

UNITED STATES GOVERNMENT

# Memorandum

TO : The Associate Director

DATE: 3/24/77

FROM : Legal Counsel *[Signature]*

*Boothman 5/21*

SUBJECT: HOUSE SELECT COMMITTEE ON ASSASSINATIONS

*la J. Jones*

- Assoc. Dir. \_\_\_\_\_
- Dep. AD Adm. \_\_\_\_\_
- Dep. AD Inv. \_\_\_\_\_
- Asst. Dir.:
- Adm. Serv. \_\_\_\_\_
- Ext. Affairs \_\_\_\_\_
- Fin. & Pers. \_\_\_\_\_
- Gen. Inv. \_\_\_\_\_
- Ident. \_\_\_\_\_
- Intell. \_\_\_\_\_
- Legal Coun. \_\_\_\_\_
- Plan. & Insp. \_\_\_\_\_
- Rec. Mgt. \_\_\_\_\_
- S. & T. Serv. \_\_\_\_\_
- Spec. Inv. \_\_\_\_\_
- Training \_\_\_\_\_
- Telephone Rm. \_\_\_\_\_
- Director's Sec'y \_\_\_\_\_

The purpose of this memorandum is to advise of the current situation regarding the test bullets fired from the rifle of Lee Harvey Oswald.

DETAILS:

By way of background information, Agents of the Dallas Office on December 1, 1976, interviewed Richard Harold Lester. At that time Lester advised that for a number of years he had conducted searches near the assassination scene of President John F. Kennedy. Utilizing a metal detector, Lester located what he believed to be fragments of a 6.5 cal. projectile. Lester turned this over to our Agents for comparison with known samples fired from Oswald's rifle. Representatives of the Scientific and Technical Services Division made a preliminary examination of this bullet and determined that it would be necessary to obtain a test sample fired from Oswald's rifle that is currently in the possession of the Archivist in order to determine if Lester's projectile is identical. A request was made of the Archivist to examine this bullet and the Bureau was advised that we would be allowed access to the bullet for examination purposes. The Bureau was subsequently advised by James E. O'Neill, Acting Archivist, that he had entered into an agreement with Mr. Richard Sprague, Chief Counsel, House Select Committee on Assassinations. By this agreement no one would be allowed to examine any physical material relative to the Kennedy assassination in the possession of the Archivist without Mr. Sprague's consent.

- 1 - Mr. Adams
- 1 - Mr. Moore
- 1 - Mr. Cochran
- 1 - Mr. Mintz
- 1 - Mr. Lawn
- 2 - Mr. Daly
- 1 - Mr. Coulson

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SEE ADDENDUM, SCIENTIFIC & TECHNICAL SERVICES DIVISION, PAGE 4

SEE ADDENDUM, CRIMINAL INVESTIGATIVE DIVISION, PAGE 5 17 MAY 3 1977

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(9) *[Handwritten initials]*

62-117290

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Legal Counsel to The Associate Director  
Re: HOUSE SELECT COMMITTEE ON ASSASSINATION

The Bureau has corresponded with the Archivist regarding this matter and attempts have been made to secure the test bullet in order that an examination can be made pursuant to our investigative responsibilities. Efforts to obtain this bullet have been negative to date.

By memorandum dated March 11, 1977<sup>197</sup>, and captioned as above, we advised the Attorney General of this situation and asked him for a resolution of the matter.

By teletype dated March 22, 1977<sup>197</sup>, the Dallas Office advised that Mr. Lester telephonically requested on March 21, 1977, that his bullet be returned as soon as possible. Mr. Lester feels that the examination should have been completed and he wants to be advised of the status of his property.

These developments regarding the questioned bullet submitted by Mr. Lester, and the test bullet developed by Bureau examiners now in the possession of the Archivist, would appear to bring the Bureau to the point of exercising one of three options regarding this matter. These options are as follows: (1) Return the bullet to Richard Harold Lester inasmuch as efforts to obtain samples to compare to his bullet have been unsuccessful. If this bullet is returned to Mr. Lester it can be assumed that the House Select Committee on Assassinations will then subpoena the bullet from the possession of Mr. Lester and have it examined by an outside agency. It would not be desirable to have an outside agency examine evidence that is relative to an official FBI investigation. It should be noted that Mr. Lester has indicated to our Agents in Dallas that he desires that the FBI examine this bullet to the exclusion of all others; (2) The Bureau could resist the efforts of Mr. Lester for the return of the bullet on the grounds that it is evidence in an official investigation being conducted by the FBI, and we could encourage the Department of Justice to resist any attempts by the House Select Committee on Assassinations to obtain Lester's bullet from our custody. This course of action would in all probability precipitate a confrontation with the Committee over an item (Lester's bullet) that in all probability has little if any bearing upon this investigation; and (3) That a member of the staff of the House Select Committee on Assassinations be allowed to accompany a representative of the Scientific and Technical Services Division in the examination of Mr. Lester's

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Legal Counsel to The Associate Director  
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bullet, with the understanding that his presence at the examination is merely to inform the Committee of the procedures used in the obtaining, handling and examination of evidence regarding the assassination of President John F. Kennedy, and in no way is it to be construed as a supervisory or advisory position. The Department and the Committee should be clearly advised as to the nature and the circumstances surrounding the presence of a staff member at the examination. We would not want to establish a precedent whereby the Committee could request to be present during any stage or aspect of our continuing investigation into this matter.

These options were discussed with Robert L. Keuch, Deputy Assistant Attorney General, Criminal Division, who has been appointed by Attorney General Bell to be Special Counsel for the Department in matters regarding this Committee. Mr. Keuch has advised that he favors the third option mentioned above.

RECOMMENDATION:

That the Scientific and Technical Services Division and the General Investigative Division furnish their recommendations regarding the options available in this matter.

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APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Ext. Affairs _____	Plan. & Insp. _____
Assoc. Dir. _____	Fin. & Pers. _____	Rec. Mgt. _____
Dep. AD Adm. _____	Gen. Inv. _____	S. & T. Serv. _____
Dep. AD Inv. _____	Ident. _____	Spec. Inv. _____
	Intell. _____	Training _____

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Addendum to memorandum Legal Counsel to The Associate Director  
RE: HOUSE SELECT COMMITTEE ON ASSASSINATIONS  
3/24/77

ADDENDUM ASSISTANT DIRECTOR J. COCHRAN:JC:bms, 3/24/77:

There can be no doubt that the presence of a committee representative will be construed by many as indicative of a lack of trustworthiness on our part in providing an unbiased examination or in guaranteeing the integrity of the test bullets obtained from Archives. The committee representative takes on a "bodyguard" image and our integrity is impugned.

No amount of instruction to the Department will wipe out the precedent we set if we allow this monitoring of an objective scientific examination. It should be noted that none of the scientific examinations conducted in this investigation have to date been at issue. The real issues raised have been as a result of attempts to apply the technical findings in an effort to determine the events. In short, interpretation has been the issue.

It is conceivable that the precedent set for such a monitor could well be seized upon by defense attorneys and the like in future cases in which Laboratory examinations are conducted. It is felt that if the committee does not have sufficient confidence and trust in the integrity of the FBI's Laboratory, and the Department concurs, that it should be told to seek support in the examination of evidentiary materials from some other source. We certainly have no objections to anyone re-examining evidence once we have had the opportunity to conduct such examinations initially. It should be noted the bullets in question in the Archives are test bullets which this Laboratory fired through the suspect weapon at the time of the initial examinations. We have not asked for, nor do we need the weapon in question.

RECOMMENDATION:

That with prior departmental approval, we advise the House Select Committee on Assassinations that we cannot accede to their request to monitor examinations this Laboratory conducts because of the dangerous precedents it sets.

ADDENDUM CRIMINAL INVESTIGATIVE DIVISION JSP:bam 3/24/77

The Legal Counsel memorandum 3/24/77 does not specifically address itself to Director's letter to the Attorney General 3/11/77, which, in essence, lays <sup>out</sup> our continuing problem concerning the obtaining of the test bullets from Archives and the request of the Department for a resolution of this situation. It is felt that prior to making any decision as to what possible options are available, we should first have a response from the Department as to what, if any, action the Department will take concerning the Archivist's failure to allow us access to the Kennedy evidence. Should the Department elect not to push this issue with the Archivist, then option #3 appears to be the only logical approach we can take. Although it appears if we take this option, we are establishing a precedent for future joint investigative activity between the House Committee and the FBI.

RECOMMENDATIONS:

1. That Legal Counsel specifically query the Department as to whether it plans any action in regard to the situation with the Archivist which would be in effect a response to the Bureau's letter to the Attorney General 3/11/77.

2. That if the Department's response is that no action is anticipated to obtain the evidence from the Archivist, then it is recommended that option #3 be explored as to whether the House Select Committee on Assassinations would be agreeable.

APPROVEDS

Director.....  
Assec. Dir.....  
Dep. AD Adm.....  
Dep. AD Inv.....

Adm. Serv.....  
Ext. Affairs.....  
Fin. & Pers.....  
Gen. Inv. *MPD*  
Ident.....  
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