

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.

14 APPEARANCES:
15 For Plaintiff -
16 JAMES H. LESAR, ESQ.
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20 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. Allright, 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-quanti-
24 tative 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. Alright. 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. Alright.

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. Allright. 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. Allright. 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. Alright. 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?

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

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: Alright, 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. Alright, 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. Allright.

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. Blake~~x~~, by any
8 chance -- Bresson?

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

10 Q. Okay. Alright. 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. 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: Allright, 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. Allright, 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 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?