

4
Gallager, John F., Deposition of 3/28/77

For future use it might be worthwhile to count the number of times he does not remember in that most everyday of occurrences, his part in the investigation of the assassination of a President. Gallagher's is one of the more perfected non-memories. However, because -- based on a reading of the first 70 pages -- he is so explicit in claiming not to recall I believe his explicitness when he says he does recall makes what he claims to recall more certain. Some of these will be useful in questioning ilty on compliance and on his searches.

16. Q>Your would make a report of your microscopic examination?

A. I would make a report in whether or not I deemed that to be a bullet hole.

36 A "...I conduct tests to see whether these metal fragments match in composition or do not. If they match, I report that. If they don't, I report that. I have to put it out as it comes out of the instruments as interpreted by me."

(I have included the "as interpreted by me" because this makes a report more important.)

41-5 On elements showing in spectro, NAA and existence or non-existence of tests. Absent some instruction not to perform a test he would have tested all. We have none along the line Aebersold recommended and no explanation of its absence.

46 Re JFK's clothing: "It has been 14 years since I ^{have seen} ~~see~~ those reports

54 Re JFK's clothing: "If the examination was made, there would be a report." (This had to do with the detecting of copper on the back of the shirt on spectro but none on the shirt collar or tie.)

56-64 Here he means something else by "pristine bullet." The fact is there was a spectro on the entire bullet found in the weapon, not an NAA. We have not been given the reports on his "homework" or his standard or a report on the comparisons in terms of the deviations, not that I can recall. I'd ask ilty about them.

63 On all the NAAs and his submitting a report, "I submitted it to the files." Ask ilty to select this one from what he gave us.

64 One difference between Oak Ridge and Gulf Atomic is that Gulf Atomic was making a specialty of criminalistics uses of NAAs. There is nothing to show Oak Ridge had.

67 He suggests the only reason for keeping NAAs secret was that they not get out before they "got some data." They have been kept secret, period. They are not in the report and we hardly have "results" or "reports".

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4 Beginning with curbstone. On 70 he says the results of the spectro could not be improved on by NAAs. He has already testified that a sample of .5mm x .5mm is adequate for NAA testing. This "smear" was 3/4" by 1" and spectro turned up only 2 elements of the 12 he said were present. How could this "not be improved on" with NAA?

71. On Q15 he had some results, no results. That material was not provided. He also says he made a report saying the sample wasn't adequate. We don't have that. But on 72 he says there was no report on Q-15. At the bottom of 73 and the top of 74 he says he made no report on what the NAAs showed. Who can believe it?

74 He says a spectroreport went out "within two weeks." This was prior to the completion of the tests, prior to the obtaining of the curbstone.

74 bottom. He says the probable reason for not testing the front-seat copper fragment is "I think copper has the same problem of hiding elements as does sodium." However he did NAA on the other front-seat fragment, of both jacket and core. There was no such "problem" with that. In failing to test the copper-only sample he avoided comparing the two for common origin. Moreover, you have a government-paid-for study by Quinn showing how definitive the jacket-testing by NAA is. This is to say that there should have been such a test and such reports. Or else?

Beginning at the bottom of 74 he plays indecent games with you on "copper," taking your common reference to the jacket material to refer to the pure element only. The if not in questioning Kilty then for later purposes lends itself to effective use, in part because it is evasive, in part because it is misleading and he is an expert and in part because it is, as utterly ~~in~~ indecent. You would never know that investigating the killing of a resident was a serious matter to him or the FBI from this. His last crack on 75 is a good illustration, "if I thought somebody would be interested in that."

- 81 "Every test we thought was possible was done -- not possible, but practical." Then why do we not have results on the comparisons he has just been asked about? If the work was for a Presidential Commission why was it given only partial conclusions? This also is in the context of the failure to compare Q2 and Q3 by NAA. This was "possible" as well as "probable" and in evidentiary terms essential.
- 83 Bottom. In talking about his cards he calls ticklers he refers to keeping them only long enough to "check the report and make sure the dates are right, and so forth." Do we have any such of his reports, whatever he means by a report?
- 84 He gives no answer on Rrazier's formal report of the entire examination. "I'd let Kilty have something to say on this and his searching for it, whatever he says, for the record and under oath again. Instead of retreating into defective memory again on 86 Gallagher seeks to argue that what Rrazier was testifying to long after 11/23/63 is what he wrote on that date as the "entire" and the "formal" report. Nobody will believe it but it is what Rrazier and Kilty told us in the first conference after we filed the request.
- 87 "A copy of the report goes someplace so it can be recovered if someone wants it for testimony." This means out of the lab. Did Kilty check anywhere else?
- 89 Gallagher's lying to the ERDA so ERDA will lie to us in response to an FOIA request is reflected in his words, "This doesn't strike me as being of paramount significance." What is more significant in FOIA and relating to his and FBI attitudes?
- 90- On what is missing, he says beginning at the bottom that the questions about Q-3 "was labored for quite a while," hardly a way of impartial reference to missing reports, but he did make NAA Q-3 tests. I find no reference to it in any of the Gallagher exhibits and do not know what he was referring to. I do recall that at this point Ryan or Moschella handed him some records. But he claims it was tested on 91, that because of the background the test was worthless and then seems surprised that we were told under oath that it had not been tested. Of course I asked for all test results, not those he liked or didn't like. There is no record we have relating to the alleged uselessness of Q-3 under NAA (and I do not for a minute believe it when this was not true of Q-2, allegedly part of the same bullet). 92. I do not believe it is possible for the absence of the time in reactor sheet can be explained by "This is probably an oversight on my part, evidently." I would think this would be the beginning, before he has anything else to record. I'd ask Kilty. About this and his searches for the results and reports and whether he has conducted any further searches since Gallagher was deposed - if Ryan or Moschella or anyone else asked him to. Also on 92 he suggests that the data on Q-3 were thrown away. Evidentance in a Presidential assassination thrown away by the FBI? Is it not then as reasonable and explanation to wonder if this was thrown away because it was opposite the official explanation of the crime beginning by the FBI. 93, his arrogance on this is incredible. There was a Presidential Commission for which he did some testing and they did not have to know, nobody in the world had to know, and if he dripped dead nobody would know. I think you can have some fun with the end product of tobacco chewing.
- 100 He says his intentions were that all be "as clear as ~~sunshine~~ I could make it so there would be no hemming and hawing about it 10 years later." They why is there, why are there no reports to eliminate these questions and where are his that he intended to do this? He did not do this work for himself, to keep in his own mind only. This is hardly the intent of his conclusory language in the Jevons-Conrad memo,

3

which avoids the essential question, were the fragments from any other source, and states the tests as to determine ~~whether~~ "from which of the larger bullet fragments any small lead fragments may have come. I doubt this was the evidentiary need under any circumstances. There was a need to know whether any fragment could have come from any other source and this is not addressed. That is not the way to end hemming and hawing but to cause it, as it may explain the absence of reports. (Quote from memo on 98)

This is carried on in questioning about "standard deviation" beginning of 101. He puts it in terms of throwing out and eliminating but that again is not the real question. It should have been put the other way: did these results raise questions of other possible sources? Nor the elimination of the one he had. If these questions were raised by the results, where are the tests and reports? And perhaps what he did not address can be addressed from the chart he used, first at 95% interval and then at 99%. The lowest figure on the deviation for Q1 is 638 and 597. For Q2 it is 488 and 446. Can 488 be the same as 638? 446 as 597? With Q4 and Q5 the same figures at the lower end are 507 and 458. Can they be the same as the lower figures of 638 and 597? It works out the same way on the upper end, with Q1 seeming to be appreciably higher than Q2 and Q4 and Q5. Where you tried to get into this on 105 he evaded, saying others of expertise "would come to the same judgement." What judgement is he talking about? The wrong postulation in the Jevons-Conrad memo, not your question. He made no "judgement" about your question. I would go into all of this with the expert Kilty to get it all clearly in the record.

106ff He is evasive in denying what he had testified to, that "the spectrographic analysis made on the curbstone showed all that was possible." You helped him by switching to "quantitative figures" on 106. The question is of missing elements. Of a possible 12 the spectro recorded only 2. Frazier even testified it could have been a wheelweight. But may have saved it all with his testimony on 108. "I would expect to find all that are within the range of an emission spectrographic examination." He testified that as many as 12 are. This sheet shows only 2. The question was not as he represents at the top of 107 is, "is it a bullet mark." But if it were his answer is not the same as Frazier's, that it could have been a wheelweight. He says that the presence of "lead and antimony" alone show it could be a bullet mark. From this there is no purpose in any of the tests. They show nothing of an evidentiary value, as Frazier said. So where are the real reports? Or were there none because this destroyed the "solution?"

109 His "tobacco-chewing" standard, he also calls it a principle, is evasive. The question on the NAAs of the paraffin casts was not limited to comparing both hands but included what was much more important, cheek residues. These relate to the firing of a rifle.

113 I would ask Kilty about the possible significance of statistical differences in powder residues in empty shells. Not in terms of the paraffin casts but in terms of the origin of the shells. This is what Callagher avoided. He had to have a reason for avoiding it. I think it extremely unlikely that there was a "state of the art" limitation on this and I think he had an out from my charge of lying in being able to claim later that he was still talking about the casts, not the shell residues as relating to the origin of the shells or a comparison of these with other evidentiary shells.