975.

- Seymour Phillips, Division 3
- James Johnson, Division 3
- James Lee, Division 3
- John Thomas, Division 3
- William Nettles, Division 3
- John W. Xilty, Division 7

It was determined that Special Agents Xilty and Nettles would handle item 4. Two copies of all documents are to be delivered to Special Agent Phillips on November 10, 1975.

It appears that the Laboratory will be able to meet this deadline. Section 21 of 62-109060 is on locate. This section contains some spectrographic worksheets that pertain to item 4. Special Photo Unit will have to reproduce photographs of the President's vehicle. Special Agent Xilty has the negatives along with notes and sketches of the vehicle examination. All the Laboratory items will be submitted to the Assistant Director for approval for release.

ACTION: None. For information only.

18 NOV 19 1975

62-109060

Enclosures (2)

JWK:rlc (5)

NOV 20 1975

ENCLOSURE

SI 104

LEGAL COUNSEL

EXHIBIT #

5

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1-Mr. Cochran  
1-Mr. Stack  
1-Mr. Mortimer  
1-Mr. Kilty

November 10, 1975

Mr. Cochran

M. J. Stack, Jr.

**REQUEST FOR INFORMATION  
FROM SENATE SELECT COMMITTEE  
CONCERNING THE J.F.K. ASSASSINATION**

Reference by memorandum November 10, 1975,  
captioned as above and identifying participants at the  
November 7, 1975 meeting regarding this matter.

Enclosed are two copies each of the following  
items:

- (1) Three pages of notes apparently prepared by former Special Agent Robert Frasier during the search of the President's vehicle conducted early A.M. November 23, 1963.
- (2) One page of notes prepared by Frasier. This page contains the description of Q14 which is 3 lead fragments located in the vehicle during the search.
- (3) Four pages of worksheets and notes prepared by former Special Agent John P. Gallagher concerning the spectrographic analysis of Q14 and Q15 (scrapings from inside of windshield).
- (4) Three pages consisting of a compilation of results of neutron activation analyses conducted on Q14 (and other items).
- (5) Eight photographs of the President's vehicle.
- (6) A five-page Laboratory report to Jesse E. Curry, Chief of Police, Dallas, Texas. This report contains results of the examinations of items removed from the vehicle at the time of search.
- (7) A Hoover to Rankin letter dated March 24, 1964, setting out information concerning the search of the vehicle.

Enclosures (14) (2 each of 7 items)

JWK:rlc (5) (CONTINUED - OVER)

EXHIBIT #

6

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FRANK C. ...  
 JOHN G. ...  
 ...

United States Senate

SELECT COMMITTEE TO  
 STUDY GOVERNMENTAL OPERATIONS WITH  
 RESPECT TO INTELLIGENCE ACTIVITIES  
 (SUBCOMMITTEE ON INTELLIGENCE AND SECURITY)  
 WASHINGTON, D.C. 20510

November 26, 1975

9713722

Michael E. Shaheen, Jr., Esq.  
 Special Counsel for Intelligence Coordination  
 Office of the Deputy Attorney General  
 U.S. Department of Justice  
 Washington, D.C. 20530

*Handwritten:* 44632  
 44637  
 4061

Dear Mike:

The Select Committee requests access to the following materials on or before Wednesday, December 3, 1975:

1. All materials pertaining to FBI contacts and/or interviews of Alonzo F. Hudkins, III, during the period November 23, 1963, through February 28, 1964, including but not limited to reports of interviews conducted on or about January 3, 1964, and February 8, 1964.
2. The identity of all Headquarters personnel (in addition to Messrs. Belmont and Sullivan) who supervised the FBI's investigation of the assassination of President John F. Kennedy.
3. The identity of all personnel who supervised the case captioned "Lee Harvey Oswald - Internal Security; Russia" prior to November 22, 1963.
4. All reports, memoranda or other materials pertaining to the pre-November 24, 1963 FBI contacts with Jack Ruby mentioned by Director Hoover in his June 9, 1964 letter to J. Lee Rankin.
5. All materials pertaining to FBI interviews and/or contacts with Seymour Weitzman at any time between November 22, 1963, and September 24, 1964.
6. All memoranda, reports, and briefing papers prepared in preparation for or in connection with Director Hoover's November 26, 1966, statements concerning the President's autopsy reports, including copies of each autopsy report and supporting documentation.

*Handwritten:* 26  
 26  
 26

*Handwritten:* 62-109060

*Handwritten:* 1-ABH  
 11-26-75

*Handwritten:* received for  
 call Nathan  
 12/11/75

EXHIBIT # 7

163

Recorded  
8-7-64 emj

FEDERAL BUREAU OF INVESTIGATION  
UNITED STATES DEPARTMENT OF JUSTICE

Laboratory Work Sheet

LAB FILE

Re: LEE HARVEY OSWALD, aka  
IS - R - CUBA

File # 105-82555-4668X  
Lab. # D-455927 HO

PC-81827 BX CF

Examination requested by: President's Commission (7-7-64)

Examination requested: ~~Photographic-Microscopic~~  
Firearms

Date received: 8-6-64

Result of Examination:

Examination by: Shaneyfelt  
*W. C. Shaneyfelt*

Specimens submitted for examination

86  
7609 Request for location and examination of mark on curbing at assassination site Piece of curbing.

Small foreign metal smears (see attached for location) were microspectrographically examined and found to be essentially lead with a trace of antimony - could be bullet metal. No copper.

EXHIBIT # 8

2-FBI, Dallas (100-10461)

100-351938-41

164

815

XP.

DATE OPER

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RAD. POS.

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DETECT. VOLTS

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EXHIBIT #

9

165

HAROLD WEISBERG,

Plaintiff

Civil Action No. '75-226

v.

UNITED STATES DEPARTMENT OF JUSTICE, 'et al.,

Defendants

AFFIDAVIT

I, John W. Kilty, being duly sworn, depose as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) assigned to the Laboratory Division of the FBI, Washington, D. C., in a supervisory capacity. This affidavit supplements my previous affidavit of May 13, 1975.

2. I have personal knowledge concerning the contents of Paragraphs 26-29, inclusive, of plaintiff's affidavit dated June 2, 1975, wherein plaintiff alleges numerous documents falling within his Freedom of Information Act (FOIA) request have not been furnished him.

3. Concerning plaintiff's allegation that he has not been given the "spectrographic testing" of "small foreign metal smears on a piece of curbing": the Laboratory work sheet which was previously furnished plaintiff and from which he quotes is the notes and results of this test. A thorough search has uncovered no other material concerning the spectrographic testing of the metal smear on the curbing.

4. Concerning plaintiff's allegation that he has not been given the "microscopic study" referred to at the bottom of page two of an August 12, 1964, letter from J. Edgar Hoover to J. Lee Rankin, which letter has also been furnished plaintiff: a thorough search has uncovered no additional documents concerning a study of this type.

EXHIBIT # 10

GOVERNMENT EXHIBIT 3

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5. Concerning plaintiff's allegation that he has not been furnished "a Laboratory report apparently dated December 5, 1963": inasmuch as plaintiff has indicated he did not wish to receive our reports which are already available to the public, but rather the data compiled as input to these reports, this report was not furnished to him. This material is available to the public as Commission Document No. 205, pages 153-154.

6. Concerning plaintiff's allegation that, although the date of all the neutron activation analysis (NAA) documents furnished him is May 15, 1964, there is an indication that this technique was already being utilized as early as January 10, 1964: the earlier NAA, the quote from Mr. Rankin in Paragraph 27 of plaintiff's affidavit to the contrary notwithstanding, was conducted upon paraffin casts taken of Lee Harvey Oswald's hands and cheek. Plaintiff requested NAA material concerning metal fragments only. No neutron activation analysis of the metal fragments was made prior to May 15, 1964.

7. Concerning plaintiff's allegation that there may have been NAA testing subsequent to May 15, 1964: to prevent any further misunderstanding concerning NAA technique, it should be noted that the date written on the NAA documents furnished plaintiff refers to the date irradiation of the metal fragments was conducted. The compilation of other data appearing on these documents would have of necessity occurred after the date of irradiation.

8. Concerning plaintiff's allegation that, although NAA testing was conducted on the clothing of President Kennedy and Governor Connally, he has not been furnished the results of this testing: further examination reveals emission spectroscopy only

was used to determine the elemental composition of the borders and edges of holes in clothing and metallic smears present on a windshield and a curbstone. NAA was used in examination of certain metal fragments, and plaintiff has already been furnished material relating to these examinations. NAA was not used in examining the clothing, windshield, or curbing.

9. FBI files, to the best of my knowledge, do not include any other information requested by plaintiff in addition to that previously furnished him.

John W. Kilty  
 John W. Kilty  
 Special Agent  
 Federal Bureau of Investigation  
 Washington, D. C.

Subscribed and Sworn to before me this 23<sup>rd</sup> day of

June, 1975.

Jan Lee Beland  
 Notary Public

My commission expires 4-30-78.

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[The text in this section is extremely faint and illegible, appearing as a series of light grey lines on a dark background.]

180

Handwritten text, possibly a title or header, located at the top of the page. The text is faint and difficult to decipher.

Main body of handwritten text, organized into several lines. The text is dense and appears to be a list or a series of entries. The handwriting is cursive and somewhat difficult to read.

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. Cochran

DATE: June 16, 1975

FROM : M. J. Stack, Jr. *MJS*

1-Mr. Cochran  
1-Mr. Stack  
1-Mr. Kilty

SUBJECT: FREEDOM OF INFORMATION (FOIA)  
REQUEST OF HAROLD WEISBERG

- Assoc. Dir. \_\_\_\_\_
- Dep. AD Adm. \_\_\_\_\_
- Dep. AD Inv. \_\_\_\_\_
- Asst. Dir.:
- Admin. \_\_\_\_\_
- Comp. Syst. \_\_\_\_\_
- Ext. Affairs \_\_\_\_\_
- Files & Com. \_\_\_\_\_
- Gen. Inv. \_\_\_\_\_
- Ident. \_\_\_\_\_
- Inspection \_\_\_\_\_
- Intell. \_\_\_\_\_
- Laboratory \_\_\_\_\_
- Legal Coun. \_\_\_\_\_
- Plan. & Eval. \_\_\_\_\_
- Spec. Inv. \_\_\_\_\_
- Training \_\_\_\_\_
- Telephone Rm. \_\_\_\_\_
- Director Sec'y \_\_\_\_\_

*Stack's*  
*MJS*  
*Stack's*  
*Stack's*

By letter dated March 31, 1975, to James B. Lesar, Esq., attorney for Weisberg, the Bureau released five pages of documents in the John F. Kennedy assassination investigation. These five pages related to the examination of a curbstone and are enclosed with this memorandum.

As can be noted on the first page of the Laboratory worksheet, lead smears from the curbstone were examined spectrographically. In a Memorandum of Points and Authorities filed in U. S. District Court for the District of Columbia, Weisberg has asked for "this spectrographic testing." An exhaustive search of pertinent files, and storage locations has not turned up the spectrographic plates nor the notes made therefrom. Therefore, by affidavit, Kilty can say that the FBI Laboratory has turned over to Weisberg all the material it has concerning the spectrographic examination of the lead smears from the curbstone.

*block diagram & symbols and relative concentrations.*

ACTION: None. For information only.

*JWK* JWK:JG  
(6)

*EX-117*

REC-30 100-351938-41

- 1 - Mr. Breson, 5448 JEH (with enclosures)
- 1 - Mr. Blake, 4706 (with enclosures)

*Jm* JUN 24 1975

Enclosures

*312*  
*B* *JCF*

*W.F.K.*  
*FOIA*

ENCLOSURE

JUL 19 1975 - 435

EXHIBIT # 15

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10-28-76

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

Civil Action No. 75-0226

v.

UNITED STATES DEPARTMENT  
OF JUSTICE, et al.,

Defendants

DEFENDANT UNITED STATES DEPARTMENT OF JUSTICE'S  
ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

John W. Kilty, Special Agent, Federal Bureau of Investigation (hereinafter FBI), being duly sworn, pursuant to Rule 33 of the Federal Rules of Civil Procedure, hereby answers the following Interrogatories. These answers are based on information available to a party within the meaning of Rule 33.

Interrogatory No. 1: What are the kinds of tests or examinations, physical, chemical, microscopic or otherwise, which would normally be conducted to determine: (a) whether or not bullets or bullet fragments have a common origin, or (b) which bullets or bullet fragments struck which persons or objects?

Answer No. 1: (a) Elemental analysis is used to determine the composition of bullets and bullet fragments. If, say, bullet A has the same composition as bullet B, our report would say that bullet A came from the same source (origin) of lead as bullet B or another source of lead with the same composition as bullet B. This does not associate bullet A with bullet B to the exclusion of all other bullets. If bullet A is different in composition from bullet B, we point out this fact and say that bullet B

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could not have come from the same source (origin) of lead as bullet A; however, we point out that bullets of more than one composition are often represented in a single box of ammunition. Our Laboratory and other laboratories have demonstrated that several different compositions of lead are often represented in a single box of cartridges. The two methods of elemental analysis which were used in the Kennedy Assassination case were emission spectroscopy and neutron activation analysis (NAA).

(b) There are no tests available which will specifically associate a bullet or bullet fragment to the exclusion of other bullets or bullet fragments with a particular hole in a person or object. There are tests available which will determine if a hole in a person or object, or a dent in an object, could have been caused by being struck by a bullet. In this case, emission spectroscopy was used to determine the composition at the edges of holes in certain garments and to compare this composition with cloth used as control taken from areas distant from these holes, and also to determine the composition of metal scrapings from an automobile windshield and curbstone.

Interrogatory No. 2: Are there any additional tests which could have been used in the investigation into the assassination of President Kennedy to help make these determinations? If so, what are they?

Answer No. 2: Making the assumption that positive answers to interrogatories 1(a) and 1(b) are possible, there are no additional tests which could have been used to help make these determinations in the Kennedy Assassination case.

Interrogatory No. 3: Which of the tests listed in response to the above interrogatories were performed on the evidence pertaining to the assassination of President Kennedy?

Answer No. 3: Emission spectroscopy and/or NAA were performed on items pertaining to interrogatory 1(a) and emission spectroscopy was performed on articles of clothing or other objects relative to interrogatory 1(b).

Interrogatory No. 4: Were the tests conducted on the items of evidence pertaining to the assassination of President Kennedy as complete as they could have been?

Answer No. 4: Yes.

Interrogatory No. 5: List all items of evidence having to do with the shooting of President Kennedy or any weapon used or allegedly used in the shooting, including any and all bullets or bullet fragments and any objects struck or allegedly struck by bullet or bullet fragments. Give the following information with respect to those items of evidence:

(a) the type of tests performed on each such item of evidence;

(b) the date or dates on which each such item of evidence was tested and the name of the laboratory in which the testing was done;

(c) the name of the person or persons conducting each such test and the names of any other persons present during the testing;

(d) the capacity, official or otherwise, in which the persons listed in response to interrogatory 5(c) were present at such testing; and

(e) the current address and employment of each person named in response to interrogatory 5(c).

Answer No. 5:

<u>SPECIMEN #</u>	<u>IDENTIFICATION</u>
Q1	Bullet from stretcher
Q2	Bullet fragment from front seat cushion
Q3	Bullet fragment from beside front seat on right side

SPECIMEN #

IDENTIFICATION

Q4	Metal fragment from the President's head
Q5	Metal fragment from the President's head
Q6	6.5 mm Mannlicher - Carcano cartridge case from building
Q7	6.5 mm Mannlicher - Carcano cartridge case from building
Q8	6.5 mm Mannlicher - Carcano cartridge from rifle
Q9	Metal fragment from arm of Governor John Connally
Q14	Three metal fragments recovered from rear floor board carpet
Q15	Scraping from inside surface of windshield
Q21	Trousers worn by President Kennedy
Q22	Coat worn by President Kennedy
Q24	Necktie worn by President Kennedy
Q25	Shirt worn by President Kennedy
Q48	6.5 mm Mannlicher - Carcano cartridge case from Depository
Q558	Windshield from President's limousine
Q566	Coat worn by Governor Connally
Q567	Trousers worn by Governor Connally
Q568	Shirt worn by Governor Connally
Q569	Necktie worn by Governor Connally
Q609	Piece of Curbing
K1	6.5 mm Mannlicher - Carcano rifle with telescope sight, serial No. C2766

(a) Firearms Identification Examinations

Q1, Q2, Q3, Q4 and Q5, Q6, Q7, Q8, Q9, Q14, Q48, K1

Elemental Analysis Examinations

Q1, Q2, Q3, Q4 and Q5, Q9, Q14, Q15, Q22, Q24, Q25, Q556, Q567, Q568, Q609

Microscopic Analysis (Fibers)

K1

Glass Fracture Examination

Q558

Microscopic Examination

Q609

No records were identified which concern examinations, if any, performed on Q21 and Q569.

- (b) With few exceptions the date(s) on which each item of evidence was examined is not recorded. However in order to be as responsive as possible, the date of receipt of the evidence and the date of the communication containing results are listed below; the date upon which the item was examined would of necessity fall between the former and latter date.

Specimens received in the FBI Laboratory on November 22, and/or 23, 1963, and examined therein:

Q1, Q2, Q3, Q4 and Q5, Q6, Q7, Q8, Q9, Q14, Q15, K1  
Results of examinations on these specimens are included in a November 23, 1963, Laboratory Report.

Specimens received in the FBI Laboratory on November 23, 1963, and examined therein:

Q22, Q24, Q25

Results of examinations on these items are included in a December 5, 1963, Laboratory Report.

Specimens received in the FBI Laboratory on November 27, 1963, and examined therein:

Q48, K1

Results of examinations on these items are included in a November 29, 1963, Laboratory Report.

Specimens received in the FBI Laboratory on March 20, 1964, and examined therein:

Q558

Results of examinations on this item are included in a March 26, 1964, Laboratory Report.

Specimens received in the FBI Laboratory on April 9, 1964, and examined therein:

Q556, Q567, Q568

Results of examinations on these items were reported to the President's Commission by letter dated April 16, 1964.

Specimens received in the FBI Laboratory on August 6, 1964, and examined therein:

Q609

Results of examinations on this item were reported to the President's Commission by letter dated August 12, 1964.

Specimens Q1, Q2, Q4 and Q5, Q9, and Q14 were examined by neutron activation analysis at the Oak Ridge National Laboratory. Records indicate that these items were irradiated May 15, 1964, and counted on May 15, 1964, and May 26, 1964. The results of these examinations were reported to the President's Commission by letter dated July 8, 1964.

(c) Firearms Identification Examinations

Special Agents Robert A. Frazier, Courtlandt Cunningham, and Charles L. Killion

Elemental Analysis Examinations

Special Agents John F. Gallagher, Henry B. Heiberger, and William R. Heilman. J. F. Emery and Frank F. Dyer

Microscopic Analysis (Fibers)

Special Agent Paul M. Stombaugh

(d) All individuals listed in 5(c) were acting in their official capacity.

(e) Courtlandt Cunningham, FBI Headquarters, Washington, D. C.

Paul M. Stombaugh, FBI Headquarters, Washington, D. C.

Robert A. Frazier, Retired

Charles L. Killion, Retired

John F. Gallagher, Retired  
Henry B. Heiberger, Retired  
William R. Heilman, Retired

Our records do not indicate the current address and employment of retired employees. Our records do not indicate the current address and employment of J. F. Emery and Frank F. Dyer. However, in 1963 and 1964 they were chemists for Union Carbide Corporation, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

Interrogatory No. 6: List all correspondence with respect to such tests which was exchanged between the FBI and the Warren Commission, including the Commission's Chairman, Earl Warren, its General Counsel, J. Lee Rankin, or any member of the Commission's staff.

Answer No. 6: Our records indicate that the examinations listed in interrogatory 5 were referred to in letters from J. Lee Rankin, General Counsel, the President's Commission, to J. Edgar Hoover, Director, FBI, bearing the following dates:

January 7, 1964  
February 4, 1964  
February 12, 1964  
March 6, 1964  
March 18, 1964  
March 18, 1964  
April 9, 1964  
May 12, 1964  
July 7, 1964

Our records indicate that the examinations listed in interrogatory 5 were referred to in letters to J. Lee Rankin, General Counsel, the President's Commission, from J. Edgar Hoover, Director, FBI, bearing the following dates:

January 10, 1964  
February 7, 1964

February 18, 1964

March 11, 1964

March 23, 1964

March 24, 1964

April 16, 1964

June 2, 1964

July 8, 1964

August 12, 1964

August 19, 1964

Our records indicate that the examinations listed in interrogatory 5 were referred to in FBI Reports of Special Agent Robert P. Gemberling, Dallas, bearing the following dates:

November 30, 1963

December 12, 1963

April 15, 1964

May 28, 1964

July 2, 1964

Interrogatory No. 7: List all correspondence with respect to such tests which was exchanged between the FBI and the AEC.

Answer No. 7: No correspondence between the Atomic Energy Commission (AEC) and the FBI was located in FBI records.

Interrogatory No. 8: What are all the chemical components of the bullet (CE399) allegedly used in the murder of President Kennedy?

Answer No. 8: CE 399 (Q1) was examined for its elemental composition. An examination of records shows that the lead portion contained bismuth, copper, magnesium, silicon, iron, silver and antimony. The jacket portion contained tin, lead, copper, zinc, silicon, iron and silver.

Interrogatory No. 9: Were all of these chemical components tested in each of the tests made? If not, why not?

Answer No. 9: I am not able to answer this question inasmuch as I do not understand plaintiff's question. See my answer to interrogatory 8 for a listing of the elements in CE 399 (Q1).

Interrogatory No. 10: What are the normal standards and procedures for conducting neutron activation analysis?

Answer No. 10: NAA is a method of chemical analysis based on the detection and measurement of characteristic radionuclides produced in a nuclear reactor. The procedures for conducting such an analysis are many and varied depending on the material to be examined and the chemical elements under investigation. Three texts which are publically available and may be of assistance to plaintiff are Principles of Activation Analysis by Paul Kruger, Applied Gamma Ray Spectrometry by Adams and Dams and Neutron Activation Analysis by De Soete, Gijbels and Hoste. "Normal standards" as this term is used in interrogatory 10 and applied to NAA in general is not understood by me.

Interrogatory No. 11: Were the normal standards and procedures followed with respect to the testing and analysis of items of evidence pertaining to the assassination of President Kennedy?

Answer No. 11: It is assumed that this interrogatory refers to NAA. The procedures used to examine the items of evidence by NAA were ones that would have been employed by other practitioners given the same kinds of materials with which to work.

Interrogatory No. 12: Under normal circumstances, who decides what is tested?

Answer No. 12: Assuming that evidence is submitted to the FBI Laboratory, the contributor usually requests that certain items be examined to show relationships to one another and to somehow associate items with a

crime. Based on their experience and expertise, examiners in the FBI Laboratory will usually determine the kinds of examinations to perform on items of evidence.

Interrogatory No. 13: With respect to the assassination of President Kennedy, who decided what was tested?

Answer No. 13: Our records do not reveal "who decided what was tested" in the Kennedy assassination case.

Interrogatory No. 14: In subjecting evidentiary specimens to neutron activation testing, is it normal to make a full and complete tabulation of the results? In this case, was any such tabulation made? If so, was it complete?

Answer No. 14: It is "normal" to make a "tabulation" of the results when subjecting specimens to NAA. By "results" I mean the numerical quantitative amount of a chemical element measured in the material examined. The use of the "full and complete" characterization of the "tabulation" is not understood by me. A "tabulation" was made of the results obtained in the NAA of metal fragments in this case. This was given to plaintiff and to the best of my knowledge is complete.

Interrogatory No. 15: In making a neutron activation analysis, is it normal to reach stated conclusions as to whether the various evidentiary specimens are identical or different in chemical composition?

Answer No. 15: The conclusion one makes regarding whether or not specimens are "identical or different in chemical composition" is based on the data available from whatever technique or techniques were employed in the examination. In some cases, due to the limited size of the material and/or its state of contamination and/or the character of its composition, it is not possible to reach an "identical or different" conclusion. Additionally, the terms used to

describe the conclusion reached are the choice of the person making the conclusion and may not necessarily be stated as "identical" or "different." See my answer to interrogatory 1(a) for a further discussion regarding the conclusions reached concerning elemental analysis of bullet fragments.

Interrogatory No. 16: Were any such stated conclusions made with respect to the items of evidence tested by spectrographic or neutron activation analysis in this case?

Answer No. 16: Consistent with my answer to interrogatory 15 the answer is yes.

Interrogatory No. 17: Were full and complete results of the spectrographic and neutron activation tests given to the Warren Commission? Did the Warren Commission ask for them?

Answer No. 17: In Interrogatory 14 I defined "results" as the numerical quantitative amount of a chemical element measured in the material examined. This definition applied to NAA examinations. An extension of this definition for spectrographic "results" would be the relative concentration of a chemical element in the material examined. Using these definitions, the "results of the spectrographic and neutron activation tests" were not given to the Warren Commission. Based on my review of the records, I am unable to determine if the Warren Commission asked for them.

Interrogatory No. 18: Were full and complete stated conclusions as to what the tests showed given to the Warren Commission? Did the Warren Commission ask for them?

Answer No. 18: If by "full and complete stated conclusions as to what the tests showed" the plaintiff means our expert opinion as to what the results of the spectrographic examinations and NAA indicated, the answer is yes. Based on my review of the records, I am unable to determine if the Warren Commission asked for them.

Interrogatory No. 19: Was the neutron activation testing done on any items of evidence in the Kennedy assassination other than the paraffin casts and the five Commission Exhibits--CE 399 (Q1), CE 567 (Q2), CE 843 (Q4, Q5), CE 842 (Q9), and CE (Q14)--mentioned in the April 10, 1975, letter from FBI Director Clarence Kelley to Mr. James H. Lesar?

Answer No. 19: No.

Interrogatory No. 20: If the answer to interrogatory number 12 is affirmative, what are the other items of evidence which were subjected to neutron activation testing?

Answer No. 20: Assuming plaintiff means to refer to "interrogatory 19," no answer is necessary.

Interrogatory No. 21: If the answer to interrogatory number 12 (sic) is negative, why were the following items of evidence not subjected to neutron activation testing:

- (a) CE 141, the live round found in the Mannlicher-Carcano rifle which allegedly belonged to Lee Harvey Oswald and fired the shots which killed President Kennedy?
- (b) the clothing of President Kennedy and Governor Connally struck by or alleged to have been struck by bullets?
- (c) the curbstone on the south side of S. Main Street east of the Triple Underpass which was struck by bullet?
- (d) the bullet fragment which is FBI Laboratory Number Q3?

Answer No. 21:

- (a) Our records do not indicate why CE 141 (Q8) was not examined by NAA.
- (b) Based on my experience and expertise, the reason the clothing of President Kennedy and Governor Connally was not examined by NAA in the areas where a bullet allegedly passed is because NAA is not the method of choice for the determination

of bullet holes. In 1963, emission spectroscopy was the method of choice for elemental analysis of the borders of holes in garments.

(c) Based on my experience and expertise and an examination of the notes made regarding the spectrographic analysis of the lead smear on the curbstone, it is clear that the minimal amount of lead smear present on the curbstone was not adequate to conduct an examination by NAA.

(d) Records indicate that Q3 is a section of bullet jacket devoid of its lead core. Bullet jacket material made of copper, zinc and/or iron is generally unsuitable for examination by NAA unless chemical separations are conducted. The chemical separations would necessarily destroy markings on the item of evidence. Emission spectrographic analysis was the method of choice for analysis of bullet jacket material in 1963.

Interrogatory No. 22: Under normal procedures would the results of the spectrographic or neutron activation analyses be recorded and verified by someone other than the person conducting the tests? Was such a procedure followed with respect to the items of evidence tested by these techniques in connection with the investigation into President Kennedy's assassination?

Answer No. 22: An examiner often consults with another examiner concerning his findings in a specific case, but in all likelihood there would be no reason to commit this consultation to record. An examination of records does not indicate that more than one person recorded or verified the results of the individual spectrographic or NAA examinations.

Interrogatory No. 23: Was a full and complete comparison made between the chemical composition of CE 399, the bullet which allegedly wounded both President Kennedy and Governor Connally and (a) the composition of the metallic traces on President Kennedy's clothing, (b) the composition of the metallic traces on Governor Connally's clothing, and (c) the composition of all fragments removed from Governor Connally's body?

Answer No. 23:

(a) No. Referring to my answer to interrogatory 1(b), a "full and complete comparison" between the composition of a bullet and the minute traces of metal left at the edges of a hole will not permit the conclusion that the hole was made by a specific bullet.

(b) There were no metallic traces on Governor Connally's clothing.

(c) Our records indicate that only one fragment of lead was removed from Governor Connally's body. The answer to this portion of the interrogatory is yes.

Interrogatory No. 24: Was a full and complete comparison made between the chemical composition of the bullet fragments recovered from President Kennedy's head and (a) the composition of the sweepings from the windshield, and (b) all five fragments found in the car during two different searches?

Answer No. 24:

(a) Yes, to the extent that the specimens were of adequate size and condition for compositional analysis.

(b) Our records indicate that the metal fragments recovered from President Kennedy's head were lead and that the five fragments found in the car consisted of a portion of a jacketed bullet (core and jacket), a bullet jacket and three lead fragments. It is apparent from these records that a compositional comparison was made where appropriate.

Interrogatory No. 25: Was a full and complete comparison made between the chemical composition of CE 399, the bullet which allegedly wounded both President Kennedy and Governor Connally and (a) the composition of CF 141, the bullet found in the Mannlicher-Carcano rifle, and (b) all other bullet fragments?

Answer No. 25:

(a) No.

(b) No. Although comparisons were made, CE 399 (Q1) was not compared with all other bullet fragments.

John W Kilty  
JOHN W. KILTY  
Special Agent  
Federal Bureau of Investigation  
Washington, D. C.

Subscribed and Sworn to before me this 20th day  
of October, 1976.

Ann Lee Balase  
Notary Public

My commission expires 4-30-78.

Date 11/30/63

14. GARY RAY, Dallas Police Officer, stated he found the brown paper bag on the south floor of the Texas School Book Depository Building. He stated the principal, Fr. TRUAX, saw this bag at the time it was taken into possession by Lt. RAY. TRUAX, according to RAY, had not seen this bag before. No one else viewed it. TRUAX furnished six like brown paper from the roll that was used in packing books by the Texas School Book Depository. This paper was examined by the FBI Laboratory and found to have the same observable characteristics as the brown paper bag shaped like a gun case which was found near the scene of the shooting on the sixth floor of the Texas School Book Depository Building. The Dallas police have not exhibited this to anyone else. It was immediately locked up by RAY, kept in his possession until it was turned over to FBI Agent DRAIN for transmittal to the Laboratory. It was examined by the Laboratory, returned to the Dallas Police Department November 24, 1963, locked up in the Crime Laboratory. This bag was returned to Agent DRAIN on November 26, 1963, and taken back to the FBI Laboratory.

Lt. RAY stated no one has identified this bag to the Dallas Police Department.

FILED

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CLERK, U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA

EXHIBIT # 17

198

on 11/29/63 at Dallas, Texas File # DL 89-43

by Special Agent VINCE P. R. DRAIN/160- Date dictated 11/29/63

Date 11/30/63

NOV 30 1963

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Lt. CARL DAY, Dallas Police Department, stated he found the brown paper bag shaped like a gun case near the scene of the shooting on the sixth floor of the Texas School Book Depository Building. He stated the manager, Mr. TRULY, saw this bag at the time it was taken into possession by Lt. DAY. TRULY, according to DAY, had not seen this bag before. No one else viewed it. TRULY furnished similar brown paper from the roll that was used in packing books by the Texas School Book Depository. This paper was examined by the FBI Laboratory and found not to be identical with the paper gun case found at the scene of the shooting. The Dallas police have not exhibited this to anyone else. It was immediately locked up by DAY, kept in his possession until it was turned over to FBI Agent DRAIN for transmittal to the Laboratory. It was examined by the Laboratory, returned to the Dallas Police Department November 24, 1963, locked up in the Crime Laboratory. This bag was returned to Agent DRAIN on November 26, 1963, and taken back to the FBI Laboratory.

Lt. DAY stated no one has identified this bag to the Dallas Police Department.

EXHIBIT # 18

Continuation No. 5

on 11/29/63 at Dallas, Texas File # Dallas 89-43  
 by Special Agent VINCENT E. DRAIN Date dictated 11/29/63

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REPORT  
of the

EXHIBIT #19



FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D. C.

December 5, 1963

To: Honorable James J. Rowley  
Chief  
United States Secret Service  
Department of the Treasury  
Washington, D. C. 20220

BY LIAISON

Attention: Mr. Robert I. Bouck  
Special Agent in Charge  
Protective Research  
Section

Re: ASSASSINATION OF PRESIDENT  
JOHN F. KENNEDY

*12/6/63*  
*delivered*  
*costly*  
*J. Edgar Hoover*

John Edgar Hoover, Director

YOUR NO. 62-109060  
FBI FILE NO. PC-78282 BX HB  
LAB. NO.

Addressee

Examination requested by:

Letter 11/23/63

Reference:

Firearms - Spectrographic

Examination requested:

Evidence personally delivered by Special Agent Orrin Bartlett

Specimens: on 11/23/63

DEC 10 11 30 AM '63

- Q19 Pair of black moccasin shoes
- Q20 Pair of black socks
- Q21 - Q22 Trousers and coat
- Q23 Belt
- Q24 Necktie
- Q25 Shirt
- Q26 Handkerchief
- Q27 Comb
- Q28 Bandages and belt
- Q29 White shorts

DEC 11 5 20 PM '63  
FBI  
SEARCHED  
SERIALIZED  
INDEXED  
FILED  
DEC 13 1963

Results of examination:

Examination of the President's clothing revealed the presence of a small hole in the back of the coat and shirt. The hole in the back of the coat is positioned approximately 5 3/8" below the top of the collar and 1 3/4" to the right of the middle seam. The hole in the shirt back

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- 2 - FBI, Dallas
- 1 - Mr. Belmont
- 1 - Mr. Rosen
- 1 - Mr. Sullivan (Attention: Mr. Bartlett)
- 1 - Mr. Handley

RAF:sh  
(10)

(continued on next page)

Page 1

MAIL ROOM  TELETYPE UNIT

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