

Ten years later:

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A Legacy of Suspicion

by Bernard Fensterwald Jr.

*Are we any closer to answering the fundamental question:
Who killed John Kennedy?*

Consider this: each of the last three Presidential elections in the United States has been decided by bullets, not ballots. I believe the truth about who fired most of the bullets has never been told to the American people.

According to various opinion polls, a majority of the American people has never believed that Lee Harvey Oswald was a lone, psychopathic killer. And, although less clear, there have been lingering doubts that Sirhan Sirhan was untutored and unpaid for his role in the death of Robert Kennedy, or that Arthur Bremer was a loner in his attempt on the life of Governor Wallace, or that James Earl Ray was a lone killer, not a conspirator, in the fatal attack on Dr. Martin Luther King.

In order to lay aside whatever doubts remain, the federal government will have to release certain evidence it has kept from public view. It is possible that that may happen. Until recently, the researchers and critics of the Warren Report confined their activities to writing books and articles. Now they are going to court.

Two crucial "freedom of information" cases are, in fact, being heard by the U.S. Court of Appeals for the D.C. circuit, one bearing on evidence in the murder of President Kennedy, the other on evidence in the murder of his brother. The cases are being considered at the same time in a most unusual judicial proceeding—*en banc*, that is, all nine judges sitting together, rather than the normal three-judge hearing.

Doubtless the cases will go to the Supreme Court, but their significance is clear. Though the public is generally unaware of these latest developments, the books are not closed on the assassinations, or the attempts, of the past ten years. The truth is finally coming out.

The evidence being sought in the assassination of President Kennedy is the spectrographic analyses of the bullets and bullet fragments fired in Dallas on the fateful day. The man bringing the suit is Harold Weisberg, author of the *Whitewash* series. The spectrographic analyses that Weisberg wants to see were never given to the Warren Commission by the F.B.I. and would show whether all of the bullets and bullet fragments came from a single weapon. Although they could not prove conclusively that there was or was not more than one rifleman in Dealey Plaza, they would be powerful evidence in any court of law. Yet the analyses were never shown to Chief Justice Warren, and, predictably, they were withheld from Harold Weisberg as well.

So, in 1970, Mr. Weisberg went to court. In the U.S. District Court, Mr. Weisberg was given no relief by the Chief Judge, John Sirica, of Watergate fame. After lengthy deliberation, however, the Court of Ap-

peals reversed Judge Sirica. It was this reversal which, at the government's insistence, initiated the rehearing *en banc*.

The other of the two cases is being brought by the Committee to Investigate Assassinations—a group of persistent researchers of which I am the director. Our suit asks for access to the 4000-page F.B.I. report on the murder of Robert Kennedy.

Although the Los Angeles murder was a California crime, not a federal crime, the F.B.I. got into the case immediately and turned over its file to the Los Angeles District Attorney. It was subsequently given to Sirhan and his defense staff, who permitted two writers to see it. The results were two highly successful books, Robert Kaiser's *R.F.K. Must Die* and Robert Houghton's *Special Unit Senator*, but no one else has seen the file. Since the basic tenet of the Freedom of Information Act is that "what is available to one citizen must be made available to all," the Committee to Investigate Assassinations sued the Department of Justice for access to the file.

Those of us interested in probing the J.F.K. murder more deeply than the Warren Commission have been encouraged by a number of recent events. One of these is part of an interview with Lyndon B. Johnson, shortly before his death, by Leo Janos (*Atlantic Monthly*, July, 1973):

"During coffee, the talk turned to President Kennedy, and Johnson expressed his belief that the assassination in Dallas had been part of a conspiracy. 'I never believed that Oswald acted alone, although I can accept that he pulled the trigger.' Johnson said that when he had taken office he found that 'we had been operating a damned Murder Inc. in the Caribbean.' A year or so before Kennedy's death a C.I.A.-backed assassination team had been picked up in Havana. Johnson speculated that Dallas had been a retaliation for this thwarted attempt, although he couldn't prove it. 'After the Warren Commission reported in, I asked Ramsey Clark [then Attorney General] to quietly look into the whole thing. Only two weeks later he reported back that he couldn't find anything new.' Disgust tinged Johnson's voice as the conversation came to an end. 'I thought I had appointed Tom Clark's son—I was wrong.'"

We now know that the Kennedy Administration did consider a number of attempts on Castro's life, not just the one recalled by President Johnson. Another is outlined by Watergater E. Howard Hunt Jr. in his recent book about the Bay of Pigs.

Paralleling this development has been the quiet declassification of a few documents in the National Archives dealing with Oswald's trip to Mexico shortly before the Dallas murder. Close examination of these newly released documents (Continued on page 143)

(Continued from page 141) makes it clear that there were at least two Lee Harvey Oswalds in Mexico at that time—presumably one was “our” Lee Harvey Oswald; the identity of the other is unknown. There are, however, three rather good photographs of the “other” Oswald, and it is hoped that his identity might someday be established. Whether or not he was involved in the murder is unknown; but a massive manhunt for him was conducted in Mexico by agents of the F.B.I. and C.I.A. for the six weeks immediately preceding the assassination; ostensibly, he was never located . . . or was he in Dallas?

This “second Oswald” theme is not new. J. Edgar Hoover warned that the F.B.I. had information that another person might be using the Lee Harvey Oswald identity while “ours” was in Russia (1959-1962), and a whole book, *The Second Oswald* by Professor Richard Popkin, deals primarily with a second (or even a third) person using the identity in Texas just prior to the murder.

Of more recent date is the examination of the photographs and X rays from J.F.K.’s autopsy by one of the country’s leading forensic pathologists, Dr. Cyril Wecht of Pittsburgh. Dr. Wecht is a physician and an attorney; he is research professor of law and director of the Institute of Forensic Sciences, Duquesne University School of Law, as well as coroner in Pittsburgh. He is the first critic of the Warren Commission to be given permission to see these crucial pieces of evidence which, like the ballistics evidence, were never shown to the Warren Commission itself. After spending two days in minute examination of the photographs and X rays which have been preserved (many have been “lost”), Dr. Wecht has reported in *Modern Medicine* last November:

“The assassination of President John F. Kennedy nine years ago last week simply did not happen the way the Warren Commission said it did. I state this because it is clear to me, from a strictly scientific point of view, based on my examination of available records, that the commission failed to make its case.

“Moreover, it is my judgment that more than one person was involved in the shooting of President Kennedy. And I also believe that it is still possible to unravel the mystery—at least the scientific aspects of it.

“The end of the thread is to be found in the assassination evidence in the National Archives, Washington, D.C.”

Turning from John Kennedy to Robert Kennedy, there are a number of new developments which raise fresh questions as to whether Sirhan was a lone killer. No doubt, Sirhan was in the hotel pantry firing madly with his .22. The question is: Was he the one who fatally wounded Senator Kennedy, or was someone else also firing a gun in the pantry that night? One might well ask, how can there be any doubt about the murder? There were thirty to forty witnesses who “saw Sirhan do it,” and, after all, Sirhan offered to plead guilty. How could there seriously be any question?

In the first place, eyewitnesses in such a situation are frequently confused, imprecise, and contradictory. There was, however, at least one point on which they seemed to agree: Sirhan, when he began firing, was in front of R.F.K. and a number of feet away. But consider these facts:

1) The coroner’s report shows that all three of the shots which hit R.F.K. were fired from *behind* him, from *below*, and at a *maximum range of six inches*. In fact, the powder burns show that the fatal shot, which entered his head behind the right ear, was fired only *one inch* from his skull. Sirhan was never in a

position to fire this shot; and when the coroner tried to testify at the trial, he was ordered by the judge to skip the “gory details.” But gory details are precisely the subject matter of a coroner’s testimony.

2) The officer who testified at the trial that he had performed ballistics tests on Sirhan’s gun gave the serial number of an entirely different gun. The whereabouts of the actual murder weapon is unknown.

3) Several key witnesses, including a part-time guard standing at R.F.K.’s elbow, were never called.

4) Last, and probably most important, Sirhan’s chief counsel at the time of the trial, Grant Cooper, has recently recanted in a long affidavit, which confesses that the information he has gained since the trial, if true, would justify further investigation.

In recent months, Sirhan has obtained a new attorney, Roger Hanson, who is attempting to get a new trial. Unfortunately, Sirhan’s legal situation (plea of not guilty, followed by a “trial,” not on his guilt but on his state of mind, and then a conviction) is very bleak. In all likelihood, if the full truth is to come out, it will not be as a result of a new trial but rather the diligence of private citizens who refuse to let his case remain buried. There are a number of investigators who are pursuing the case, year after year, in hopes of putting enough evidence together to force the State of California to re-try Sirhan in a proceeding in which more than his “state of mind” will be at issue.

The case of James Earl Ray, the alleged killer of Dr. Martin Luther King, is not dissimilar. One point of difference, however, is that Ray pleaded guilty and was sentenced to ninety-nine years in prison.

It is Ray’s contention that his guilty plea was involuntary. He claims that he was first held in solitary confinement for nine months, and then pressured by his own lawyer and the judge into pleading guilty. At the hearing, where he pled guilty, he tried, he claims, to get up and tell the truth, but he was quickly ordered to sit down by his lawyer and the judge.

Although Ray’s trial was a sham, he has never been able to get even an evidentiary hearing on the issue of whether his guilty plea was coerced. He has been through all of the Tennessee courts twice without success. More recently, he was turned down by the U.S. District Court in Nashville. His case is now before the Court of Appeals in Cincinnati, and eventually it will go to the Supreme Court. As of this writing, he is being held in maximum security in a cell by himself, in “segregation” as the official term has it. This treatment is not for disciplinary reasons but for “administrative” purposes; two excuses are given: if he were let out of solitary, he might be harmed by other prisoners or he might escape. So James Earl Ray moulders away in solitary. If he is kept there long enough, he won’t be of much help in his own defense, even if he is awarded a trial.

We now come to Arthur Bremer, the “loner” who has been convicted of shooting Governor Wallace.

There is the question, of course, of Bremer’s finances. He was a ne’er-do-well busboy and dishwasher. Yet, before the shooting, he flew around the country, stayed at the Waldorf-Astoria, and hired a chauffeur-driven limousine. It simply doesn’t fit.

And then there is Bremer’s diary. Like Sirhan, he never kept a diary until several months before he was involved in a political murder. And what about the ammunition Bremer used. (Continued on page 265)

in the Cuban missile crisis, for instance, is assessed by David Horowitz (negative) and Richard Neustadt (positive). The inference that the last word has not, nor ever will be, spoken is well demonstrated.

The Madgic book draws on excellent secondary sources and makes brilliant and frequent use of lively quotes in the running text.

It must be remembered that the composite view of Kennedy arising from these books is derived from the vantage point of people who remember the man. The real test of Kennedy's enduring position will begin thirty years from now when the perspective will be even sharper and the authors of the history textbooks will be the people who learned about him here.

Meanwhile, the re-calibrations and the adjustments will go on. And if the proposed renaming of Cape Kennedy is at all disquieting to the Kennedy faithful, they should know that the residents of Nixon Avenue in Brownstown Township, Michigan, served notice last June that they wished to change their street's name. And that was before Watergate really boiled over. ##

A LEGACY OF SUSPICION

(Continued from page 143) It was a very special kind—handmade by an expert; but there is no evidence that Bremer had the equipment or the skill to make the special bullets he used. Who supplied them? So far, no answer.

And what about Donald Segretti, the accused White House saboteur? One city in which he was most active was Bremer's hometown of Milwaukee. Was it just possible that he hired Bremer as either an infiltrator or an agent provocateur, and that subsequently the young man went wild and shot Governor Wallace on his own? After all, E. Howard Hunt Jr. claims that Presidential Assistant Charles Colson attempted to dispatch him to Milwaukee within one hour of the shooting in an effort to burgle Bremer's apartment. How did Colson know who the killer was and where he lived so quickly? What did he want Hunt to remove before the F.B.I. arrived?

These questions, and the hundreds of others raised by so many "assassination buffs" since 1963, remain to be answered. The resolution of the two cases now before the District Court in Washington, D.C., will virtually decide whether we shall have those answers, and whether those answers will come—as Earl Warren has doubted—in our lifetime. ##

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