

## IV. JOWERS' ALLEGATIONS

### A. Introduction

For several years beginning in the late 1960s, Loyd Jowers owned and operated Jim's Grill, a tavern located below the rooming house on South Main Street where James Earl Ray rented a room on the day of the assassination. In the late 1940s, Jowers was briefly a Memphis police officer. Subsequently, he made his living on and off over the years as a taxi driver and through ownership of a string of small businesses in Memphis, including Jim's Grill, another bar, and Memphis taxi cab companies. In the early 1990s, Jowers left Memphis for his hometown of Martin, Tennessee, where he opened a small convenience store. In late 1993, he moved to Arkansas.

For the first 25 years after the assassination, Jowers maintained in several statements to law enforcement officials and defense investigators that he was behind the counter serving customers in Jim's Grill when Dr. King was shot. He did not claim any involvement in or provide any significant information about the assassination.

In December 1993, Jowers appeared on ABC's *Prime Time Live*, radically changed his story, and "confessed" to having participated in a plot to kill Dr. King. Since that appearance, he has given additional statements about the assassination to the media, Dr. King's son Dexter King, Ray's attorney, a law enforcement agent, relatives, friends, and courts. In these statements, Jowers has repeatedly changed key aspects of his new story, disavowed his confession, and even retreated to his long-standing account of the previous 25 years.

The investigative team analyzed the contents of Jowers' many statements. We also interviewed numerous witnesses and reviewed tens of thousands of pages of documents, including transcripts from the *King v. Jowers* trial, to determine whether there is credible evidence to support any aspect of Jowers' varied accounts. Finally, we attempted to interview Jowers, but he refused to speak with us.

### B. The Origin Of Jowers' Allegations

#### 1. Statements between 1968-1992

Jowers spoke to the Memphis police and the FBI a total of four times within five days of the assassination. He later talked to investigators working on behalf of James Earl Ray. In each of these accounts, Jowers consistently described his own uneventful activities at Jim's Grill on the afternoon of the assassination. He told authorities that he arrived at the tavern around 4:00 p.m. and noticed a white Mustang in his usual parking spot in front of the grill. At around 6:00 p.m., while behind the counter in the front of his tavern, he heard a loud noise and went to the kitchen to investigate. When he saw nothing unusual, he returned to serve his customers. He was behind the counter when the police arrived minutes after the shooting.<sup>(8)</sup>

During the next quarter of a century, Jowers revealed nothing about the assassination that was materially different from his original accounts. In discussions with HSCA staff and Ray's investigators, as well as in testimony in a legal proceeding in which Ray sought to withdraw his guilty plea, Jowers focused exclusively on his observations of the Mustang and potential witnesses in the rooming house and the grill.<sup>(9)</sup>

#### 2. The Evolution of the Alleged Confession

In 1992, Jowers hinted that his story was about to change. That year, Home Box Office (HBO) and Thames Television of London initiated a project to produce and televise a mock trial of James Earl Ray. The producers hired Ray's real-life attorney, Dr. William Pepper, to represent him, and Hickman Ewing, the former United States Attorney in Memphis, to be the prosecutor. From the show's \$3 million budget, they gave each side an expense account in excess of \$100,000 to hire investigators, pursue leads, and prepare its case. As the investigators and production crew came to Memphis, public interest in the King assassination increased substantially. The program, which included the mock jury's verdict of not-guilty, ultimately aired in April 1993, on the 25<sup>th</sup> anniversary of the assassination.

In December 1992, Jowers met in his attorney's office with a prosecutorial investigator working on the mock trial. In the reception room, without his attorney, Jowers repeated the story he had been telling for years. He added that the gunshot had come from inside the building since he believed that he would not have heard a noise from outside.

Immediately after the reception room conversation, the investigator met with Jowers and his attorney, Lewis Garrison. During the meeting, Garrison revealed that Jowers had information that would put "a different slant" on the assassination. He would not, however, disclose the information. Instead, he stated that Jowers wanted more compensation than the standard \$40 per day witness fee provided participants in the mock trial.

In January 1993, Jowers testified at the mock trial for the defense. He essentially repeated what he had been saying since 1968. Jowers was somewhat unclear as to whether he had actually heard a gunshot, but again claimed that he went to the kitchen to investigate a noise. Significantly, he denied telling anyone that he had found a gun and kept it under the counter at Jim's Grill after the assassination.

In the fall of 1993, Garrison forwarded a written request for immunity to the Shelby County District Attorney General on behalf of five unnamed clients, later determined to include Jowers, his former girlfriend Betty Spates, and two of his former co-workers in the taxicab business, James McCraw and Willie Akins. The request provided very little detail and stated that an unnamed person (Jowers) received money to hire Dr. King's assassin. It further maintained that immediately after the shooting, the assassin passed the murder weapon to Jowers, who disassembled and hid it. The request also stated that Jowers "had close contact with some persons employed by the Memphis Police Department" and included representations from Garrison's other clients inculcating Jowers in the plot. The District Attorney General was not persuaded by the limited proffer and did not grant immunity to any of Garrison's clients.

After submitting the request for immunity, Jowers and Garrison met with Jack Saltman, one of the producers of the televised mock trial. Jowers revealed his alleged involvement in the assassination and, for the first time, provided details of the alleged plot, including the names of the alleged assassin and other co-conspirators. Because Jowers did not have immunity, his statement to Saltman was an admission that could be used against him in a criminal prosecution.

### **3. Jowers' 1993 Televised *Prime Time Live* Appearance**

In December 1993, after his discussion with Saltman, Jowers agreed to an interview with ABC journalist, Sam Donaldson. The interview aired on *Prime Time Live* on December 16, 1993. At Jowers' request, the network partially shaded his face, but broadcast his full name and the fact that he was from Memphis. Jowers' attorney, Lewis

Garrison, also appeared on the program.

During the interview, Jowers announced that he was "indirectly" involved in a conspiracy to kill Dr. King. He explained that Frank Liberto,<sup>(10)</sup> a Memphis produce dealer, asked him to "hire someone to assassinate Dr. Martin Luther King." Donaldson also reported that Jowers claimed to have received approximately \$100,000 as part of the assassination plot at his grill sometime before the murder.

Jowers further asserted that a man with a name sounding like Raoul "brought a rifle in a box" and "asked [him] to hold [it] [un]til \* \* \* he made arrangements or we made arrangements, one or the other of us, for the killing." According to Jowers, Liberto said that the police "wouldn't be there" and "it'd be set up where it looked like someone else had done the killing." Jowers also added that he did not believe that James Earl Ray knew he was part of the plot. When Jowers revealed that he had hired the killer, his attorney Garrison abruptly terminated the interview, saying Jowers has "gone as far as we can." In an off-camera interview with program producer Ira Rosen, however, Jowers specifically named the assassin, identifying an African American man who was found on South Main Street by the police after the shooting.

#### 4. Subsequent Statements

Since *Prime Time Live*, Jowers has made several statements to the media and private parties regarding the assassination. Additionally, his attorney Lewis Garrison has made statements to the media, private parties, and an attorney with our investigation. Garrison also advocated Jowers' position in both *King v. Jowers* and *Ray v. Jowers*, an earlier false imprisonment civil suit filed by Dr. Pepper on behalf of Ray. Nonetheless, Jowers would not speak with our investigation and did not testify during *King v. Jowers*, where he was the only party sued.

In November 1994, Jowers testified under oath in a deposition in *Ray v. Jowers*. In April 1997, he spoke about his allegations in a recorded telephone conversation with Mark Glankler, an investigator with the Shelby County District Attorney General. Jowers also talked to Dexter King, Dr. King's son, on two occasions, in October 1997 and March 1998, joined by Dr. Pepper and Ambassador Andrew Young, respectively. In April 1998, Jowers appeared a second time on *Prime Time Live*. Additionally, since 1993, Jowers has spoken about his conspiracy claims on several occasions to friends and a close relative.

Garrison filed answers to the complaints in *Ray v. Jowers* and *King v. Jowers* in October 1994 and October 1998, respectively, and amended the latter in 1999.<sup>(11)</sup> In March 1995, in Jowers' presence, Garrison spoke with Dr. Pepper, and in April 1997, without Jowers, he talked to author Gerald Posner. In March 1999, Garrison discussed Jowers' allegations with an attorney from our investigation. He also represented Jowers' position at the trial of *King v. Jowers* and on several occasions made comments to the media regarding Jowers' claims.

On three occasions when Jowers spoke about his conspiracy claims, he essentially disavowed them. In his 1994 deposition -- the only statement he has made under oath -- Jowers repeated the account he originally gave soon after the shooting, and did not claim any involvement in the assassination. He also repudiated his conspiracy allegations in separate conversations with District Attorney General investigator Glankler and a close relative.

Jowers' remaining statements are inconsistent with both one another and the original

*Prime Time Live* interview. Among other things, Jowers has vacillated about the identity of the assassin, his own role in the alleged conspiracy, the disposal of the alleged murder weapon, and the degree to which Memphis police officers were involved. To the extent there are any common elements to his varied accounts, he has maintained that he participated in a plot with Liberto, Raoul, and Memphis police officers to smuggle money and a rifle into Jim's Grill. Jowers also has alleged that the assassin fired from behind the grill and that he received and concealed the murder weapon from him immediately after the shooting.

Garrison's statements on Jowers' behalf, including his closing argument in *King v. Jowers*, are inconsistent with each other and Jowers' own varied accounts. Additionally, when speaking to an attorney from our investigation, Garrison acknowledged that Jowers had lied.

### C. Analysis Of Jowers' Statements Since 1993

Since 1993, Jowers' statements have deviated significantly from both the account he gave on *Prime Time Live* and each other.

#### 1. Statements Rejecting Conspiracy Claims

##### a. Statement under oath

Jowers has never made his conspiracy claims under oath. In fact, although he was the only party being sued, he did not testify in *King v. Jowers*.

In his only statement under oath since his 1993 revelation, Jowers did not confess. Specifically, in a November 1994 sworn deposition in *Ray v. Jowers*, approximately a year after his initial appearance on *Prime Time Live*, Jowers refused to adopt his televised confession. When asked about the truth of his comments on *Prime Time Live*, he invoked his Fifth Amendment privilege against self-incrimination. He did not, however, resist discussing the events surrounding the assassination. Rather, he retreated to his 1968 account. Repeating what he had said many times before, he testified that while serving customers at Jim's Grill, he heard a noise, briefly inspected the kitchen, and immediately returned to the counter.<sup>(12)</sup>

##### b. Other repudiations

Central to Jowers' conspiracy allegations are his claims that he concealed the murder weapon after the assassination and that James Earl Ray was not the shooter. Together, these assertions necessarily imply that the 30.06 rifle with Ray's fingerprints found by the police in front of Canipe's store was not the weapon that fired the shot that killed Dr. King.

In April 1997, in a tape-recorded conversation with Shelby County District Attorney General's office investigator Mark Glankler, Jowers disavowed this key aspect of his story and characterized it as "bullshit." Jowers had telephoned Glankler to complain about investigators interviewing his relatives (emphasis added):

**Jowers:** Well tell him [Jowers' attorney Garrison] you heard all this from my relatives, okay?

**Glankler:** Sure.

**Jowers:** But now you can believe this. What I've told you so far, which wasn't very much. Now I, I got to tell you this. I got to tell you this. That rifle -

**Glankler:** Yes sir.

**Jowers:** Is the one that killed Martin Luther King.

**Glankler:** Which - which one? The one that in the uh-

**Jowers:** Yeah.

**Glankler:** Evidence room now?

**Jowers:** Yeah.

**Glankler:** That is or is not?

**Jowers:** That is.

**Glankler:** Okay.

**Jowers:** There was no - there was no second rifle.

**Glankler:** Okay.

**Jowers:** All that bullshit they come up with a second rifle or a second firer -- that's bullshit.

**Glankler:** Uhuh (indicating yes)

**Jowers:** There wasn't no second one.

The timing of Jowers' disavowal may be significant. The conversation occurred not only when Jowers' allegations were under investigation by the District Attorney General, but also at the time of the court hearings concerning Ray's motion for additional testing of the rifle, referred to in the above conversation as the rifle in the evidence room.

Jowers' attorney later offered an explanation for Jowers' comments. Garrison told an attorney with our investigation that Jowers falsely stated there was "no second rifle" because he wanted to stop the prosecutor's office from interviewing his family members, and he hoped to influence Ray's pending motion for additional testing on the rifle. According to Garrison, Jowers reasoned that, if the judge doubted the existence of a second rifle, he would be more inclined to grant Ray's motion.

If Garrison is wrong and Jowers told Glankler the truth, Jowers' allegations are in fact false. If Garrison is right, then Jowers lied to influence an ongoing court proceeding. Either way, Jowers' claims about a second rifle and a different shooter are suspect. In the first scenario, Jowers has expressly conceded the central features of his allegation are false. In the second, by lying -- and doing so with an unquestionably unlawful motive -- he has severely undermined his own credibility.

Jowers also repudiated his conspiracy claims in a one-on-one conversation with a family member, with whom he speaks frequently. Sometime after his first appearance on *Prime Time Live*, the relative asked Jowers whether he was actually involved in the assassination. According to the relative, Jowers answered, "Hell, no." The fact that the response was spontaneous and occurred during a private conversation with a very close relative suggests that it was truthful.

## 2. Contradictory Conspiracy Claims

Setting aside Jowers' repudiations of his conspiracy allegations, his statements claiming involvement in the assassination contradict each other on almost every key issue.

### a. The man who allegedly shot Dr. King

Since 1993, Jowers has identified different people as Dr. King's assassin. He has alternatively claimed that the shooter was: (1) an African American man who was on South Main Street on the night of the assassination (the "Man on South Main Street"); (2) Raoul; (3) a white "Lieutenant" with the Memphis Police Department; and (4) a person whom he did not recognize.<sup>(13)</sup>

Initially, during a 1993 interview with HBO mock trial producer Jack Saltman, Jowers identified the assassin as an African American man, whom the police ushered into Jim's Grill from South Main Street minutes after the shooting. He named the same man during a subsequent interview with *Prime Time Live* producer Ira Rosen. Jowers, however, dropped the allegation shortly thereafter once the man, whom the media located and interviewed, passed a polygraph examination in which he denied any involvement. According to Dr. Pepper, Garrison later claimed that one of Jowers' friends, Willie Akins, who appeared on *Prime Time Live* with Jowers and Garrison, had actually concocted the story and that Jowers "[went] along" with it.

In April 1997, Garrison met with author Gerald Posner and suggested a new assassin -- Raoul. Speaking on behalf of Jowers, Garrison suggested that Raoul fired the fatal shot from behind Jim's Grill. Garrison stated, "Raoul came in [Jim's Grill] around five thirty and took the gun and went out back. Later, he gave the gun to Jowers after the shooting."

Later, when speaking to Dexter King in October 1997 and again in March 1998,<sup>(14)</sup> Jowers did not repeat Garrison's claim about his taking the rifle from Raoul after the shooting. Instead, he accused someone else of being the assassin who handed him the rifle after the shooting. This time it was the "Lieutenant," a conveniently deceased, white, high-ranking Memphis police officer. Jowers claimed that he was close to and regularly hunted with the "Lieutenant," even though he previously testified under oath that he had never associated with him.

In the same conversation, Jowers hedged about whether the "Lieutenant" actually shot Dr. King. He said, "I'm sure it was [the "Lieutenant"]"; "I couldn't swear that it was [the "Lieutenant,"] \* \* \* but I believe it was"; and "I'm almost positive, but -- but now, as far as seeing his face, I did not."

In April 1998, only a month after his second conversation with Dexter King and Ambassador Andrew Young, Jowers backed off all of his earlier allegations that he knew the identity of the assassin. Appearing on *Prime Time Live* a second time, he told a polygrapher -- who concluded he was deceptive when claiming involvement in the assassination -- that he did not recognize the assassin when he received the rifle from

him behind Jim's Grill.

Recently, during *King v. Jowers*, William Hamblin, a former taxicab driver who worked for Jowers, confirmed that Jowers and his friend James McCraw (see Section IV.D.1.c. below) named several different people as the assassin. Testifying about Jowers' and McCraw's allegations about the assassin, Hamblin remarked "they've named every policeman in the graveyard. Every time they get scared, they'll name another policeman as being the murder man."

#### **b. Disposal of the alleged murder weapon**

Jowers has given numerous contradictory accounts about the ultimate disposal of the murder weapon. Initially, the morning after the assassination, Jowers told Bobbie Balfour, a waitress at Jim's Grill, that the police found the murder weapon shortly after the assassination. According to Balfour, Jowers bragged that the police had actually found the rifle in the backyard of his grill. In fact, the police had found a rifle with James Earl Ray's fingerprints in front of Canipe's music store.

In 1993, when he first claimed that he was part of a conspiracy to murder Dr. King, Jowers maintained that the police did not have the actual murder weapon. When speaking with TV producer Jack Saltman, Jowers said that he himself received the murder weapon from the assassin immediately after the shooting, hid it in his tavern, and then later took it away in the trunk of his car.

By 1994, Jowers was no longer claiming that he personally disposed of the alleged murder weapon or knew precisely what had happened to it. In March of 1995, Garrison, in Jowers' presence, told Dr. Pepper that the day after the assassination, Raoul had actually come to Jim's Grill and picked up the rifle.

In 1997, Jowers did a complete about-face during a private telephone conversation with an investigator from the Shelby County District Attorney General's office. Implying that he had not participated in any conspiracy to assassinate Dr. King, he disavowed the existence of any murder weapon other than the rifle discovered by the police with Ray's fingerprints. During the conversation, Jowers told investigator Glankler, as previously noted, that the story about "a second rifle or a second firer -- that's bullshit." See Section IV.C.1.b. above.

In March 1998, Jowers returned to the version presented by Garrison in 1995. He told Dexter King that Raoul came into his grill on the day after the assassination, "picked it [the rifle] up," and "[w]alked on out the front door with it." A month later, according to Jowers' close friend, cab driver James Milner, Jowers repeated his claim that he gave the rifle to Raoul the day after the assassination.<sup>(15)</sup>

On a related issue, Jowers has also given different stories about his alleged receipt of the murder weapon after the shooting. In 1995, Garrison, speaking in Jowers' presence, told Dr. Pepper that Jowers picked up the rifle off the ground from the bushes behind Jim's Grill. A few years later, when speaking to Dexter King and later to the ABC polygrapher, Jowers said the assassin threw him the rifle at the backdoor of the tavern.

#### **c. Jowers' alleged hiring of a hit man**

Jowers has claimed fundamentally differing roles in the conspiracy. In his initial revelations to Saltman and on *Prime Time Live*, he alleged that Liberto gave him \$100,000 to find and hire the assassin. Jowers told Saltman he paid the hit man \$10,000

and kept the rest for himself. He retreated from this claim, however, when the media tracked down "the Man on South Main Street."

Once Jowers abandoned the hit man story, he was nonetheless left with his allegation that he had been given \$100,000. In an apparent effort to account for Jowers' prior claim, Garrison told Dr. Pepper and author Gerald Posner in 1995 and 1997, respectively, that his client merely held the money for Liberto until it was picked up by a co-conspirator. Garrison said Jowers agreed to the job for forgiveness of a debt. In March 1998, when Jowers spoke to Dexter King, he acknowledged holding the \$100,000, but failed to mention the alleged debt.

In April 1998, just a month later, Jowers not only contradicted his statement to Dexter King, but also managed to make two inconsistent statements about his alleged role within a span of twenty minutes. In a conversation with the polygrapher shortly before his second appearance on *Prime Time Live*, Jowers denied that Liberto gave him \$100,000 to kill Dr. King. Later, on camera, he flip-flopped, returning to his original story that Liberto gave him money to hire a "hit man."

#### d. The purpose of the alleged conspiracy

Jowers has also been inconsistent as to when and whether he knew the object of the conspiracy. During the first *Prime Time Live* interview, Jowers stated (emphasis added):

**Jowers:** He [Liberto] asked me to handle some money transactions, to hire someone to assassinate Dr. King.<sup>(16)</sup>

**Donaldson:** To kill Dr. King?

**Jowers:** Yes, sir. He asked me if I knew someone. I told him I thought I knew someone who would probably do it.

**Donaldson:** And he gave you some money?

**Jowers:** Yes, sir.

In recent versions of his story, Jowers has done a complete about-face, claiming that he did not know that Dr. King was the intended victim or even that an assassination was the purpose of the plot. In March 1998, Jowers specifically told Dexter King and Ambassador Young that Liberto never told him the reason for his receiving the money. Rather, Jowers explained, "I figured [the money] was to buy a gun or dope, whatever it was he was dealing in." He further elaborated that when Liberto finally informed him -- after the assassination -- that the "ton of money \* \* \* that's what it cost me to get King killed," he was so surprised he "almost dropped the damn phone."

After Jowers left the room, Garrison explained to Dexter King that his client had failed to acknowledge that he knew Dr. King was the target because of his discomfort in making the admission directly to Dr. King's son. Several months later, however, Garrison contradicted that explanation. In October 1998, the Memphis *Commercial Appeal* quoted Garrison as saying that Jowers' defense to the King family's wrongful death suit was "that he was involved but that he did not know it was Dr. King."

While Jowers did not testify in *King v. Jowers*, Garrison presented Jowers' current position in his opening and closing statements. Garrison, making alternative arguments,



claimed both that Jowers did not know Dr. King was a target and that even if he did, he was merely "a small-time greasy-spoon cafe operator who played a very insignificant part in this case, if anything."

#### e. The alleged additional co-conspirator

Jowers has consistently claimed that in addition to Liberto and the assassin, another person was involved in the plot. Jowers, however, has been inconsistent as to both the co-conspirator's identity and role.

In his initial statement about the alleged conspiracy to producer Jack Saltman, Jowers used both the names "Hardin" and "Royal" to refer to the alleged co-conspirator. Jowers did not actually articulate the name Raoul until he spoke with Dexter King years later. Even then, however, when King asked Jowers about Raoul, Jowers replied, "[t]hat's what they said his name was. I don't believe that's his name \* \* \* Why would a man use his own name when he is involved in something like [this]?" (emphasis added). Garrison then interjected that his client had misheard the man's name to be "Royal," and Jowers agreed. A month later, when a polygrapher asked Jowers the same question about Raoul during his reappearance on *Prime Time Live*, he similarly responded, "I don't know, his name was 'Royal.'"

Jowers also repeatedly changed his account of what the alleged co-conspirator did. In his initial story to Saltman, "Hardin" or "Royal" had nothing to do with the rifle once he delivered it to Jim's Grill. Rather, according to Jowers, the alleged assassin -- the "Man on South Main Street" -- retrieved the rifle prior to the assassination, used it to shoot Dr. King, and immediately gave it back to Jowers to conceal.

Once the media discredited Jowers' story about the "Man on South Main Street," Jowers modified the alleged additional co-conspirator's responsibilities. In a conversation with Dr. Pepper in March 1995, Garrison said that Raoul not only delivered the gun to Jim's Grill, but also picked it up two hours before the assassination and returned the next day to take it away. Subsequently, Jowers slightly altered the account, telling Dexter King that he only assumed Raoul picked up the gun prior to the assassination, but did not actually see him do so.

Jowers also expanded the other co-conspirator's role with respect to the money. In his first *Prime Time Live* appearance and in his prior discussion with Saltman, Jowers claimed that he gave part of the money to the "Man on South Main Street" -- not to Raoul -- and kept the remainder for himself. In 1998, however, after discarding his claim about hiring a hit man, Jowers told Dexter King that Raoul picked up the money after the assassination and "walked on out the front door."

#### f. The alleged role of Memphis police officers

Jowers has given different accounts of the alleged involvement of Memphis police officers in the plot to assassinate Dr. King. In his 1993 interview with Saltman, Jowers reported that "Hardin" or "Royal" explained that an African American "Undercover Officer" would "coordinate things" with the police. A few months later on *Prime Time Live*, Jowers added that Liberto "[s]aid they [the police] wouldn't be there that night." Again in 1995, when speaking to Pepper through Garrison, Jowers maintained that the police "would be nowhere in sight."

In 1997, Jowers expanded his allegations regarding the role of the Memphis police. In April 1997, Garrison, who claimed to have recently spoken to Jowers, told author Gerald Posner that several police officers met in Jim's Grill to plot the assassination. According

to Garrison, Jowers did not name all the officers who participated, but did identify a specific "Undercover Officer," who had been near Dr. King at the time of the shooting. He also named a "Homicide Inspector" and a "TACT Inspector," who led the tactical (TACT) patrol units established because of the sanitation workers' strike.

In October 1997 and March 1998, when meeting with Dexter King, Jowers altered and further expanded Garrison's account. First, Jowers named different officers than those identified by Garrison as the participants in the meeting at Jim's Grill. Specifically, Jowers related that an officer, who had been his "Former Partner" when he was a policeman, was also involved in the meeting, but he did not name the "TACT Inspector," whom Garrison had identified as a participant.<sup>(17)</sup> More significantly, Jowers claimed not only that the officers plotted the crime in his tavern, but that one was actually the assassin. He asserted that a now deceased, high-ranking "Lieutenant" both participated in the meeting and later shot Dr. King. See Section IV.C.2.a. above. In his conversation with Gerald Posner, Garrison had not mentioned the "Lieutenant" at all.

Subsequently, Jowers abandoned his claims about the police altogether. When he spoke to the polygrapher with ABC in preparation for his April 1998 *Prime Time Live* appearance, he did not mention the meeting at Jim's Grill or the "Lieutenant." As previously discussed, he contended that he did not recognize the man who threw him the rifle. In response to a question about the police's involvement, he also said that he was not "absolutely sure" whether they played any role whatsoever.

### 3. Summary of Jowers' Statements since 1993

Jowers has never adopted his conspiracy allegations while under oath. Rather, on the one occasion where he was sworn to tell the truth, in his deposition in *Ray v. Jowers*, he retreated to his 1968 account of what occurred. He has also stated that his conspiracy claims are false during private conversations with both an investigator with the Shelby County District Attorney General's office and a close relative.

Moreover, when Jowers has confessed to the media and private parties, he has been dramatically inconsistent on virtually every aspect of the alleged conspiracy. His attorney has also given contradictory versions of the story and admitted that Jowers once failed to tell the truth. Thus, on their face, Jowers' allegations about a plot to kill Dr. King appear to be unworthy of belief.

#### D. Analysis Of The Evidence

Apart from analyzing the content of Jowers' statements, the investigative team considered whether there is any evidence to corroborate Jowers' claim that he and his purported co-conspirators carried out a plot to assassinate Dr. King. To make our assessment, we set aside the numerous contradictions in Jowers' conspiracy claims and examined the central, factual questions that Jowers has raised: (1) whether Jowers received a rifle behind Jim's Grill from the assassin; (2) whether Jowers concealed the rifle after the shooting; (3) whether Liberto gave Jowers money to conceal in Jim's Grill; and (4) whether Memphis police officers were involved in the plot.<sup>(18)</sup>

Focusing on these four areas, we interviewed every available civilian witness and law enforcement official known to have been at Jim's Grill, the Lorraine Motel, or the general area of the shooting on the night of the assassination, as well as other individuals who might have information pertinent to Jowers' claims. We also inspected the crime scene and reviewed tens of thousands of pages of documentary evidence, including numerous witness statements, transcripts of testimony in *King v. Jowers*, photographs,

and reports.

## 1. The Murder

### a. Jowers' alleged receipt of the assassin's rifle

According to Jowers, a co-conspirator instructed him to be at the backdoor of Jim's Grill at 6:00 p.m. on the evening of the assassination.<sup>(19)</sup> Jowers claims that while standing at the door, he heard a shot, and then, depending on the statement, either retrieved the rifle from the ground or caught it when the assassin threw it to him.

#### (1) Implausibility of Jowers' knowing the time of the shooting

On April 4, 1968, Dr. King and his associates were scheduled to have dinner at the home of Reverend Samuel Kyles, a Memphis minister. Reverend Kyles told our investigation that he expected everyone around 6:00 p.m. but invited his guests for 5:00 p.m., because Dr. King always ran late. Consistent with Reverend Kyles' account, several of Dr. King's associates confirmed that at close to 6:00 p.m. they began assembling in the parking lot of the Lorraine. Dr. King, who was also preparing to leave, exited his second floor room onto the balcony with Reverend Kyles and made casual conversation with his associates below. Dr. King was then shot.

Jowers' allegation that a co-conspirator instructed him to be at the back of Jim's Grill at 6:00 p.m. presumes, first, that the co-conspirator knew that the assassination was to occur precisely at 6:00 p.m. and, second, that someone in Dr. King's party was part of the conspiracy and arranged for Dr. King to be on the balcony at that time. Both presumptions are implausible. Unless someone from Dr. King's group knew and advised the alleged conspirators in advance that Dr. King would leave for his scheduled 5:00 p.m. dinner exactly an hour late, a co-conspirator would not have known to instruct Jowers to be at the rear of Jim's Grill at the precise time of the shooting.

The presumption that a co-conspirator received information from someone in Dr. King's party is also completely unsubstantiated. While there have been accusations over the years, and during the King v. Jowers trial, that associates of Dr. King were implicated in a plot to kill him, we are aware of no reliable evidence to support such speculation.<sup>(20)</sup> Indeed, our investigation discovered nothing to suggest that Dr. King's 6:00 p.m. presence on the balcony was anything but coincidental or that Jowers or anyone else anticipated his being there precisely at that time. Accordingly, Jowers' claim that he was directed by a co-conspirator to be at the rear door of Jim's Grill at 6:00 p.m. is not credible.

#### (2) Absence of corroborating evidence

Jowers contends that he received the murder weapon from the assassin immediately after the shooting. In most of his conspiracy claims, he has maintained that the assassin gave or threw him the rifle in the area of the backdoor of Jim's Grill. According to Dr. Pepper, however, Jowers also twice stated -- once through Garrison and once himself -- that he went to the brush area of the backyard and retrieved the rifle from the ground.

No physical evidence exists to support Jowers' inconsistent claims. As discussed in more detail in Section IV.D.1.b.(1) below, within minutes of the assassination, the police searched for footprints in the backyard of Jim's Grill. Although they left their own footprints because the ground was wet from the previous night's heavy rainstorm, they

did not find any prints consistent with Jowers' story. In fact, while they located one pair of footprints pointing away from the Lorraine in an alley adjacent to the grill, they found none by the backdoor. The absence of such physical evidence undermines Jowers' claim that he was behind Jim's Grill at the time of the shooting.

Eyewitness evidence also fails to support Jowers' claim that he was behind Jim's Grill at the time of the assassination. While the balcony of the Lorraine offered an excellent view of the grill's backyard, including its backdoor, three persons with that vantage point reported seeing nothing to support Jowers' claim. Reverend Samuel Kyles, whom we interviewed, was a few feet away from Dr. King when the shot was fired. According to her 1968 interviews with law enforcement investigators, Ceolar Shavers, a maid at the Lorraine whom we were unable to locate, was also on the balcony. Additionally, Joseph Louw, a South African news producer, whom we also interviewed, emerged onto the balcony from his second floor room seconds after the shooting. All three looked into the backyard -- Kyles and Shavers immediately after hearing the shot and Louw after he went to the doorway of his room. None reported seeing anyone or anything unusual in the backyard area.

Witnesses on the ground level of the Lorraine could not see the backdoor of Jim's Grill because of the elevated backyard. However, right after the shot, Ambassador Andrew Young and other members of Dr. King's party rushed up the stairs from the parking lot to the balcony to assist Dr. King. Like Shavers, Louw, and Kyles, none of these additional witnesses who looked from the balcony reported seeing anyone or anything unusual behind Jim's Grill.

### (3) The alleged corroborating witness

We found no corroboration for Jowers' allegation that he brought a rifle through the backdoor of the tavern immediately after the shooting, except a single witness -- Betty Spates. At the time of the assassination, Spates was 17 years old, Jowers' girlfriend, and a part-time waitress at Jim's Grill. In 1993, Garrison represented both Jowers and Spates, and, at least until that time, his two clients maintained regular contact.

In an affidavit dated March 8, 1994, prepared by Dr. Pepper, Spates claimed that at just after 6:00 p.m., while in the kitchen of Jim's Grill, she saw Jowers come through the backdoor holding a rifle with a scope. She said that Jowers carried the rifle by his side into the public area of the tavern and hid it under the counter. According to the affidavit, this was the second rifle Jowers had in Jim's Grill that day. The first rifle, which Spates said she saw around noon, was longer, lighter in color, and had no scope.

#### (a) Contradictory statements

Spates gave a sworn statement to District Attorney General investigators a little over a month before executing the March 1994 affidavit and testified under oath in a deposition several months thereafter. In each of these sworn statements, she contradicted precisely the points in her affidavit that allegedly support Jowers' claims about the conspiracy.

In her January 1994 sworn statement to the District Attorney General's office, Spates unequivocally denied both that she was at the grill around 6:00 p.m. and that she saw Jowers with a rifle at that time. Additionally, instead of claiming that she twice saw Jowers with different rifles, she said he had only one and that was at noon.<sup>(21)</sup>

In her other sworn statement, a deposition given under oath in November 1994 in Ray v. Jowers, Spates again contradicted her affidavit and gave still another version of events.

When asked whether she was at the grill at 6:00 p.m. on the day of the assassination, she initially testified that she did not know. Later, when reminded of what she had alleged in her affidavit, she stated, "I just don't remember these times." She similarly equivocated about whether she saw Jowers with a rifle at any time on the day of the assassination. Thus, after having earlier denied and then admitted under oath details crucial to Jowers' allegations, Spates suddenly did not know or could not remember what had occurred.

Spates also conceded that she had no information linking Jowers to the assassination during a tape-recorded conversation with her sister, Bobbie Balfour, just over a month before she signed the affidavit. In that conversation, which unbeknownst to Spates was lawfully tape-recorded by District Attorney General investigators, she said that she was not at the grill at 6:00 p.m. on the day Dr. King was killed. When speaking about Jowers and the assassination, Spates added, "[p]eople think we know something we don't."

Spates did not testify in the trial of King v. Jowers. Nor did she speak with our investigation. See Section IV.D.1.a.(3)(c) below. Thus, her statements, including those under oath, remain contradictory.

#### **(b) Evidence refuting the account**

There is no independent evidence to support Spates' intermittent claim that she was at Jim's Grill at 6:00 p.m. on the day of the assassination. In fact, evidence establishes otherwise.

Within minutes of the shooting, a deputy sheriff entered Jim's Grill and instructed Jowers to lock the door. Thereafter, police investigators compiled a list of every witness inside. Spates' name does not appear on that list.<sup>(22)</sup>

Moreover, no witness places Spates in the grill at the time of the assassination. In fact, none of the patrons we interviewed remembered seeing Spates. Jowers, too, has claimed that Spates was not at the tavern. In his deposition in Ray v. Jowers, he testified under oath that Spates did not work on the day of the assassination. Similarly, in several of his accounts, he denied that Spates was in the grill.<sup>(23)</sup> Jowers' representations are particularly significant, because they refute the only corroboration for the unsubstantiated story he has sought to promote.

While none of the key points in Spates' March 1994 affidavit are corroborated, at least one is implausible on its face. Spates claimed that Jowers, without taking any precautions, carried the rifle, uncovered and at his side, from the kitchen through the bar area of Jim's Grill and hid it under the counter. It is doubtful that Jowers, allegedly attempting to hide the murder weapon, would have taken it from a private kitchen into a crowded, public area. It is equally implausible that he would have carried the rifle into a room full of witnesses without concealing it and without anyone seeing it.

#### **(c) Other indicia of unreliability**

Spates' contradictory claims about the King assassination are not new. Thirty years ago, she reportedly accused her boss (presumably Jowers) of involvement in the assassination. Days later, when investigators from the Shelby County District Attorney General's office confronted her with the accusation, she claimed she never made it.

In early 1969, prior to Ray's guilty plea, two bail bondsmen advised law enforcement officials that Spates claimed that her "boss man," who had been Jowers, shot Dr. King and that Ray was innocent. According to them, Spates made the comment while

arranging to get her brother out of jail. The bondsmen's purported tape recording of the telephone conversation with Spates cannot be located.

Investigators from the District Attorney General's office, including Clyde Venson, questioned Spates about the bondsmen's report shortly after they received it. According to Venson, whom we interviewed, Spates denied both making the statement and having any knowledge about the assassination. Venson's recollection is confirmed by a transcript of Spates' interview, dated February 12, 1969.

Spates' conduct in 1994 duplicated what she appears to have done in 1969. At both times, she made a critical allegation about the assassination but, when confronted by law enforcement officials, denied ever making the allegation and refuted its truth.

Spates' reliability is further undermined by the fact that she has not been forthright with our investigation. By telephone, Spates agreed to a meeting at her home in Memphis in April 1999. When members of our team arrived, however, Spates denied her identity and said "Betty Spates" was not at home but would be back later. When members of our team returned after an hour, Spates again stated that "Betty Spates" was not at home and misrepresented her identity, claiming her name was "Sharon."

Subsequently, we sent a letter to Spates, memorializing what had occurred, reiterating our purpose, and inviting her to call if she changed her mind about speaking with us. Someone signed for the letter with a name Spates also uses, "Betty Eldridge." Spates never contacted us, so we were never able to question her about her inconsistent statements.

In sum, Spates has been untruthful under oath, related information that is both contradicted by reliable evidence and implausible, made and then denied accusations about Jowers' involvement in the assassination, and has not been forthright with our investigation. Consequently, her isolated, self-contradicted account that she saw Jowers with a rifle after the shooting is not credible.

#### **b. The alleged shooting of Dr. King from behind Jim's Grill**

Although Jowers has made contradictory claims about the identity of Dr. King's assassin, he has consistently alleged that the assassin fired the fatal shot from behind Jim's Grill.

##### **(1) Absence of footprints behind Jim's Grill**

We found no physical evidence to corroborate Jowers' allegation about the assassin's location when he shot Dr. King. We did, however, find physical evidence contradicting it.

In 1968, the backdoor of Jim's Grill opened onto a backyard area bordered on the left by the wall of an adjoining building and on the right by a five-foot high chain-link fence enclosing an adjacent parking area. The backyard sloped up from the door to its center point and then fell off toward the top of an approximately eight-foot high retaining wall above Mulberry Street. Brush grew along the top of the retaining wall. Across Mulberry Street was the Lorraine Motel. The rear of Fire Station No. 2 was on the corner of Mulberry Street, next to the parking area. A narrow, open pathway between the parking area and the fire station permitted passage to the top of the retaining wall behind the station. See Attachment 2, diagram of the area surrounding the Lorraine Motel; and Attachment 3, aerial photograph of the area surrounding the Lorraine Motel.

affirmative evidence to corroborate his contentions.

Over the years, parties other than Ray have filed additional lawsuits related to the assassination. Most recently, after Ray's death in 1998, King family members, represented by Dr. Pepper, filed a civil complaint in Tennessee state court charging Loyd Jowers with participating in a conspiracy that resulted in the wrongful death of Dr. King. The evidence presented in the jury trial of that lawsuit is discussed in Section VII below.

*Continue*

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On the night of April 3, 1968, Memphis had a severe rain storm. The next evening, at the time of the assassination, the ground behind Jim's Grill was still muddy. Within minutes of the shooting, Patrolman Torrence Landers, now deceased, climbed the retaining wall on Mulberry Street and searched the area for evidence and footprints. He specifically looked in the backyard behind the grill and in the brush along the retaining wall. Afterward, he reported the results of his investigation to the Memphis Police Department and the FBI. According to those reports, Landers found no footprints in either the backyard or the brush area between the parking area fence and the retaining wall. He also explained, "[t]he ground was wet, and if anyone had been walking in this lot, they would have left footprints, because we left footprints when we checked it." Landers' report was corroborated by J.B. Hodges, another deputy who joined the search for evidence in the backyards. Hodges told us that the ground was soggy.

Investigative reports show that Landers found only two, isolated footprints in the entire area he searched. Confirming these reports, J.B. Hodges told us and testified in King v. Jowers that the only two footprints discovered were located near a cellar door in an alleyway around the corner of the building from the backdoor of Jim's Grill. These footprints were not located in either the backyard or the brush area, and they were pointing away from the Lorraine. The police photographed the prints and cast them in plaster. See Attachment 3, aerial photograph of the area surrounding the Lorraine Motel, for location of footprints.

If Jowers' story were true and the assassin had fired the fatal shot from behind Jim's Grill, the escaping assassin would have left a trail of footprints in the muddy backyard, not just a set of two footprints around the corner in an alleyway. The trail would have led from the spot where the assassin stood when he fired the fatal shot, to the backdoor of the grill where he met Jowers, and then away from the door along his escape route. The complete absence of any such trail undermines Jowers' claim that an assassin shot Dr. King from behind Jim's Grill.

#### **(2) Absence of corroborating eyewitness evidence**

As with the physical evidence found at the scene, eyewitness reports do not support Jowers' claim that the assassin fired from behind Jim's Grill. None of the witnesses located at the Lorraine, or anywhere else nearby, claim to have seen a shooter, a rifle, or Jowers anywhere behind Jim's Grill. Likewise, as discussed previously, witnesses on the balcony with the best vantage point of the area behind the South Main Street buildings -- Joseph Louw, Ceolar Shavers, Reverend Kyles, and those who immediately went to Dr. King -- all reported seeing no one and nothing unusual behind Jim's Grill.

#### **(a) Eyewitness observations of activity in the brush**

Two eyewitnesses -- Solomon Jones and Earl Caldwell -- have reported that after they heard the shot, they saw a person in the brush above the retaining wall in the general area behind Jim's Grill.<sup>(24)</sup> We have concluded that neither account actually supports Jowers' allegation that the assassin was in that area.

Jones, Dr. King's now deceased driver, was in the parking lot of the Lorraine at the time of the shooting. He told the police on the night of the assassination that "[a]fter the shot, and Dr. King fell, instead of me going up where Dr. King was, I ran to the street to see if I could see somebody and I could see somebody, I could see a person leaving the thicket on the west side of Mulberry with his back to me, looked to me like he had a hood over



his head and that's all that I could see." Jones did not explain precisely when he made this observation.

During the HSCA's investigation of the assassination in 1978, Jones testified under oath. At the outset, he provided a time frame for his observation, asserting that he did not see what he reported until "minutes" after the shot was fired, "almost" at the same time as the police arrived. He explained that he looked across Mulberry Street only after he was pulled to the ground by Andrew Young, saw blood running off the balcony, got up, saw Young point across the street, and noticed Young racing up to the balcony to assist Dr. King. According to Jones, by the time he looked toward the bushes, the police had "almost" arrived at the motel.

Jones' sworn testimony regarding the sequence of events is confirmed by others. Eyewitnesses we interviewed reported that when the shot rang out, several persons in the parking lot instantly hit the ground and remained there, taking cover until they felt it was safe to stand. Since Jones, according to his own testimony, was one of the individuals who went to the ground, there was a delay before he made his observations.

Jones' HSCA testimony not only clarified when he made his observations but also what he had seen. Retracting part of his original claim, Jones specifically testified that he was never certain -- even on the night of the assassination -- that he had actually seen a person in the brush. Jones explained that he could not see a head or arms -- "I don't know whether it was a person or what it was, but it was something white. \* \* \* That's all I saw." Jones further testified that even immediately after his observation, he was unable to say exactly where in the brush across Mulberry Street he had seen something. He stated he could not ascertain its location "either laterally or vertically."

Both our original interviews of eyewitnesses and our review of numerous photographs and police reports confirm that even if Jones had seen a person in the brush, "almost" at the same time the police arrived at the Lorraine, it most likely would have been a police officer reacting to the shooting. Indeed, in his statement to the FBI shortly after the assassination, Jones himself acknowledged the possibility that he saw a policeman.

At the moment Dr. King was shot, there was one officer conducting surveillance of the Lorraine from the rear of the fire station, three curious firemen watching with him out a rear window, and a number of tactical (TACT) unit officers on break from patrol located throughout the station. When Dr. King was struck by the bullet, a cry went out from one or more of the men watching the Lorraine that Dr. King had been shot. Without hesitation, the TACT unit officers, whom we interviewed, ran from the station towards the motel. They rushed down the short path between the station and the parking lot and quickly arrived at the guard rail atop the retaining wall. From the vantage point of the motel, the officers would have been visible through the brush above the retaining wall after they exited the station.

Photographs taken within moments of the assassination confirm that law enforcement officials were visible in the immediate area of the brush across Mulberry Street very soon after the shooting. As discussed previously, Joseph Louw, the news producer staying in a second floor room at the Lorraine, told our investigation that he went to his doorway on the balcony when he heard the shot. He saw Dr. King falling and immediately grabbed his cameras from the dresser and began taking pictures. Two pictures taken through his window even before he exited his room show law enforcement officials in mid-air dropping from the retaining wall and crossing Mulberry Street. See Attachments 4a and 4b.

Furthermore, as part of our investigation, one middle-aged member of our team was

timed running from the center of the fire station to the top of the retaining wall above Mulberry Street. It took him only 16 seconds.

Ultimately, even after factoring in reaction time, eyewitness, photographic and re-enactment evidence show that certainly within a minute -- and possibly within seconds -- of the shooting, law enforcement officers would have been on the retaining wall between the fire station and the parking area. Accordingly, even if Jones saw something across Mulberry Street -- at "almost" the same time the police arrived at the Lorraine -- it was most probably a law enforcement officer.

In the end, Jones' report amounts to nothing more than an assumption about seeing a figure in some inexact location a short while, rather than immediately, after the shooting. Thus, his account does not support Jowers' claim that the assassin fired the fatal shot from behind Jim's Grill.

Like Jones, we believe Earl Caldwell, then a *New York Times* reporter, is mistaken about what he currently recalls seeing over 30 years ago. His published writings at the time of the assassination, along with his conversation with our investigation, suggest that he understandably misrecollects observing someone in the brush after the shooting.

Caldwell first publicly claimed to have seen a figure in the brush in the early 1990s when he appeared in a BBC documentary and testified at the HBO mock trial. Consistent with what he said then, he told our investigation that when Dr. King was shot, he was in his ground floor room at the far end of the Lorraine directly across from the fire station. Immediately after hearing what he thought to be a bomb, he went to the door. He looked to his far right in the parking area and saw some of Dr. King's associates excitedly going to the ground and getting up again. He claims he then looked across the street and saw someone, without a gun, crouching in the brush in front of the parking area adjacent to the fire station.

During our interview, Caldwell candidly advised that his best recollection of what he saw the night of the assassination was recorded in the contemporaneous account he gave to a *New York Times* in-house publication called *Times Talk*. He encouraged us to read the article, since he had not read it since its publication.

The *Times Talk* article is a first-person, second-by-second account of Caldwell's observations at the Lorraine. In the piece, Caldwell describes precisely what he said, thought, and did from the time he heard the shot until the police arrived at the motel. In fact, he so exactly details each of his observations and activities that, at one point, he even describes how he "slipped on [his] shoes without \* \* \* lacing them" when he ran back to his room and grabbed his paper, pen, and raincoat.

Significantly, the article does not mention his seeing someone in the bushes. Indeed, it never even mentions Caldwell's looking across Mulberry Street or noticing anything in any part of the brush. Given the fact that the article was written no more than a few weeks after the assassination and is, as Caldwell himself acknowledged, the best record of his observations, it suggests that he is now mistaken about having seen someone in the bushes.

Like the *Times Talk* article, Caldwell's other published writings around the time of the assassination also fail to mention his alleged observation in the bushes. For example, in Caldwell's lead article in the April 5, 1968 edition of the *New York Times*, he relates Solomon Jones' early account of a figure in the bushes and mentions "a newsman's" (*i.e.*, his own) observations at the scene but omits any reference to the "newsman's" seeing a figure in the bushes.<sup>(25)</sup>

Caldwell's current recollection may also reflect his misperceptions of a horrific, confusing event. In the *Times Talk* article, his testimony at the mock trial, and his interview with our investigation, he recalled Solomon Jones' driving Dr. King's car back and forth in front of his room immediately after he saw the figure in the brush. In fact, he related that Jones' erratic driving distracted him from watching the figure.

No other eyewitness, however, recalls seeing Jones in the car until after the departure of Dr. King's ambulance, approximately ten minutes following the shooting. Jones himself advised that he did not get into the car until after he had gone up onto the balcony and had accompanied Dr. King to the ambulance. Radio dispatch records also confirm that the ambulance arrived at the Lorraine approximately ten minutes after the report of the shooting. Caldwell thus appears to be mistaken about when Jones drove the car. Moreover, since he directly ties the timing of that event to his observation across the street, he is confused about either what he saw or when he saw it or both.

Even assuming Caldwell did see someone in the brush across the street when Jones was driving the car, his observations had to be a full ten minutes after the shooting. By that time, numerous law enforcement personnel were in and around the area between the fire station and the rear of Jim's Grill. If, on the other hand, Caldwell observed the figure soon after the shooting -- which is doubtful for the reasons previously discussed -- it is still likely that what he saw was one of the law enforcement officers from the fire station. After all, within a minute after the shot, a number of those officers were on the retaining wall immediately next to the brush where Caldwell claims to have seen the figure.

Caldwell's testimony in the mock trial was not, of course, under oath, and he did not testify in the *King v. Jowers* lawsuit. For the reasons discussed, his account appears to be a mistaken recollection, understandable after the passage of 30 years.

In sum, Jones' and Caldwell's accounts fail to confirm Jowers' claim that an assassin shot Dr. King from the area behind Jim's Grill. Their alleged observations are further undermined by the complete absence of probative footprints in the brush area, see Section IV.D.1.b.(1) above, and an abundance of circumstantial evidence indicating that Dr. King was shot from the second floor window of the rooming house bathroom, rather than the backyard of Jim's Grill, see Section IV.D.1.b.(3) below.

#### **(b) Accounts of a man fleeing after the shooting**

According to TV producer Saltman, Jowers told him in 1993 that after the assassin handed him the rifle in the backyard, he ran toward the fire station. Jowers added that he thought the assassin went over the fence, which was between the backyard and the parking lot adjacent to the fire station. While Jowers has never related anything else about the assassin's escape route, others have claimed that he went in different directions.

Over the years, there have been unsubstantiated, hearsay reports that witnesses observed a man, possibly the assassin, jump from the retaining wall onto Mulberry Street after the shooting. Notwithstanding the fact that a leap down to Mulberry Street in front of dozens of witnesses presents a totally implausible escape scenario, these reports are completely unsubstantiated. Indeed, they have never been confirmed by any of the numerous eyewitnesses at the Lorraine.

The first of these reports came from Wayne Chastain, a former news reporter who later became James Earl Ray's attorney. Chastain, now deceased, claimed that Solomon Jones, Dr. King's deceased driver, told him that someone jumped down onto Mulberry Street

and mingled with the police. Chastain's account is inconsistent with all of Jones' recorded statements, including those to law enforcement officials in 1968, defense investigators in 1969, and the HSCA in 1978. See Section IV.D.1.b.(2).(a) above.

Another hearsay report came from Louie Ward, a cab driver who once worked with Jowers. After the HBO mock trial, Ward revealed for the first time that a fellow Yellow Cab driver told him that on the day of the assassination he picked up a fare at the Lorraine, watched as Dr. King was shot, and saw the shooter jump from the retaining wall and get into a police car. Ward further alleged that other unnamed cab drivers told him that the cab driver who had supposedly witnessed the assassination was later mysteriously thrown from a car and killed.

In his initial story to Dr. Pepper, Ward claimed that he only knew the first name of the cab driver, "Paul." Subsequently, when we spoke to Ward, he changed the cab driver's name from "Paul" to "Buddy." Later, in his testimony during King v. Jowers, Ward recalled the cab driver's name was Paul Butler. We determined that a Paul Butler did work for Yellow cab but died on August 2, 1967 -- eight months before the assassination.

Additionally, none of the many civilian witnesses at the Lorraine at the time of the assassination or police witnesses who arrived immediately thereafter reported seeing a taxi cab picking up a passenger from the motel on Mulberry Street, as claimed by Ward. Nor is there a taxi cab pictured in any of the many photographs taken of the area around the Lorraine immediately after the assassination.

There have also been hearsay reports that a young boy and Harold "Cornbread" Carter saw a man jump from the retaining wall onto Mulberry Street. The young boy, however, has never been identified, and Carter refused to confirm the report. In fact, in 1968, Carter told the police that he was in his room on the second floor of the rooming house at the time of the shooting. The next year, he told defense investigators that reports that he had seen something related to the assassination were untrue.

More recently, Olivia Catling testified in King v. Jowers that, while standing on the corner of Mulberry Street and Huling Avenue minutes after the assassination, she saw a man whom she believed to be escaping on Huling. See Attachment 2, diagram of area surrounding the Lorraine Motel. Catling, who lived a block from the Lorraine, testified that she heard a gunshot while in her kitchen and ran to the corner of Huling and Mulberry where she stopped because of police arriving at the intersection. She observed a man walk out of a driveway onto Huling, get in a green Chevrolet, and speed away in front of the police who were blocking the intersection. Catling also testified that she heard a fireman on Mulberry Street yell to the police that the shot came from the bushes behind Jim's Grill.

When we spoke to Catling, she told us that after 25 years of silence, she first attempted to tell her story to Dr. Pepper at the time of the HBO mock trial in 1993. During our interview, she contradicted her testimony, insisting that she observed the man on Huling Avenue before the police arrived at the intersection, not after they set up the road block. She also advised us that her then 11-year-old daughter, Cheryl Morgan, and a neighbor's 12-year-old girl, Rosetta Allen, were with her when she made her observations.

We interviewed the policemen we could locate who blocked the intersections of Huling and Mulberry, and Huling and South Main, and the firemen from Fire Station No. 2. The police witnesses said that they believed they would recall having seen someone speeding away from the crime scene past a police blockade, but none recalled such an occurrence. Nor did any of the police or firemen we interviewed recall hearing a fireman claim that

the shot came from the bushes.

Catling's daughter, Cheryl Morgan, told us that she was outside her front door and noticed police activity around the Lorraine but heard nothing before her mother came out of the house and said that Dr. King had been shot. She understood that her mother had heard the news on the radio or television. Morgan further advised that she then went toward the Lorraine, but not with her mother. She did not see a car speeding away from the area. Rosetta Allen also told us that she did not go to Huling and Mulberry with Catling. Rather, she recalls that she never left her own yard.

Catling's account also suggests an implausible escape route for the assassin. The driveway off Huling Avenue is surrounded by buildings fronting on Huling. The roofs of those buildings connect to the roof above the building which housed Jim's Grill and the rooming house. If a man had climbed onto the roof from the backyard of Jim's Grill, he would have been prominently visible to anyone watching from the Lorraine. Further, he would have had to have dropped 30 feet from the roof to the Huling driveway's pavement.

Catling's belated account of a man speeding away on Huling Avenue is uncorroborated, inconsistent, and contradicted by several witnesses. Moreover, the driveway on Huling is not only an unlikely escape route for an assassin in the backyard, but also it is in the opposite direction from the escape route toward the fire station, which Jowers claims the assassin took. Assuming Catling did see someone on Huling, we found nothing to show that her observation had anything to do with the assassination or otherwise supported Jowers' allegation that the assassin fired from the backyard of Jim's Grill.

Similarly, all of the inherently suspect hearsay reports of the assassin's escape onto Mulberry Street remain unsubstantiated. In addition, they are contradicted by the absence of probative footprints in the area behind Jim's Grill (see Section IV.D.1.b.(1) above), as well as significant evidence establishing that Dr. King was shot from the second floor bathroom window of the rooming house (see Section IV.D.1.b.(3) below). Accordingly, as with the accounts considered in the last section, various allegations about someone escaping after the assassination provide no corroboration for Jowers' claim that the assassin shot Dr. King from the backyard.<sup>(26)</sup>

### **(3) Evidence that the assassin fired from the rooming house**

p> There is convincing evidence that the assassin fired from the second floor bathroom window of the rooming house above Jim's Grill -- not the area behind the tavern, as Jowers claims. This evidence was presented when James Earl Ray pled guilty in 1969, and he stipulated to the accuracy of much of it.

The evidence shows that Ray rented a room in the rooming house between 3:00 and 3:30 p.m. on the afternoon of the assassination. According to rooming house manager Bessie Brewer, now deceased, Ray rejected the first room he was shown, which did not provide a view of the Lorraine. Instead, he accepted the second, Room 5B, which did overlook the motel and was also down the hall from a communal bathroom that offered an even better view of the motel.

After the shooting, the police searched the rooming house. In front of the window in Room 5B, which provided a view of the Lorraine balcony, the dresser had been pushed away and replaced by a chair. In the bathroom, the screen from the window, which provided an unobstructed view of Dr. King on the balcony 207 feet away, had been removed and was on the ground outside. There were black scuff marks in the bathtub

below the window.<sup>(27)</sup>

Eyewitness accounts provided by two residents of the rooming house, Charles Stephens and William Anschutz, both deceased, also confirm that the assassin fired from the bathroom window.

Anschutz, who was in a room next to Ray's, told the police that twice during the late afternoon on the day of the assassination, he was unable to use the bathroom because it was occupied. He also reported that at the time Dr. King was murdered, he heard a shot from the direction of the bathroom. He then went to his door and saw someone who was carrying a bundle walking away from the bathroom to the stairs leading to South Main Street.

Stephens, who rented the room between 5B and the bathroom, independently gave a similar account. He reported that he, too, heard a shot that sounded like it came from the bathroom, looked out his door, and saw a man carrying a bundle heading toward the stairs leading to South Main Street. Although Stephens' reliability has been vigorously challenged over the years, his account is corroborated by Anschutz. We found nothing to refute the information provided by Anschutz.

In addition, two witnesses in Canipe's, the music store located two doors down from the rooming house stairs on South Main Street, told the police that at approximately 6:00 p.m., they heard something drop outside the front door. The witnesses -- Guy Canipe, the owner, and Bernell Finley, a customer (both deceased) -- reported that upon hearing the noise, they immediately looked up and saw a man walk past the door, coming from the direction of the rooming house stairs. A second customer in the store, Julius Graham, whom our investigation could not locate, told the police that he actually saw the man drop a bundle. Seconds later, Canipe walked outside and saw a white car with only a driver pull away from the curb.<sup>(28)</sup> Finley and Graham also saw a white Mustang speed past the store.

The bundle dropped outside of Canipe's contained a 30.06 rifle and scope with Ray's fingerprints and an empty cartridge casing in its chamber, as well as other unfired cartridges and personal items belonging to Ray. While the rifle has never been conclusively matched to the bullet removed from Dr. King, it also cannot be excluded as the murder weapon since its barrel does not possess any consistently distinguishing markings and bears the same general rifling characteristics as the markings left on the bullet. General rifling characteristics are the consistent features inside the barrel of all rifles of the same model.

Despite similarities between the rifle and the bullet removed from Dr. King, Jowers has implied, and Ray's defenders have long maintained, that the rifle was not the murder weapon, but was rather planted to frame Ray. They thus suggest that the rifle actually represents evidence that the assassin did not fire from the second floor bathroom. There is, however, no reliable forensic evidence in the historical record to support this claim. All of the tests conducted on the rifle over the past 30 years have failed to exclude it as the murder weapon, and additional testing is scientifically incapable of doing so.

The rifle has been examined and test-fired numerous times -- in 1968 by an FBI firearms examiner, in 1977 by five firearms examiners retained by the HSCA, and in 1997 by three examiners hired by Dr. Pepper in Ray v. Dutton. On each occasion, the experts compared the test-fires with the bullet extracted from Dr. King's body. As noted above, they each found that the bullet and the test-fires share the same general rifling characteristics. Ultimately, however, none of the experts were able to determine conclusively whether the bullet was or was not fired from the rifle. Such an inconclusive

result is not uncommon in the field of firearms identification, particularly when testing of a high-powered rifle like a 30.06.

Contrary to the inconclusive findings of all the firearms identification experts who have examined the rifle, Tennessee state court and television personality Judge Joe Brown, who presided over Ray v. Dutton in the 1990s, recently testified in King v. Jowers that he did not believe it was the murder weapon. His opinion, however, does not alter the prior consistent findings of the FBI, the HSCA, and Ray's experts. Judge Brown is not a professional firearms examiner and never conducted scientific comparisons himself. More significantly, his conclusions are based on several, incontrovertible factual inaccuracies.

For instance, Judge Brown testified that the bullet recovered from Dr. King did not come from the same batch as four similar cartridges found in the bundle with the rifle since, according to the FBI, the bullets from those four cartridges were metallurgically identical to each other but different from the bullet taken from Dr. King. This testimony, at the outset, is based on the factually incorrect presumption that cartridges boxed together always possess identical trace elements. Very often they do not. More fundamentally, Judge Brown's testimony is directly contradicted by the very FBI records on which he claimed to rely. According to those records, the FBI found five similar unfired cartridges in the bundle with the rifle -- not four -- and, contrary to Judge Brown's assertions, none of the bullets from those cartridges were metallurgically consistent with each other. At the same time, the FBI found the composition of the bullet from the fifth cartridge -- the one Judge Brown overlooked -- to be consistent with the composition of the bullet recovered from Dr. King's body.

Judge Brown also opined that the assassin would have missed Dr. King with the rifle found in front of Canipe's, because the scope attached to the rifle was not "sighted in" and, when tested by the FBI, was four feet off horizontally and two feet low. In fact, the FBI determined that the sight, on average, was only an insignificant three inches off to the right and less than an inch low when test-fired at 205 feet, the approximate distance between the rooming house and the Lorraine's balcony.

Apart from his inaccurate testimony, Judge Brown suggested that additional cleaning of the rifle barrel might produce a conclusive comparison result. Ray's defense team took the same position after their experts' initial series of tests proved inconclusive. They requested permission to clean the barrel with a brush and solvent, believing that that cleaning had never been done. However, our review of the records of the HSCA panel revealed that prior to its final round of test-fires, the panel actually used the brush-and-solvent cleaning method. The test results following that cleaning were again inconclusive.

Ultimately, Judge Brown's misinformed opinions and suggestions do not undermine the consistently inconclusive results reached by every firearms identification expert who has ever tested the rifle. As a result, neither Judge Brown's testimony nor any related physical evidence reliably supports the claim, advanced by Jowers and others, that the assassin did not fire from the second floor bathroom window. Instead, scientific analysis, combined with all the other evidence discussed above, suggests that the assassin shot Dr. King from the bathroom, then raced down the stairs and dropped a bundle containing the rifle used to murder Dr. King in front of Canipe's store. Regardless of whether this evidence establishes Ray's guilt, it clearly refutes Jowers' claim that the assassin fired from behind Jim's Grill.

**c. Jowers' alleged concealment of the murder weapon**

Jowers claims that after receiving the rifle from the assassin in the backyard of Jim's Grill, he disassembled it, wrapped it in a tablecloth, carried it from the kitchen to the public room of the tavern, and hid it under the bar counter.<sup>(29)</sup> A day or two after the assassination, either he or Raoul, depending on the statement, allegedly carried it out the front door of Jim's Grill onto South Main Street.

None of the patrons in Jim's Grill reported seeing the rifle or Jowers hiding it. Similarly, no one reported seeing someone with a rifle on South Main Street any time after the assassination.

Jowers' accounts also seem illogical. At the time of the assassination, nearly a dozen patrons were in the restaurant area of Jim's Grill, where the bar counter was located. It is improbable that Jowers would have attempted to hide the murder weapon in a public place in front of numerous witnesses or could have done so without being seen.

Equally improbable are Jowers' conflicting claims that within a day or two of the assassination, either he or Raoul carried the murder weapon out the front door of Jim's Grill. For several days following the assassination, South Main Street, and specifically the rooming house above Jim's Grill, was the focus of police investigation, media attention, and bystanders' curiosity. Thus, it would have been unnecessarily brazen and risky for either Jowers or Raoul to have walked onto South Main Street with the murder weapon.

Although no patron, police officer, or bystander saw Jowers hide the rifle or saw Jowers or anyone else take it away from Jim's Grill, Jowers' long-time friend, James McCraw, belatedly claimed that he saw Jowers with a weapon. McCraw, who died in 1996, was a cab driver with Jowers and was represented by the same attorney, Lewis Garrison. On several occasions beginning in late 1992, McCraw stated that around noon on the day after the assassination, Jowers showed him either a rifle or a rifle box, which was stored under the counter of the bar in Jim's Grill. According to McCraw, Jowers told him he had found the rifle the night before.<sup>(30)</sup>

Prior to 1992, McCraw gave several other accounts relating to the assassination and never referred to Jowers or a rifle. These omissions were not isolated. In fact, a review of McCraw's narratives over the years demonstrates that he repeatedly and dramatically expanded what he claimed to know about the assassination.

According to one of Ray's first lawyers, Arthur Hanes, Jr., McCraw's initial 1968 account was limited to his observations about the sobriety of a key prosecution witness, Charlie Stephens, who had identified Ray leaving the rooming house just after the assassination. McCraw claimed that when he answered a call for a cab at the rooming house shortly before the assassination, Stephens was so intoxicated that he refused to transport him.

In a subsequent interview with defense investigators in February 1969, McCraw enlarged his story to support a defense theory that the true assassin actually escaped in a second white Mustang. Adding to what he had originally said, McCraw claimed that he saw two white Mustangs parked on South Main Street when he was at the rooming house. See footnote 25 above.

Over 20 years later, in 1992, during preparations for the HBO mock trial, McCraw made dramatic new claims. In a sworn statement to Dr. Pepper and private investigator Kenneth Herman, he not only divulged the new information about Jowers and the rifle,



but greatly expanded what he allegedly saw at the rooming house. For the first time, he mentioned that when he came out of the rooming house after refusing to transport Stephens, one of the white Mustangs was gone. He further alleged that when he was inside, he noticed that the bathroom on the second floor was empty and the door was "wide open." Later, when he spoke to mock trial producer Jack Saltman, he added that the bathroom was not only empty, but that he went in and used the toilet. These delayed disclosures were significant because Ray, for years, had been trying to retract his guilty plea, which was premised on his stipulation that he shot Dr. King from the bathroom window.

In 1995, after the mock trial, McCraw expanded his account yet again. Supporting Jowers' subsequent allegation that the "Lieutenant" shot Dr. King, McCraw testified in a June 1995 deposition that shortly before the assassination, he heard the "Lieutenant" threaten that he would kill Dr. King "if it was the last thing he ever done [sic]." He also testified that the "Lieutenant" knew Jowers and was a regular at Jim's Grill.<sup>(31)</sup> See Section IV.D.2.b.(3) below for discussion of Jowers' allegations regarding the "Lieutenant."

Another cab driver, William Hamblin, testified in *King v. Jowers* that McCraw even claimed to have played an active role in the alleged conspiracy. Hamblin said that McCraw reported having a drink with Raoul and disposing of the actual murder weapon by throwing it into the river at Jowers' request. While the latter revelation by McCraw is, of course, inconsistent with Jowers' conflicting claims that either he or Raoul disposed of the rifle, it became the version of events relied upon by the plaintiffs in the closing argument in *King v. Jowers*.

McCraw's evolving recollection of events relating to the assassination is inherently suspect. Indeed, with each new statement came a significant, new claim that managed to support Ray's defense and/or the belated allegations of his long-time friend, Jowers. Accordingly, McCraw's revelation about Jowers and the rifle -- made publicly for the first time nearly 25 years after the assassination and in conjunction with Jowers' conspiracy claims -- should not be credited.

In his 1992 sworn statement, McCraw attempted to defend his revelation about Jowers against the charge of recent fabrication. He claimed that he had, in fact, previously divulged the information to "investigators out of Washington," "judges," "magazines," "Memphis Police Department investigators," "the FBI," and "Justice Department investigators." We did not find any law enforcement records or media publications to support McCraw's claim of prior disclosure. It thus appears that in an effort to bolster his false statements concerning Jowers, he gave additional false information under oath.

Because the now deceased McCraw's various accounts are untrustworthy, they fail to corroborate the claim that Jowers concealed the rifle used to kill Dr. King. Moreover, because no witnesses, other than McCraw and Spates, claim to have seen Jowers with the rifle, and no physical evidence of the rifle has ever been produced, there is no credible evidence that it ever existed. The evidence instead supports Jowers' impromptu 1997 admission to District Attorney General investigator Glankler -- "there was no second rifle \* \* \*."

## **2. The Alleged Conspiracy**

### **a. Liberto's alleged involvement**

Jowers claims that Frank Liberto, a Memphis produce dealer, recruited him to participate in the plot to kill Dr. King. According to Jowers, Liberto was in the Mafia. As part of the

alleged conspiracy, Liberto supposedly delivered \$100,000 to Jim's Grill. Jowers says he concealed the money in an old stove.

### **(1) Jowers and Liberto**

Jowers' relationship with Liberto is unsubstantiated. No witness confirms that the two men knew each other, were ever together, or spoke to one another. Nor is there documentary or physical evidence to show that they ever had contact. While Jowers has claimed that he regularly bought produce from Liberto, we are aware of nothing, such as a business record or receipt, that corroborates his contention.

Moreover, Jowers' own accounts of his relationship with Liberto have been equivocal and inconsistent. Under oath in his deposition in *Ray v. Jowers*, he testified that he knew Liberto, but denied having any "contact" with him around the time of the assassination. In contrast, in his unsworn statements claiming participation in a conspiracy, Jowers alleges that he had conversations with Liberto immediately before and after the murder.

### **(2) Alleged corroborating witnesses**

The accusation that Liberto was involved in the assassination of Dr. King did not originate with Jowers. Four days after the assassination, a witness told the FBI that he had overheard a suspicious telephone conversation that suggested Liberto may have been involved in the shooting. Additionally, in the wake of Jowers' 1993 *Prime Time Live* appearance, another witness and his mother reported that in the late 1970s Liberto admitted that he "had King killed."

#### **(a) Liberto's alleged threat**

On April 8, 1968, John McFerren, the owner of a small gas-station store in Somerville, Tennessee, informed the FBI that less than an hour before the assassination, he was in Liberto's Memphis market, where he often went to buy produce. According to McFerren, while shopping he overheard Liberto say over the telephone, "Kill the S.O.B. on the balcony and get the job done. You will get your \$5,000." In a second telephone conversation a short while later, McFerren claimed to have heard Liberto say, "Don't come out here. Go to New Orleans and get your money. You know my brother."

McFerren later told the FBI that the man depicted in a police sketch of the purported assassin, which appeared in a newspaper the day following the shooting, had worked in Liberto's market in 1967. The sketch depicted James Earl Ray, who at that time had been identified only by his alias, "Eric Galt." According to McFerren, the man he knew was of Cuban, Mexican, or Indian descent with coarse black hair and "jungle rot" on his neck. Based on McFerren's claims, the FBI showed him an array of six photographs, which included Ray's picture. McFerren excluded Ray and instead tentatively identified three others, who did not resemble Ray, as the man who had worked for Liberto. One of the men was in prison and the other two were never known to have been in Memphis.

Despite McFerren's misidentifications, both the Memphis Police Department and the FBI investigated his report of the telephone conversation. First, they interviewed Liberto and his business partner, both now deceased. Liberto told detectives that on the afternoon of April 4, 1968, he left work early and was at home because of an injured finger. His partner corroborated his alibi, as did his wife. Medical records further established that Liberto had his finger lanced the day before Dr. King was killed.

Both Liberto and his partner also denied being involved in an assassination plot or participating in any telephone conversations discussing shooting Dr. King. While they

frankly admitted making derogatory remarks about Dr. King's activities in Memphis and Liberto even conceded the possibility of saying in jest that someone ought to kill him, each explained that his comments would not have been made over the telephone or on the afternoon of the assassination. In any event, such comments have no significance since they were, at the time, unfortunately unremarkable among many whites, who continued to revile Dr. King.<sup>(32)</sup>

Liberto also informed investigators that any comments about money and New Orleans would have been inconsequential as he often transacted business involving large sums of money by telephone and made frequent business trips to New Orleans to purchase produce and visit family. Following up on that information, as well as McFerren's reference to overhearing Liberto mention "[his] brother" and "New Orleans," FBI agents interviewed Liberto's mother and three brothers in New Orleans. They confirmed that Liberto did business in New Orleans and visited regularly. They provided no information suggesting Liberto's involvement in the assassination.

In the end, neither the FBI nor the Memphis police corroborated any part of McFerren's report suggesting Liberto had involvement in the assassination. Accordingly, McFerren's allegation fell into the same category as literally hundreds of other alleged threats on Dr. King's life, which, after investigation, proved either unsubstantiated or idle.

A decade after the Memphis police and FBI investigation, the HSCA conducted its own detailed inquiry into McFerren's allegation. Liberto, then still alive, gave a sworn affidavit denying involvement in the assassination and repeating that he was at home with an injured finger when McFerren claimed to have seen him in his market. The HSCA also interviewed Liberto's relatives, friends, neighbors, and business associates. It found nothing to support McFerren's accusation that Liberto plotted to kill Dr. King or had a suspicious telephone conversation on the day of the assassination.

For several reasons, we, too, have concluded that McFerren's account is not reliable. Most importantly, we, like the HSCA, found no independent evidence to establish either that McFerren witnessed what he claimed or, more generally, that Liberto played a role in the assassination.

In addition, in statements to the 1976 Department of Justice Task Force, the HSCA, and our investigation, McFerren significantly expanded his account to incorporate James Earl Ray, who had not yet been identified at the time of McFerren's initial April 1968 statement to the FBI. In 1976, McFerren added for the first time that when Liberto's partner answered the telephone, he referred to the caller by name telling Liberto, "Ray wants to speak to you" (emphasis added). Later, McFerren falsely claimed that he had identified Ray's photograph when interviewed by the FBI in April 1968, and, notwithstanding Ray's known whereabouts around Christmas 1967, insisted that Ray had worked at Liberto's market at that time. Additionally, contrary to well-documented evidence of Ray's travels, McFerren later reported that Ray stayed at the Mayor's house in his hometown, Somerville, for two days prior to the assassination.<sup>(33)</sup>

During King v. Jowers, McFerren again related Liberto's alleged telephone conversation. He did not, however, repeat his contention that Liberto's partner named Ray as the caller. In fact, McFerren did not mention Ray in his testimony at all. Since McFerren focused on Ray for years, including during our interview of him in March 1999, this recent omission further undermines his credibility. Indeed, it seems McFerren may have tailored his testimony to fit the theory advanced by Dr. Pepper at trial -- that Ray was not involved in the assassination.

There is also some possibility that McFerren exaggerated at the very beginning. On April

8, 1968, immediately prior to giving his original statement to the FBI, he told his story to David Caywood, a lawyer and then president of the local chapter of the ACLU, who accompanied him to the FBI interview. Caywood told our investigation that while he recalled McFerren's recounting that Liberto had said something like "get the SOB," he did not remember whether McFerren claimed that Liberto included the words "on the balcony." Caywood explained that had McFerren used those words, he likely would have remembered it since Caywood had been on that same balcony with Dr. King the day before. The apparent omission is obviously significant, because it is only the words "on the balcony" that connect Liberto's alleged statement to the assassination.

McFerren's account also appears unreliable because of his quirky behavior and beliefs. When members of our investigative team spoke to McFerren, he locked his door and asked that we speak quietly because his phone was "bugged." He then placed a paper bag over the telephone receiver to prevent the conversation from being overheard. During the interview, he asserted that according to his "intelligence network," the Ku Klux Klan and the Mafia had met concerning him the day before and had been after him for 30 years. In addition, he maintained that Klan control of the Small Business Administration had interfered with his obtaining a business loan. He further added that he was in great danger because of his knowledge of the connection between the King and Kennedy assassinations but insisted on withholding the information until he could testify for Dr. Pepper in court. Finally, he repeated his erroneous assertion that Ray had stayed at the mayor's home in Somerville (McFerren's hometown) before the assassination.

McFerren related similarly strange information to the 1976 DOJ Task Force and the HSCA. For instance, he advised investigators that the same person killed both President Kennedy and Dr. King and that unidentified persons had tapped his phone, were "out to get him," and had made several attempts on his life.

McFerren's inconsistent accounts, peculiar behavior, and bizarre, uncorroborated claims, some of which contradict known facts, render his story about Liberto unreliable. Thus, McFerren does not offer any credible evidence to corroborate Jowers' contention that Liberto participated in the assassination.

#### **(b) Liberto's alleged admission**

After the HSCA published its report in 1979, allegations of Liberto's involvement in the assassination did not resurface until after the HBO mock trial, nearly 15 years later, when Jowers publicly implicated Liberto. At approximately the same time, Memphis taxi driver Nathan Whitlock, an acquaintance of Jowers, offered information concerning Liberto to Dr. Pepper and mock trial producer Jack Saltman.

In the 1970s and early 1980s, Whitlock's mother, Lavada Addison, owned and operated a Memphis pizza parlor. According to Whitlock and Addison, Liberto regularly ate breakfast there and became friendly with them. Addison claims that sometime in the late 1970s, during a conversation at the restaurant, a television story relating to Dr. King prompted Liberto to boast that he "had King killed." Addison did not believe him, told him so, and walked away.

The following day, Whitlock, then 18, allegedly confronted Liberto about the remark. According to Whitlock, Liberto denied killing Dr. King, but said that he "had it done" and that James Earl Ray was merely a "front man." Liberto then got angry, threatened Whitlock, and left. Whitlock claims he never saw Liberto again.

Whitlock did not disclose his allegation until 1993, after viewing the HBO mock trial on television and occasionally transporting production personnel in his cab.<sup>(34)</sup> One of the

first people he spoke to about Liberto was mock trial producer Jack Saltman. According to both Whitlock and Saltman, Whitlock attempted to sell Saltman the right to go public with his account. When he demanded \$20,000, the amount he thought the information commanded, Saltman refused and negotiations broke down.

Whitlock also told us how he sold copies of two photographs of Liberto to ABC for \$1,200. When he learned that he had actually sold the network exclusive rights to the photographs in the deal, he became upset and claimed that ABC had tricked him. Nevertheless, Whitlock sold a duplicate print of one of the photographs, along with a photograph of himself, to Dr. Pepper for \$1,000.

Whitlock expressed continued interest in profiting from his information during our investigation. When he first spoke to us, he sought to reserve attribution rights for any materials he agreed to provide. Whitlock also asked the Department of Justice to prosecute Dr. Pepper for fraud, claiming that Pepper had improperly published his story in the book, *Orders to Kill*, without compensating him.

Whitlock has also reported that he experienced bizarre repercussions because of his knowledge about the King assassination. He told both the Shelby County District Attorney General and our investigation that he was warned by an African American "NSA [National Security Agency] agent" from Washington that he was in danger because of what he knew about the King assassination. Testifying in *King v. Jowers*, Whitlock added that after he advised state authorities of his allegations, he was beaten and falsely arrested by the Memphis police and released only after the police received a fax from Washington, D.C.

We conclude that Whitlock's stated financial motive and paranoid-sounding claims undermine the truthfulness of his account of his alleged conversation with Liberto. We also have no reason to doubt that Addison, his mother, accurately reported Liberto's statement to her and correctly characterized the off-handed remark about Dr. King as a false "macho" boast.

In the end, Whitlock and McFerren are the only two witnesses who claim to have information corroborating Jowers' allegation that Liberto participated in a plot to assassinate Dr. King. Neither is reliable. Moreover, neither connects Liberto with Jowers or implicates Jowers in a conspiracy. Accordingly, there is no credible evidence supporting Jowers' allegation that Liberto was involved in the assassination and a stark absence of evidence corroborating Jowers' claim that they were co-conspirators.

### **(3) Liberto's alleged connection to the Mafia**

Others besides Jowers have accused Liberto of having Mafia connections. Whitlock, for instance, claims that Liberto disclosed that he was acquainted with Mafia boss, Carlos Marcello, when the two were children in New Orleans. McFerren also alleges that the backroom in Liberto's produce market was used as a Mafia meeting place.

The HSCA investigated the possibility of Liberto's involvement with organized crime. According to HSCA documents, neither the FBI nor the New Orleans Police Department had any record of such involvement. However, HSCA records include information from the New Orleans police that Liberto's brother, Salvatore, associated with a bail bondsman who was believed to be affiliated with Carlos Marcello. The HSCA found nothing more than this potential "indirect link" between Salvatore and the Mafia.

Because of the allegations made by Jowers, McFerren, and Whitlock, and the speculative report regarding Liberto's brother Salvatore, we initiated a review of Department of

Justice and FBI organized crime investigative records. We found no information in these records showing that either Frank or Salvatore Liberto had any affiliation with the Mafia. Our review of the remaining historical record also revealed nothing to support the claims concerning Liberto's Mafia involvement.

Ultimately, the allegations of Liberto's Mafia ties come from unreliable sources and lack any corroboration. Moreover, even if Liberto had some connection with the Mafia, we found no credible evidence to suggest that organized crime was involved in the assassination.

#### **(4) Jowers' alleged concealment of money for Liberto**

Jowers alleges that before the assassination, Liberto delivered \$100,000, which Jowers concealed in Jim's Grill. As previously discussed, Jowers has alternately claimed that he both hired a hit man with the money and held the money for Raoul. According to Jack Saltman, when Jowers related his initial version, he said he kept \$90,000 for himself.

##### **(a) Jowers' financial condition**

In 1968, \$90,000 was a very large amount of money. Consequently, if Jowers profited from the assassination, as he initially claimed, his financial position should have dramatically improved. The financial records we reviewed did not reveal any significant improvement in Jowers' life style at any time after the assassination. Nor did any witness we interviewed, including family members, detect that Jowers received a substantial windfall. Accordingly, there is no evidence to corroborate Jowers' claim (apparently now abandoned, in any event) that he received \$90,000 for his role in the assassination.

##### **(b) Lack of corroboration by employees at Jim's Grill**

In both versions of Jowers' story about receiving money from Liberto, he claims that he hid it in an old stove in the kitchen of Jim's Grill. At times, James Earl Ray's defenders have asserted that three witnesses -- sisters Alta Mae Washington, Bobbie Balfour, and Betty Spates -- corroborate the allegation. Although each sister refused to speak to our investigation, all three have given prior recorded statements demonstrating that none possesses direct or reliable information that substantiates Jowers' account.

Alta Mae Washington told the Shelby County District Attorney General's office in January 1994 that she once saw Jowers place a suitcase containing money in the stove, but that was in April 1969, a week before she was fired. She explained that she could not have seen any money in the stove at the time of the assassination because she did not begin working at Jim's Grill until October 1968. In addition, she said she understood that Jowers was hiding the money she saw in April 1969 to keep it from his estranged wife, not for criminal purposes.

Like Washington, Bobbie Balfour, who worked at the grill at the time of the assassination, has never confirmed that Jowers hid a large amount of money in the stove immediately before the assassination. In a 1994 deposition, she testified that Jowers kept money in the stove at times, but that amount was only "maybe a thousand dollars. Jowers didn't have no money." While Balfour testified in *King v. Jowers*, she said nothing about seeing money in a stove at any time.

Betty Spates is the only witness who has ever claimed to have seen a large amount of money in the stove prior to the assassination. However, as discussed in Section IV.D.1.a.(3) above, she is unreliable. Indeed, on this issue, as with others, she has

vacillated, claiming both that she saw the money and that she never saw it, but only heard about it from her older sister Washington. Moreover, even assuming that Spates either saw or heard about the money, she appears mistaken as to when she did, since Washington, the source of her knowledge, did not begin working at the grill until six months after the assassination.

In light of Washington's, Balfour's and Spates' statements, it appears that Jowers may well have stored money from time to time in an old stove in his kitchen. However, we found nothing reliable to suggest that he received the large sum of \$100,000 from Liberto or kept it in the stove at the time of the assassination. Nor did we find any evidence to substantiate any part of Jowers' allegation that he and Liberto conspired to kill Dr. King. In fact, his claims relating to Liberto remain wholly unsubstantiated.

#### **b. Alleged involvement of Memphis police officers**

Beginning with his first statements about an alleged conspiracy, Jowers has asserted that Memphis police officers were somehow involved in the assassination. However, as discussed in Section IV.C.2.f. above, his allegations concerning the role of the police have significantly expanded since 1993.

##### **(1) Alleged removal of police officers to facilitate the assassination**

Jowers initially claimed that someone assured him that the police would not be at the scene of the assassination. This assertion was a variation on earlier allegations, made by others and considered by the HSCA, that various law enforcement personnel were purposefully withdrawn from the area of the Lorraine to facilitate the crime. Years prior to Jowers' vague allegation, speculation focused specifically on: (1) the withdrawal of the security detail assigned to Dr. King on April 3; (2) the supposed withdrawal of tactical units from the immediate area of the Lorraine; (3) the removal of one of two African American detectives from the surveillance post at Fire Station No. 2 on April 4; and (4) the removal of two African American firemen from the same firehouse on April 3.

The HSCA extensively examined each of these specific claims and found nothing to evidence a conspiracy involving the police. Despite the extreme vagueness of Jowers' accounts, our investigation considered the allegations anew. We learned nothing to contradict the HSCA's findings and instead discovered additional evidence supporting them.

##### **(a) Removal of security detail**

The Memphis Police Department assigned a security detail to Dr. King on April 3, 1968. Inspector Don Smith, who headed the detail, and three other officers met Dr. King and his party at the Memphis airport that morning. They followed the group to the Lorraine, where they were joined by three additional officers. The detail was permanently withdrawn at about 5:00 p.m. that afternoon.

Smith testified before the HSCA that he requested permission to withdraw the detail from his superior, Homicide Chief W.P. Huston, because he believed the King party was uncooperative. Smith based his conclusion on the party's refusal to provide Dr. King's itinerary, his perception that the party attempted to "lose" the detail en route from a meeting that afternoon, and a comment at the airport by a local liaison for the party, who said police protection was not desired. Smith maintained that after he telephoned Huston about these perceived problems, Huston left the telephone to consult with a superior

officer, then instructed Smith to withdraw the detail. The HSCA never conclusively resolved whether it was the chief of police or another top official who actually approved Smith's request.

Reverend Samuel Kyles corroborated Smith's perception that the King party did not favor the security detail. Kyles told our investigation that on April 2, 1968, the Memphis group hosting Dr. King decided, against Kyles' advice, to break from ordinary practice and not request police protection. According to Kyles, the group made the decision because it believed the police had overreacted the week before to the sanitation strike demonstration. Willie B. Richmond, one of the African American policemen who conducted surveillance of Dr. King, supported Kyles' contention. He testified in King v. Jowers that he learned on the day before the assassination that someone with the King party, whom he believed to be Reverend Kyles, indicated that Dr. King did not want police security.

Other police officers, who had been used as security for Dr. King on prior visits, substantiated the accounts of Smith and Kyles that the King party did not want police protection in April 1968. Detective Redditt, the other African American policeman who conducted surveillance of Dr. King on April 3 and 4, 1968, told our investigation and the 1976 DOJ Task Force that someone in Dr. King's party informed him at the Memphis airport that they did not want security. Another police officer, Detective Jerry Williams, who had provided security for Dr. King on two prior occasions, testified in King v. Jowers that his inspector told him after the assassination that police security was not provided on April 4, 1968, because the King party did not request it. Finally, officers on the security detail corroborated Smith's version of events.

The HSCA concluded that the detail's withdrawal, although improper, was not ordered to facilitate the assassination. Rather, the HSCA found that the detail was withdrawn as a result of police frustration with what it perceived to be the King party's lack of cooperation. Our investigation found nothing to cast doubt on the HSCA's conclusion and additional evidence that Dr. King's group declined police security.

**(b) Presence of tactical units in the area**

The Memphis Police Department created tactical or TACT units in the wake of the unrest following the March 28, 1968 sanitation strike march. At the time of the assassination, one such unit was taking a break at the fire station across the street from the Lorraine, and two other cars assigned to TACT duty were in different locations within several blocks of the motel. Despite the location of these units, some have alleged that the Memphis Police Department purposefully withdrew all TACT units from the area of the Lorraine to facilitate the assassination. We found no evidence to support this claim.

In an affidavit to the HSCA, TACT Unit Commander William O. Crumby, now deceased, stated that on April 3, 1968, he received a request from the King party, through TACT Unit street commander Sam Evans, to halt police patrols within sight of the Lorraine. He claimed that the request was honored and that he instructed the TACT units to remain in the general vicinity of the Lorraine, outside "visual distant [sic]." However, Inspector Evans, also now deceased, repeatedly denied requesting any such action.

By its terms, Crumby's supposed order did not require withdrawal of the TACT units from the area of the Lorraine. In fact, it specifically required that they remain in the vicinity. Furthermore, a number of TACT unit cars were actually in the area at the time of the shooting. Accordingly, regardless of whether Crumby's directive was issued,



speculation that all units were withdrawn, let alone removed to facilitate the assassination, is unfounded. See Section VII below for discussion of who in Dr. King's party allegedly requested removal of the Tact units.

**(c) Removal of police officer from surveillance post**

On April 3 and 4, 1968, two African American police officers, Edward Redditt and Willie B. Richmond, conducted surveillance of Dr. King and his associates at the Lorraine from Fire Station No. 2 across Mulberry Street. Two hours prior to the assassination, Redditt was removed from the post.

The evidence gathered by the HSCA and confirmed by our investigation shows that the Memphis Police Department ordered Redditt and Richmond to the airport on April 3 to conduct surveillance on Dr. King and his associates.<sup>(35)</sup> While at the airport, Redditt was threatened by a local activist and told that King's party did not want security. Redditt and Richmond nonetheless followed the party to the Lorraine and then set up surveillance at Fire Station No. 2. They continued following Dr. King during his activities throughout the day until they arrived at the Mason Temple prior to his final speech. Once there, Reverend Blackburn told them it was known that they were "spying" and indicated they were not welcome. They left a short while later.

On the morning of April 4, Redditt and Richmond resumed their surveillance post at the fire station. Sometime about noon, Redditt received a threatening telephone call. The caller said he knew where Redditt was and what he was doing. Later that afternoon, after Philip Manuel, a staff member of the United States Senate Subcommittee on Investigations, informed the Memphis Police Department of a threat to kill a "Negro Lieutenant" in Memphis, Redditt was removed from the station.<sup>(36)</sup>

The HSCA expressly found that the Memphis police removed Detective Redditt from his post because of the perceived threat on his life. Its conclusion that the threat was real was reinforced by other threats against Redditt during the sanitation strike and on April 3 and 4, 1968. The HSCA ultimately concluded that "the allegations that [Redditt] was removed to facilitate the assassination are without substance."

Based on our review of the HSCA report, sealed records of HSCA staff interviews, and our own original investigation, we reached the same conclusion. Apart from what we learned from the HSCA records, Intelligence Inspector Graydon Tines told us that he ordered Redditt to be taken to headquarters, where he was directed not to return to the field because of the threat. Similarly, Lieutenant Eli Arkin, who transported Redditt, confirmed that Redditt was removed because of the threat. Finally, Redditt himself corroborated the key details of what occurred, including that he was assigned to surveillance, received threats at the airport and the fire station, and was directed to leave his post for a meeting at police headquarters, where he was informed of another threat. In his testimony during the trial of King v. Jowers, Redditt further recalled that a man from Washington, D.C., whom he thought was named Manuel, was present when he was advised of the threat at police headquarters. His recollection confirms that the threat warning originated from Philip Manuel, who was in Memphis at the time representing the Senate Subcommittee on Investigations.

The notion that Redditt was removed to facilitate the assassination because he was an African American policeman is undermined by two other significant facts. First, as confirmed by Richmond, Redditt, and several other officers, Redditt was at the fire station to conduct surveillance of -- not to protect -- Dr. King. Thus, his removal would not have reduced any actual security for Dr. King. Second, Richmond, also African

American, was not pulled from the surveillance post and was there when Dr. King was shot. If Redditt had been removed because of his race to facilitate the assassination, then Richmond most probably would have been removed as well.

Based on all the evidence we reviewed and obtained, we found nothing to suggest that the Memphis Police Department removed Redditt from his surveillance post as part of a plot to kill Dr. King.<sup>(37)</sup>

#### **(d) Removal of firemen from fire station**

Norvell Wallace and Floyd Newsum were the only two African American firemen assigned to Fire Station No. 2. The day before Dr. King was killed, they were both reassigned to other stations.

The HSCA specifically investigated whether the removal of the firemen was somehow connected to the assassination. It found that Wallace and Newsum were removed in response to a concern expressed by Redditt to one of his commanding officers. After reviewing sealed HSCA records and conducting our own original investigation, we found nothing to suggest otherwise.

Redditt has denied directly requesting the removal of Wallace and Newsum. However, in a report he wrote and gave to Inspector Tines prior to the assassination, he noted that the African American firemen could impede surveillance because of their allegiance to the sanitation workers.<sup>(38)</sup> In addition, during our investigation, Inspector Tines recalled that Redditt and Detective Arkin had complained about an African American fireman who could "blow [Redditt and Richmond's] cover." Tines then requested a transfer. It is thus evident that Newsum and Wallace were reassigned because of police concern about maintaining clandestine surveillance of the Lorraine, not to facilitate the assassination.

In the end, we found no evidence to support any of the previously refuted allegations that the police purposefully removed any security forces from the area of the Lorraine to facilitate the assassination. Since Jowers only vaguely restated these previously unproven allegations, it is not surprising that we found no evidence to support his claims either.

#### **(2) Alleged meeting of police officers at Jim's Grill**

In his more recent accounts, Jowers alleges that several Memphis police officers met in Jim's Grill to plot the assassination. As discussed in Section IV.C.2.f. above, when he was most specific, Jowers claimed that a deceased "Lieutenant," his deceased "Former Partner," an African American "Undercover Officer," and the "Homicide Inspector" participated in the plan.<sup>(39)</sup>

At the outset, even if a meeting of some officers took place, as Jowers asserts, he offers no evidence that it related to the assassination. Rather, Jowers' account is suspiciously vague. Jowers told Dexter King that he "had no idea what the officers were talking about and I just got a word here and there," and "[w]asn't really too concerned about it [be] cause I didn't want to know about it." He nonetheless claimed that he "knew it was something illegal whatever it was," but did not provide any other information.

Because Jowers admittedly claims to have heard nothing about an assassination plot, Dr. King, a shooting, or anything specific at all, his bald assertion that officers were

discussing "something illegal" is pure conjecture. His contention that he "got a word now and then" is hardly specific enough to invest the claim with more substance, especially since he does not even recount what the "word[s] now and then" were.

Notwithstanding the vagueness of Jowers' account, we found no evidence to suggest that any meetings in Jim's Grill involving high ranking Memphis police officers, in fact, occurred. No witness corroborates that any high ranking officers met in Jim's Grill. The only information we discovered that any police were ever there came from former FBI agent Howell Lowe, who reported his understanding that low ranking uniformed officers who patrolled the area went to the grill for coffee on occasion during shift changes.<sup>(40)</sup>

Lowe further claimed that he never met with and did not personally know the "Homicide Inspector," the "Former Partner," or the "Lieutenant," and that while he worked with the "Undercover Officer," he never met or saw him at Jim's Grill.<sup>(41)</sup> Accordingly, no witness or other evidence corroborates Jowers' claim that the "Homicide Inspector," the "Former Partner," the "Lieutenant," or the "Undercover Officer" was ever involved in a meeting -- or even present -- in the grill.

The investigative team also found no evidence to suggest that the "Homicide Inspector," the "Former Partner," the "Lieutenant," or the "Undercover Officer" was otherwise involved in a plot to assassinate Dr. King. None of the witnesses we interviewed had any information tying them to the crime. Nor do any of the volumes of documentary evidence we reviewed -- including previously unexamined materials from the HSCA and from the FBI and CIA -- suggest they were in any way involved.

We also interviewed the "Homicide Inspector," who fully cooperated with the investigation. He denied any involvement in the assassination and further denied having been in Jim's Grill prior to the crime. He said he may have briefly stepped inside afterward, on the night of April 4, 1968, but only because his investigators were there with potential witnesses. In addition, the "Homicide Inspector" submitted a sworn affidavit in which he stated that Jowers' allegations about him are false, that he never met with officers in Jim's Grill prior to the assassination, and that he was not involved in a plot to kill Dr. King.

We also interviewed the "Undercover Officer." He advised that he worked for the Memphis Police Department in an undercover capacity with the Invaders.<sup>(42)</sup> As a result, he was in the parking lot of the Lorraine with Reverends Orange and Bevel when the shot was fired and may have been the first person to reach Dr. King on the balcony. Once on the balcony, he looked across the street in what he thought was the direction of the shot and saw no one in the backyard behind the buildings.

Like the "Homicide Inspector," the "Undercover Officer" unequivocally maintained that he did not plot to kill Dr. King, was never in Jim's Grill, and never met Jowers. Demonstrating his desire to resolve the allegations against him, he agreed to take a polygraph examination conducted by the United States Secret Service. Throughout that session and a subsequent interview, he was aggressively questioned and consistently denied that he had any knowledge about a plot to assassinate Dr. King or ever went into Jim's Grill. The results of the polygraph examination show that the "Undercover Officer" was truthful when asked whether he was involved in an assassination plot. Specifically, he was found to be "not deceptive" when he denied plotting to harm Dr. King. However, the polygraph result was "inconclusive" as to his denial that he ever met with other police officers in Jim's Grill.<sup>(43)</sup>

Apart from interviewing and polygraphing the "Undercover Officer," our investigation

reviewed records (including CIA files) pertaining to his activities and interviewed people who have had contact with him both at the time of and after the assassination. Our inquiries revealed nothing to contradict his contention that he had no part in the assassination and was never in Jim's Grill. Moreover, he affirmed in a sworn affidavit that Jowers' allegations about him are false, that he never was in Jim's Grill or met Jowers, and that he was not involved in a plot to kill Dr. King.

We believe it is significant that the officers Jowers accuses, as well as their friends and co-workers, fully cooperated with our investigation without seeking immunity or any other consideration. The "Homicide Inspector" and the "Undercover Officer" executed affidavits denying Jowers' allegations under oath. In contrast, Jowers would not speak to us, despite having demanded and been offered the opportunity to obtain immunity (see Section IV.E. below) and, most recently in *King v. Jowers*, did not make his allegations under oath when he had the opportunity. Accordingly, Jowers' conduct, unlike that of the "Homicide Inspector," the "Undercover Officer," and other law enforcement officials who worked with them, further undermines his credibility.

### (3) Alleged participation of the "Lieutenant"

Perhaps Jowers' most dramatic, belated revelation, first made during an October 1997 interview with Dexter King and Dr. Pepper, is that a Memphis Police Department "Lieutenant" shot Dr. King from the backyard of Jim's Grill. We find no merit to this claim.

The allegation inculcating the "Lieutenant" in a plot to assassinate Dr. King may derive from prior conjecture. In an interview with the HSCA in 1978, Detective Redditt (see Section IV.D.2.b.(1)(c) above) speculated that the "Lieutenant" may have been involved in the shooting since he was an expert shot and, in Redditt's view, a racist. Redditt told us he had no support for his earlier speculation, but simply offered it as an opinion.

Jowers appears to have resuscitated Redditt's old speculation with his most recent claim. Despite having testified under oath in a November 1994 deposition that he did not know the "Lieutenant," Jowers told Dexter King in March 1998 that he and the "Lieutenant" regularly went hunting together. He also alleged that the "Lieutenant" passed him the murder weapon behind Jim's Grill seconds after the shooting. In addition, Jowers said the "Lieutenant" had been in the tavern the morning of the assassination and participated in one or more meetings with other officers to plot the murder.

We found no credible evidence to sustain any of Jowers' various assertions concerning the "Lieutenant." None of the numerous witnesses we interviewed, including many officers in the police department, provided any information that linked the "Lieutenant" to either the assassination or Jim's Grill. They also did not connect the "Lieutenant" with Jowers and offered nothing to suggest the two knew each other or had even ever been seen together. The historical record also contains no information corroborating Jowers' accusation against the "Lieutenant."

The "Lieutenant" died before Jowers made the accusation against him. However, his ex-wife, whom he divorced in 1975, provided significant information contradicting Jowers. In an interview with our investigation and in testimony in *King v. Jowers*, she related that she got home from work shortly after 4:00 p.m. on the day of the assassination. The "Lieutenant" arrived a short while later to take a quick nap, shower, and change his clothing. Because of the schedule he and other officers assumed following the disruptions related to the strike, he had not been home for some time. About 45 minutes after he arrived, his ex-wife heard a bulletin over his walkie-talkie announcing that Dr. King had been shot and immediately awakened him.<sup>(44)</sup>

The "Lieutenant's" ex-wife also told our investigation that she knew her husband's hunting partners and that Jowers, whose name she had not heard, was not one of them. In addition, she reported that her ex-husband had been friendly with a man named Liberto, who owned a downtown liquor store. We confirmed that another Liberto did, in fact, own a liquor store in Memphis at the time of the assassination, but he was not the same person Jowers has implicated. Nor were the two Libertos related.

We found no credible evidence to contradict the ex-wife's alibi or her representations regarding the "Lieutenant's" friends, hunting partners, and associates.<sup>(45)</sup> Since there is no other reliable evidence implicating the "Lieutenant" in the assassination, or establishing that Jowers even knew him, Jowers' belated claims about him remain unsubstantiated.

### 3. Summary of Evidence regarding Jowers' Accounts

We found no reliable evidence to support Jowers' claims that he, Frank Liberto, Raoul, and Memphis police officers conspired to assassinate Dr. King. There is no physical evidence to corroborate any aspect of the allegations,<sup>(46)</sup> and the few purported corroborating witness accounts that exist are either not credible or unresponsive. At the same time, there is reliable evidence that contradicts Jowers' claims. For instance, the absence of a trail of probative footprints behind Jim's Grill demonstrates that neither Jowers nor the alleged assassin was there. Also, significant circumstantial evidence indicates that the fatal shot came from the rooming house's bathroom, rather than the backyard of Jim's Grill.

In the end, Jowers' claims are both unsupported and contradicted. His dramatically inconsistent accounts (see Section IV.C. above) are additionally suspect in light of his unwillingness to relate his allegation to our investigation (see Section IV.E. below) and his suspicious motives (see Section IV.F. below).

#### E. Jowers' Lack Of Cooperation

Starting in October 1998, our investigation made several attempts to gain Jowers' cooperation through his attorney, Lewis Garrison. Jowers refused to speak with us, even though he had repeatedly talked to others, including the media.

In response to our initial attempt, Garrison wrote to us on November 5, 1998, and explained that Jowers was "not willing to disclose information without some assurance that he [would] not be prosecuted." We responded in a letter dated November 19, 1998, and proposed a process for considering Jowers' request. First, we reminded Garrison, who has extensive litigating experience, that consistent with standard practice, a proffer of his client's account would be necessary to obtain immunity. To facilitate the arrangement, we offered to accept as a proffer Garrison's videotape of Jowers' conversation with Dr. Pepper and Dexter King on October 27, 1997, accompanied by any additional information needed to amplify, clarify, or correct the taped interview. We also explained that the statement would be used only to determine whether immunity was appropriate and not to prosecute Jowers.

Garrison did not respond to our letter or a subsequent letter dated December 15, 1998, re-extending our offer. Instead, we learned from a January 31, 1999 article in the *Memphis Commercial Appeal* that Jowers, according to Garrison, had refused to speak with us because our immunity offer allegedly did not protect him from state prosecution.

Because of the article, the investigative team set out to make explicit what case law already guaranteed -- the October 1997 statement, if provided as a proffer, could not be used by either federal or state prosecutors against Jowers. Accordingly, we contacted the office of the Shelby County District Attorney General and obtained a guarantee that expressly provided that state authorities would not prosecute Jowers based on his proffer and would also consider a grant of immunity.

On February 9, 1999, after Garrison failed to respond to our telephone messages, we sent a letter renewing our offer and notifying him of the District Attorney General's position. The following day, Garrison wrote and again expressed interest in obtaining immunity for his client. He ended his letter stating, "as soon as I confer with Mr. Jowers, I shall call you and maybe we can consult with Mr. Campbell," an Assistant District Attorney General.

We did not hear from Garrison for five weeks. Thus, on March 18, 1999, an attorney with our investigation, who had previously spoken to Garrison, telephoned him. Garrison expressed concern that our investigation had been questioning Jowers' credibility during interviews with witnesses. Our attorney explained our concerns about Jowers' many contradictory statements and his extended, repeated delays in responding to our offers. See Attachment 5, our March 19, 1999 letter to Garrison. Garrison agreed to advise the investigation of his client's position regarding a proffer by March 22, 1999.

In a letter dated March 22, 1999, Garrison reported that he had consulted with Jowers. He stated that Jowers "did not intend to make further comments regarding this matter \* \* \* [and] will not permit anyone to review the video tapes [sic] you requested." See Attachment 6.

In April 1999, Dr. Pepper attempted to revive the effort to produce a proffer. As a result, Garrison sent a letter to the investigative team dated May 10, 1999, stating that he would again attempt to consult with his client and advise us of his position. Despite Garrison's representation, we received no further communications.

Garrison's consistent failure to respond to our offers, as well as Jowers' recent conduct, strongly suggest that Jowers is not sincerely seeking immunity to avoid criminal prosecution. If Jowers were genuinely concerned that he might be prosecuted, he would not have repeatedly related his self-incriminating story to others, including a producer and a nationwide television audience, without some assurance that his statements would not be used against him. Further, if he were genuinely concerned that he might be prosecuted, he would have readily provided us a proffer, since our proposal at least guaranteed him immunity for his October 1997 statement. Indeed, our offer was a "no lose" proposition for Jowers. If, after reviewing the proffer, we ultimately decided to grant him immunity, he would have been free from the threat of prosecution. If not, he would have nevertheless obtained "use" immunity for his October 1997 statement -- something he did not and still does not have.<sup>(47)</sup>

Jowers' conduct suggests another motive for his insistence on immunity. Since the evidence shows that Jowers did not genuinely desire protection from prosecution, and since the only other benefit of an immunity grant is the government's tacit approval of a subject's account, it appears Jowers sought immunity merely to legitimize his otherwise unsubstantiated story. This conclusion is confirmed by the fact that Jowers abandoned his request for immunity precisely when we made our routine demand for a proffer. To be acceptable, a proffer must contain a single, coherent version of events that withstands critical examination. Because Jowers' contradictory, unsubstantiated accounts could never survive such scrutiny (see Sections IV.C. and D. above), he presumably

recognized that the immunity process could not give him -- and might forever ruin his chance to attain -- the validation he sought for his otherwise bankrupt story. Accordingly, Jowers abandoned his request and terminated all contact, and we conducted our investigation without the benefit of talking to him, confronting him with his contradictory statements, or assessing his credibility face-to-face.

## **F. Analysis Of The Development Of Jowers' Allegations**

### **1. Jowers' Motivation**

Because Jowers repeatedly contradicted himself, told a self-incriminating story without any evidentiary support, and refused to speak to us though having talked to others, we naturally considered why he publicly confessed in the first place. His comments and actions suggest that he is motivated by something other than a newfound desire to reveal the truth.

Several of Jowers' friends and relatives expressed their belief that Jowers made his allegations in the hope of getting attention and/or making money. Their belief is confirmed by Jowers' own statements. One of Jowers' close relatives told our investigation that he once overheard Jowers talking about a book deal in connection with his allegations about the assassination. A former co-worker, Prentis Purdy, further reported that Jowers telephoned him, said that a movie company was interested in interviewing him about the assassination, and advised that he could make money by appearing in the movie. Also, one of Jowers' neighbors and close friends, Robert Ferguson, told us that on several occasions in the early 1990s, Jowers, while intoxicated, boasted that he was going to make a lot of money from a movie that would be made about the assassination.

In addition to Jowers' revealing comments, his actions leading up to his first public disclosure suggest his true motive. For 25 years following the assassination, Jowers alleged no specific involvement in or knowledge of a plot to murder Dr. King. It was not until 1993, during preparations for the HBO television mock trial, that Jowers' allegations of a conspiracy began to materialize. At that time, Jowers demonstrated a pecuniary interest when, through Garrison, he asked the mock prosecution's investigator for additional compensation in exchange for information that would "put a different slant" on the assassination. He again demonstrated the same motivation when he chose to debut his full, detailed account to a television producer -- the same producer, in fact, who had coordinated the HBO program several months earlier.

### **2. The Promotion of Jowers' Story**

Jowers' promotional efforts have not gone unassisted. Nor does it appear that Jowers' story became public by chance.

Jowers' allegations originated in the wake of the HBO mock trial when he and four others jointly sought immunity from prosecution. Represented by the same attorney, Garrison, they sent the Shelby County District Attorney General a combined written "proffer" that referred to each by color code rather than name. Subsequently disclosed information established the identities of all but one of them.

These individuals were all part of the same circle of friends. The first was Jowers, who related his account of hiring a hit man and receiving the rifle from him after the shooting. The second was Betty Spates, Jowers' long-time associate and former girlfriend, who said she observed Jowers holding and disassembling a rifle immediately after the shooting. See Section IV.D.1.a.(3) above. The third was Jowers' old friend, James

McCraw, to whom Jowers supposedly showed the rifle the day after the assassination. See Section IV.D.1.c. above. The fourth was Willie Akins, a convicted felon and another of Jowers' long-time friends, whom Jowers allegedly asked to "tak[e] care of certain persons who 'knew too much.'" These supporting accounts provided by Jowers' friends were crucial since there was no concrete evidence to support Jowers' claims and substantial evidence to undermine them.

The District Attorney General ultimately rejected the group's vague joint proffer and declined to grant each of them immunity. Jowers and Garrison then took the packaged story to the media. They first went to HBO mock trial producer Jack Saltman. A short while later, in December 1993, they appeared on *Prime Time Live*. Jowers publicly confessed for the first time, while Garrison, using real names instead of color codes, provided Sam Donaldson details about what Spates, McCraw, and Akins claimed to have witnessed. Akins even went on the program to say that Jowers had asked him to "pop" (kill) the assassin.

*Prime Time Live* gave the packaged story the notoriety Jowers and his associates originally sought when they jointly requested immunity. In the following weeks, the media, especially in Memphis, published numerous articles featuring Jowers, Spates, McCraw, and Akins. In fact, only a couple of days after the show, the *Tennessean* newspaper managed to identify, track down, interview, and polygraph the "Man on South Main Street," the alleged hit man to whom Garrison, Jowers, and Akins had alluded but would not name on camera.

After the *Tennessean* concluded that the "Man on South Main Street" had nothing to do with the assassination, Jowers began reinventing his story. In statements to Dr. Pepper, Dexter King, and Ambassador Andrew Young over the next five years, he named several different, new assassins and directly accused the police. He also retreated from his claim that he had hired a hit man, claiming instead that he merely held Liberto's money. See Section IV.C.2. above.

Amidst the confusion created by Jowers' conflicting accounts, a few other questionable, but purported corroborating witnesses were identified. Private investigator Kenneth Herman alleged that Jowers told one of Spates' sisters, Bobbie Balfour, that he had found the gun "used to kill King." He also claimed that both Balfour and another of Spates' sisters, Alta Mae Washington, had seen money in a stove in Jim's Grill at the time of the assassination. As discussed in Section IV.D.2.a.(4)(b) above, Balfour and Washington each repudiated what Herman attributed to them.

The others who surfaced after the mock trial to support Jowers' allegations have been cab drivers with ties to Jowers. In addition to McCraw and Akins, two of the original members of Jowers' circle, this group of acquaintances includes Nathan Whitlock, Louis Ward, William Hamblin, James Isabel, and James Milner. The latter group all appeared at the trial of *King v. Jowers*.

The financially-motivated Whitlock, who knew Jowers from the taxi business, claimed for the first time after the HBO mock trial that 15 years before, Liberto admitted to him that he "had King killed." See Section IV.D.2.a.(2)(b) above. Ward, another taxi driver who had worked with Jowers, made a similar, startling, first-time revelation following the mock trial. As discussed in Section IV.D.1.b.(2)(b) above, he alleged that a fellow cab driver, who he later heard was killed, had seen the assassin jump from the retaining wall into a police car immediately after the shooting. Two of Jowers' other friends in the taxi business, Hamblin and Isabel, surfaced at the trial of *King v. Jowers*, claiming to have heard incriminating comments from McCraw and Jowers, respectively. See Section IV.B.1. above. None of the hearsay accounts of these witnesses have been substantiated.



In the case of Ward's allegation, we determined that the person who he claimed witnessed the murder had died eight months before Dr. King was killed.

James Milner, who worked for Jowers and knows Whitlock, is another taxi driver who recently came forward. Like Ward, Milner first went to Garrison. He told our investigation he contacted Garrison because he heard Jowers "needed help." Garrison put him in touch with Jowers, who then related his conspiracy allegations to Milner over the telephone. Soon after, when James Earl Ray died, Milner appeared on Memphis television news to explain that Ray was innocent and that Jowers had told him why. In addition, after an attorney from our investigative team talked to Garrison about Jowers' immunity request, Milner contacted us on his own to repeat Jowers' confession and subsequently to revive Ward's allegation. While it may not be self-evident that these calls and Milner's TV appearance, as well as his testimony in *King v. Jowers*, represent an effort to promote Jowers' story, the cellular telephone records Milner provided us are revealing. They show that in 1998, Milner made over 75 calls apiece to Garrison and Whitlock -- a total of over 150 calls within the span of several months.

Milner's recent endeavors demonstrate what Jowers' inconsistent accounts and his associates' related efforts have suggested from the beginning -- that Jowers' story is the product of an orchestrated promotional effort. The similar, suspicious origins of the information we have reviewed are too striking to conclude otherwise. None of the information was disclosed until the mock trial, 25 years after the assassination, and it was divulged exclusively by Jowers and his associates.

#### **G. Conclusions Regarding Jowers' Allegations**

Because Jowers' conspiracy claims appeared manufactured from the outset, their fatal flaws come as no surprise. Indeed, while their contrived appearance independently undermines their reliability, it also underscores their other defects.

Jowers has never made his conspiracy claims under oath. Indeed, he did not even testify in *King v. Jowers*, despite the fact that he was the only party sued. The only time Jowers was questioned about his allegations under oath, he claimed no knowledge about or involvement in the assassination. In separate conversations with a law enforcement officer and a close relative, he similarly retreated from his claims. Thus, in inherently reliable circumstances, Jowers has consistently repudiated his story.

In contrast, the circumstances attending Jowers' purported confessions make his claims look dubious. He has only admitted he was a co-conspirator when he had no legal obligation to be truthful, was neither pressed for details nor challenged with his prior inconsistent statements, or had audiences that could give him the notoriety he desired to promote his story. Such audiences included HBO mock trial producer Jack Saltman, television personality Sam Donaldson, prominent civil rights figures, Ray's attorney, who was writing a book featuring Jowers, and James Milner, who went on TV to vouch for the story.

Jowers' conspiracy claims are also problematic because they are dramatically inconsistent on a number of key points, including: (1) the identity of the shooter; (2) the disposal of the alleged murder weapon; (3) Jowers' role in the plot; (4) his knowledge of the conspiracy's purpose; (5) the identity and role of other co-conspirators; and (6) the role of Memphis police officers. Both the materiality and content of these contradictions suggest that Jowers cast about from story to story, searching for something that would avoid the same pitfalls as his instantly disproved claim about the "Man on South Main Street." Indeed, it appears more than a coincidence that once the *Tennessean* discredited that claim, Jowers conveniently changed his account to implicate the

deceased "Lieutenant," who, unlike the "Man on South Main Street," could not challenge the new accusation.

Even putting aside their material contradictions, Jowers' accounts are not supported by credible evidence. In fact, there is significant contradictory physical evidence and absolutely no such corroborating evidence. The purported corroboration comes solely from alleged witness accounts. Much of that information, such as the claims of Spates and McCraw, is part and parcel of the original effort to package and promote Jowers' story. None of the information, when examined critically, supports Jowers' allegations.

Jowers' motive for claiming involvement in the alleged conspiracy is also suspect. His friends and relatives have confirmed, based on statements he made, that he came forward anticipating financial rewards. Moreover, his conspiracy claims did not arise until 25 years after the assassination, when the HBO mock trial raised Jowers' hopes of making money. During preparation for the show, Jowers and his attorney directly asked a mock prosecution investigator for substantial compensation in exchange for supposed, new information, and afterward, the very first person Jowers went to with the specific details of his alleged account was the show's producer.

Jowers' account is finally undermined by his conduct during our investigation. He refused to talk to us without immunity, despite the fact that he freely made self-incriminating, non-immunized statements to others, including a nationwide television audience. Moreover, when we acceded to his request and initiated the immunity process, he refused to provide a routine proffer, even though, at the very least, he would have received immunity for that statement. Jowers' conduct strongly indicates that he sought immunity to attain legitimacy for his otherwise unsubstantiated story, not to secure protection from prosecution.

The totality of the evidence suggests that Jowers fabricated his allegations, hoping to promote a sensational account of a conspiracy to murder Dr. King.

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