

(RM)

1249 Hi Point Street
Los Angeles, Calif. 90035
June 19, 1967

Mr. Leslie Midgley
CBS Television News
~~51 West 52nd Street~~ 524 W. 52nd St. SX.
New York, N.Y. 10019

Dear Mr. Midgley:

I am writing to you for two reasons; (1) in the hope, however slim, that my letter may have some positive influence on the value of the forthcoming CBS four-part program regarding the assassination of President Kennedy, and (2) to record, prior to the showings, a number of points--and one in particular--which I believe to be relevant.

As you know, Mr. Robert Richter, a CBS employee associated with you in this work, interviewed me at length in Boston on May 22, regarding my areas of interest in the case. When he phoned me several days earlier to arrange the interview, I told him that -- while willing to cooperate -- my impression was that CBS was preparing an impressive--appearing, expertly constructed, but nonetheless grossly biased study, whose purpose was to resurrect the widely discredited basic conclusions of the Warren Report. Although this opinion was tentative, and one which I sincerely hoped (and still do) would prove incorrect, it was not based on prejudice.

As a result of the May 22 interview in Boston, copies of numerous photographs in which Mr. Richter had expressed interest were made available to CBS.

The following Monday, May 29, I was in New York and phoned you to get your reaction to the material. You informed me that Mr. Richter had gone over it with you in detail, that you saw nothing significant in it, and, specifically, that you failed to observe the man-like images in the enlargements from the Mary Moorman photograph (this, of course, is the photograph which shows President Kennedy's car in the foreground, and the grassy knoll area in the background. It was taken at approximately the time of the head shot, at Zapruder 313). Nevertheless, you agreed to have me meet with you in your office that afternoon.

In your office I went through the various enlargements of the several man-like images in the Moorman photo, with particular attention given

* Some indication of the objectivity and purpose of the CBS effort was given in a column in the Boston Traveler, April 19, 1967 by Television Editor Eleanor Roberts. Reporting on the project, she said:

A most unusual television experiment is taking place at CBS News -- the preparation of a documentary on another look at the Warren Commission Report -- which may never be telecast. Camera crews are fanning out all over the country -- one was in Framingham last week -- developing material for the news special. But unless it sheds new light on the report, weakening the argument of those who criticize it -- it may never be aired, a CBS News spokesman revealed. . . . "If we get something new and constructive, we hope to air the documentary by mid-June" the CBS News executive said, "But we're playing it by ear until all the films are in".

While declining to name the "CBS spokesman" who gave her this information, Mrs. Roberts said her source had invariably proven reliable in the past.

to those referred to as #2 and #5. As I showed these to you, one at a time, you said you saw nothing, that is, nothing that looked to you like a man. However, when we came to a particular enlargement of image #5 (the same one seen on the enclosed photo--display #5--as the largest stage of blowup from the Moorman photo), you immediately said, when asked if you saw anything; "Yes, that's the man who shot Meredith".

Since I believe this reaction of yours was, and is, extremely significant, you will understand that I feel it necessary to record the circumstances as fully as possible. Over two years ago, while examining the Moorman photograph, David Lifton discovered the man-like images behind the wall and/or fence on the grassy knoll. He contacted me, knowing of my interest in the case, and showed me what he had found. We then arranged to have enlargements made. In our opinion, the clearest image was the one referred to as #5, to the right in the photo, behind the wall and near the pergola structure.

Of this image, I found the enlargement which most people could discern most readily was the one labeled M-5a (which was included in packets of photos mailed almost two years ago, to several dozen individuals around the country including two well-known CBS News personnel.) It was this particular enlargement of #5 man that you immediately reacted to by erroneously identifying him as ". . . the man who shot Meredith".

Your reaction was understandable. Last year, when the now-famous photograph first appeared showing James Meredith sprawled on a Mississippi roadway after having been shotgunned from ambush, I was struck by the similarity in appearance of his assailant, clearly visible in the foliage, and that of the #5 man from the Moorman photo as seen in the specific enlargement mentioned. I do not mean that I ever took them to be the same man, but only that the two faces, obviously photographed under somewhat similar lighting conditions, and both against mottled backgrounds, appeared so similar that I believed the image in the Meredith picture lent further (though unnecessary) credence to the validity of image #5 as a human figure.

To illustrate this point to others, I did the following:

1. I affixed a copy of the Meredith picture, with his assailant visible in the bushes to a blank sheet of white paper.
2. I then placed this sheet, with Meredith photo-side down, over the enlargement mentioned; and taped them together at the left side, so that the white sheet could be lifted and turned page-fashion.
3. I then cut a rectangle (1-1/4" x 1-3/4") out of the white sheet, avoiding damage to the Meredith photo on the underside, so that with the sheet in place, the #5 man on the photo beneath it was clearly framed in the rectangular opening. (only when the sheet was lifted and turned did the Meredith photo on its underside become visible, and only then could the comparison be made between the two faces.

Copies of these photos were included in those requested for CBS by Mr. Richter and, it is obvious from your subsequent reaction in my presence-- as well as from your earlier acknowledgment--that you had already studied the material.

Again, your reaction in my presence upon viewing #5 man, framed by the cutout in the cover sheet as described -- with the Meredith photo on the underside, and therefore not visible -- was, " . . . that's the man who shot Meredith". This immediate reaction of yours is at sharp variance with your repeated previous statements to the effect that you saw nothing in any of the enlargements of the relevant areas in the Moorman photo that you would take to be a man. On the contrary, it indicates unmistakably that you recognized the #5 image as a human figure, that you almost certainly had done so when you studied it prior to our meeting, and that the comparison with the Meredith assailant at the time you originally saw it impressed you sufficiently, so that when I subsequently showed you the #5 man, and not the Meredith assailant, you immediately saw him with such clarity that you erroneously mistook him for the Meredith assailant.

A very understandable error. But one which would have been impossible for you to make had you not promptly recognized the #5 image as a human figure, despite your earlier denials that you saw anything in the pictures that looked like a man.

Nor is #5 the only compelling image in the Moorman photo. You were also shown #2, which can be seen in several stages of enlargement in the enclosed photo, Display #2. The validity of this image as a human figure is strongly corroborated in the enclosed photos, Willis Nos. 5 and 6. (As you know, these originally were 35 mm. color photos taken by Phillip Willis from the south side of Elm Street, towards Houston Street, and encompassed the grassy knoll area.)

In Willis No. 5, taken slightly more than six seconds prior to the Moorman photo, the white arrow points to a dark silhouette behind the wall, consistent in appearance with the upper portion of human figure; and consistent in position with the #2 image seen in the Moorman photo taken a few seconds later.

Willis No. 6 was taken several seconds after the Moorman photo -- and therefore, shortly after the last shot -- and you will note that the silhouette, which appeared in Willis No. 5, and which appeared as #2 image shortly thereafter in the Moorman photo, has disappeared by Willis No. 6.

(it is my opinion that corroboration in a separate photo is available also for Moorman #5 man; although admittedly less compelling than that furnished for Moorman #2 by the silhouette in Willis No. 5. This corroborating image for #5 man is visible, I believe, in the Nix frame presented in Esquire of December, '66, and also, in color, in Sat. Eve. Post, January 14, 1967. These of course are from the Orville Nix 8 mm. color movie film. Although no frame numbers are noted in these two sources, I estimate the subject photo to be Nix frame 18).*

* This Nix frame was included in the Nix film analyzed by Itek, in which, after a costly study which they say occupied thirty men for sixty days, they concluded that the so-called "man on the station wagon" was only a light-and-shadow pattern. (this pattern appears behind the fence on the knoll, but at a different location from my claimed corroborating image for Moorman #5 man in the same Nix photo). I phoned Itek from Boston the morning after the story of their findings broke on radio and television (May 18, I believe). I spoke to a Mr. Hall, and informed him that I was inclined to agree with their conclusion about the "station-wagon man" (indeed, I am not aware of any critic who has stated publicly a belief that this image was a man, nor did I personally ever place credence in its validity). I also informed him that I, as do numerous others, had photos in my possession, including the subject Nix photo, which contained far more

(footnote cont'd)

credible images than the one they had so diligently analyzed; that at least one of these images was so clear (Moorman #5 man) that I felt confident upon examining it he would quickly agree was a valid human figure; and that since I was only thirty minutes away from their offices, I would be happy to show the pictures to them. Mr. Hall voiced considerable interest, and said he would check with some associates and call back shortly. I received no return call.

Upon careful study of #5 man, it would appear that he is youngish, balding or blond headed, prominent ears, of medium-or-lighter build. His shirt -- open at the collar -- is white or light-colored, as can be seen from the appearance of the right point of his collar which is clearly visible. He appears to be wearing a sweater-like garment of darker shade. He is visible above the wall from the lower chest up. He appears to be holding a straight lengthy object between his hands, and his right elbow is crooked and extended sharply to his right. If the "straight object" were a rifle, it does not appear to be held in firing position at the instant of this photo.

This #5 image appears so irrefutably clear as to make further corroboration of its validity unnecessary, although obviously not clear enough to make an identification with any given person.

The #2 image in the Moorman photo appears to be a man of husky or heavy build, visible above the wall from the mid-chest up. Facial characteristics are not distinguishable. A straight, dark object appears to be extending over the wall, pointed in the direction of the President's car. If this "object" were a firearm, its appearance suggests it is being held in firing position.

What is the significance of these two images? First, there is no need to detail at length that of which you are already aware; that, regarding the grassy knoll area, numerous witnesses testified or reported that they heard shots, and/or saw smoke, and/or saw some type of activity at the time of the shots, or immediately thereafter. At least one witness who dashed to the subject area, Officer J.M. Smith, was reported to have smelled gunsmoke in the parking area behind the fence (Texas Observer, December 13, '63) (the wind was blowing in a direction inconsistent with its having carried gunsmoke from the Book Depository window to the knoll area, hundreds of feet away).

Also, you are well aware that the Zapruder film strongly indicates -- many would say, proves conclusively -- that the bullet which hurled President Kennedy's head back and to his left immediately after the 313-314 head-shot had to come from the direction of the knoll. With this evidence in mind, photographic proof of the presence of unidentified men -- or even one man -- half-hidden behind the wall or fence at the time of the shooting, must be considered significant; even if they did not appear to be holding straight objects.

Who can they be? Hardly a likely vantage point for spectators, especially since the crowd watching the motorcade was relatively thin by that point. A spectator could certainly be expected to have availed himself of a more advantageous viewing position, closer to the street. Nor does a scrutiny of the Warren Report and the twenty-six volumes reveal that any men were stationed behind the wall or fence in an official capacity, whether Secret Service, FBI, or Dallas Police.

(in response to an inquiry as to the "rumor" that men were seen secreted behind the wall just prior to the shooting, Warren Commission senior counsel Joseph Ball stated: "I have heard of speculation that

"In answer to your question, I have heard of speculation that there were men secreted behind the wall on the grassy knoll just before shooting of the President, but I have found no evidence to support such a claim!"

Earlier, at a televised press conference (KNBC, Los Angeles, February 27, 1965), when responding to a question as to the source of shots, Mr. Ball said:

" . . . That happens to be the part of the investigation of which I had charge . . ." (re-stating his conviction that all the shots came from the Depository window);

and, as evidence that no shots came from behind the wall or fence ;

"There was a witness that was above that grassy knoll, in a tower. . . . There were no people there. Most of the people were down watching the parade, and he had a good view of it".

What emerges, then, is the following:

1. At least two men, and certainly no less than one, are visible in the Moorman photograph, half-hidden behind the wall on the grassy knoll at the time of the final shot.
2. They both appear to be holding straight objects, one of which (#2's) appears pointed at President Kennedy.
3. Strong corroboration for #2 appears in a separate photo (Willis No. 5) taken by another person from a different angle; and the image disappears shortly after the shots (Willis No. 6)
4. Some corroboration, ^{for #5 man,} although less convincing than that in (3) appears in film taken by a third photographer (Nix, frame 18).
5. There is no indication that these men were known to the Warren Commission, and the presence of men behind the wall is denied by counsel Joseph Ball.

Need it be stated that a thorough examination and presentation of this question must be included in any inquiry that purports to determine the facts of November 22, 1963?

Need it be stated that CBS obviously has all the technical means to present the photos of these men (admittedly, far from what would normally be considered good viewing quality) so that they are shown with maximum possible clarity? *

* If you so desire, I can furnish an earlier generation of Display #5, allowing perhaps for 20% greater clarity.

Need it be stated, that if CBS fails to do so -- especially considering your positive reaction to #5 man -- that fact in and of itself will constitute powerful evidence that the entire CBS effort was designed to be what I fear it to be; a high-level whitewash of the Warren Commission findings?

Of course, I have no way of knowing the specific contents of your program. I am, however, familiar with the typical methods employed by sophisticated counter-critics; that is, counter-critics who at least make a seemingly serious attempt at dealing with the evidence -- as distinguished from the Louis Nizer type of Commission defender, who usually content themselves by pointing to the unimpeachable character of Earl Warren and his fellow commissioners.

Some of these methods are as follows:

1. The Double Standard: A grossly divergent standard is employed in examining conclusions of the Commission and those of its critics. Commission hypotheses are accepted if they can be shown to be merely possible; critics' hypotheses are rejected unless they can be proven beyond shadow of doubt.

(obviously, by such standards there are few propositions that cannot be "proven" or "disproven", depending on the whims of the examiner)

2. The Hundred-House Parley: The Commission's case is based on the acceptance of a very long string of mere possibilities; each of which constitutes an improbability -- in many cases, an extreme improbability. (The Commission and its defenders pretend not to notice the formidable multiplication of odds which accumulate against them as they pile improbability upon improbability in order to reach a pre-selected conclusion.)
3. The Selective Defense: Defenders attempt to validate the Commission's case by demonstrating (more often than not, incorrectly) that this or that allegation made by a critic is invalid. (a corollary of this method is to ignore those allegations which the defender believes may be irrefutable).

(while it is obviously legitimate to point out any misstatements made by the critics, this approach ignores the fact that the Commission's conclusions are based on a lengthy series of elements, all of which must be sound for their case to remain intact. In this regard the Commission's case can be likened to a heavy weight, suspended from the rafters by a long chain. Once a single link is broken, the law of gravity will ignore the possibility that all the others were sound)

4. Abandon The Untenable: This method involves the unabashed abandonment of a more-or-less crucial official proposition, and its replacement by a hopefully (for the defenders) more tenable one.

(this usually occurs after the vulnerability of a particular premise has been so widely acknowledged as to make its replacement mandatory; or when the adherence to a particular premise is widely understood to create unbearable difficulties for related official theories)

Some examples:

- a. until December 18, '63, there was no public challenge to the Parkland doctors' description of the President's throat wound as one of entry. A number of conflicting theories had previously been put forth -- usually attributed to unnamed official sources -- "explaining" how the President was struck in the throat by a bullet from the Texas School Book Depository Building. The St. Louis Post Dispatch of Dec 18 '63 reported that the Secret Service, a few days prior to the story, had ". . . obtained a reversal" from the Parkland doctors ". . . of their original view" of an entry wound in the throat, and that this acceptance by the doctors of a throat exit wound was achieved by ". . . showing the surgeons a document described as an autopsy report . . ."

So, from Dec 18 '63 on, we were to believe that the autopsy performed on the President on Nov 22 proved that the throat wound was an exit, and that all earlier stories to the contrary, often citing unnamed official sources, were to be forgotten.

This would presumably include the NYTimes story of Dec 6 '63, which said:

"Thirteen days after the assassination of President Kennedy, Federal investigators were still reconstructing the crime on film today . . . One question was how the President could have received a bullet in the front of the throat from a rifle in the Texas School Book Depository Building after his car had passed the building . . . one explanation from a competent source was that the President had turned to his right to wave and was struck at that moment . . ."

But we have been told that the autopsy on November 22 revealed that the throat wound was an exit. Why then were "Federal investigators", thirteen days later, attempting to solve the "question" of a throat entry wound? And why did a "competent source" -- who, beyond reasonable doubt could only have been a federal source familiar with the autopsy findings on this point -- attempt to explain the dilemma by saying the President momentarily exposed his throat to the gunman while turning to wave?

- b. Attorney General Ramsey Clark's statement in early March '67, that Clay Shaw had been thoroughly checked and cleared by the FBI shortly after the assassination, begged an obviously embarrassing question: Why was he checked at all?

The record was "corrected" on June 3, '67, with the justice department's announcement that Atty. Gen. Clark was in error, and that Mr. Shaw had not been investigated by the FBI at all.

- c. A major stumbling block to the Commission's version of the shooting was the limitation imposed by the 2.3-second minimum, which the FBI experts determined was necessary between shots

with the Mannlicher-Carcano rifle. This was "overcome" on a B.B.C. television broadcast on Jan 29, '67, when a British Royal Marine reportedly fired more rapidly, using a Mannlicher-Carcano rifle " . . . similar to the type used by Oswald".

- d. The famous Single Bullet Theory, wherein all the wounds inflicted on Governor Connally and President Kennedy, excepting those of the President's head, were claimed to have been caused by a single shot. This theory, which was not adopted until many months after the assassination, is at once the most crucial and most vulnerable of the Commission's hypotheses. Yet, the Zapruder film -- unaided by much other available evidence -- proves beyond reasonable doubt that the two victims were not struck by the same bullet.

Even Commission counsel Norman Redlich has correctly observed, "To say they were hit by separate bullets is synonymous with saying there were two assassins". How, then, to abandon the clearly untenable single bullet theory, without scuttling the lone-assassin case?

Prof. Alexander Bickel to the rescue! While rejecting the single bullet theory, he suggests (Commentary, Oct, '66) that the three-shot limitation may be sustained by having the first shot fired earlier than Zapruder frame 210, the first frame in which the President emerges from behind the oak tree. Bickel suggests he could have been struck at 185-186, when the President became briefly visible (1/18 sec.) from the TSB window, thanks to a slight opening in the foliage of the tree.

Without considering the numerous related difficulties raised for the Commission by this ingenious remedy, it should be noted that such a shot would require the alleged assassin to align his moving target in the crosshairs and squeeze off an accurate shot, all in 1/18 second (granted that the gunman could have roughly followed his target through the foliage till then). Such a proposition was evidently considered by the FBI and the Warren Commission prior to the adoption of the single bullet theory; but was apparently deemed too audacious. Those who would now impress it into service are apparently unaware that, once adopted, the single bullet theory is almost impossible to abandon.

Accepting (for the moment) that a bullet from the sixth-floor window entered the back of the President's neck -- where the Commission says it did; then, descending through his neck, exited at high speed from his throat; where did it go? In fact, Arlen Specter, the author of the single bullet theory, cites this dilemma as the most important factor leading to the adoption of his theory. He states, (U.S. News & World Rep. Oct 10, '66):

" . . . it was a theory reached after exhaustive study and analysis, largely because of the factor that when the car was lined up . . . the bullet which went through

the President's neck would most certainly--or perhaps I should say only most probably -- have had to strike either some occupant in the car or something else in the car . . . "

He indicates that since no damage was found in the car, this substantiated the theory that the same bullet had struck Governor Connally; ignoring the perhaps more reasonable hypothesis that no bullet emerged from the President's throat. (the latter, of course, would immediately raise other formidable difficulties for the lone-assassin theory).

I note in TV film clips advertising your program you have featured slow-motion movies of a bullet -- apparently of the same type allegedly used in the assassination--being fired through what appears to be a thick block of wood. A substantially undamaged bullet is then shown, presumably the one that was fired through the block. I imagine this is intended to dissipate the cloud of illegitimacy hanging over Commission Exhibit 399.

If a thorough objective study can accomplish that remarkable task, well and good. I assume, of course, that in addition to wood, you will have test fired bullets through bones; specifically, a single bullet through rib and wrist bones, to meet only the first requirement of bullet 399. (I know you are aware that in tests conducted for the Commission, a bullet fired through a cadaver wrist to simulate the Governor's wrist wound produced Comm. Ex. 856, a thoroughly mangled 6.5 mm. bullet).

I assume that you will have also carefully considered the question of the metal fragments left by 399, which seem, when added to the weight of 399, to produce a weight in excess of the maximum allowable for this bullet (FBI firearms expert Frasier has testified; "There did not necessarily have to be any weight loss to the bullet")

I assure you have thoroughly investigated how probable it may have been for this bullet to have inflicted all the wounds attributed to it, then fall out of a wound in the Governor's leg after depositing a fragment in his femur, and yet remain totally free of any blood or tissue.

I assume you have weighed all the pertinent testimony of the Commission's own experts, none of whom can be said to have supported its multifaceted conclusion regarding C.E. 399, and most of whom contradicted it.

I assume you have confronted and will adequately explain all the other major questions about this crucial piece of evidence, raised in various critical articles, including my own monograph, "The Bastard Bullet", a copy of which was sent to your associate, Mr. Bernard Birnbaum, approximately two months ago at his request.

All these assumptions, of course, are based on one additional assumption, one that I have already indicated I cannot presently accept with confidence: that it was the intention of CBS to discover and present the actual facts of the assassination, no matter what conclusions those facts may lead to.

The terrible event which occurred on November 22, 1963 affected all Americans, and countless millions around the world. Yet, no sooner

had the Warren Commission issued its Report, and the twenty-six volumes of testimony and exhibition which that Report was allegedly based, when a shocking truth became apparent: The evidence therein presented not only failed to support the Commission's conclusions, it frequently contradicted them in one critical area after another. The most conservative assessment that could be logically made, even after a preliminary examination of this evidence, was that the Commission's vaunted "most massive detective job in history" was a disgrace; and that if its principle conclusions were correct, they were correct despite a notable lack of supporting evidence, and despite a large amount of contrary evidence presented in the volumes and elsewhere.

There was, and is, however, extremely strong evidence indicating that its conclusions are as erroneous as its methods were shabby; and that President Kennedy was assassinated as the result of a conspiracy.

When the full story of this momentous event is recorded in our nation's history, I believe an important and shameful part of that story will be the almost total failure of the American news media to delve sooner into the facts, to perform the historic duty with which they should have felt charged and of which they are clearly capable.

Instead, for far too long, they have chosen, almost unanimously, to hail the Commission's findings, and to ignore or attack those who attempted to point out that the Emperor was naked.

CBS, because of its abilities, prestige, and influence, and because it is about to present a lengthy program which, for better or worse, will become part of the history of this case, bears a heavy responsibility. Since you, personally, have been in charge of the preparation of this project, a particularly heavy responsibility falls upon your shoulders.

The program can either be an honest searching examination of all the important questions surrounding the assassination -- including the question of the unidentified ren behind the wall -- and thus serve in a vitally important way the cause of truth and justice; or it can amount to a cleverly constructed propaganda job, intended only to patch together the Commission's shattered conclusions. It cannot be both.

According to the "Law Dictionary With Pronunciation", by James Ballentine (pub., Lawyers' Cooperative, Roxh. N.Y., 1958), the following definition is given for "accessory after the fact":

A person who, knowing a felony to have been committed, receives, relieves, comforts, or assists the felon, or in any manner aids him to escape arrest.

Since I am not a lawyer, I do not know if this definition would legally apply to those knowingly engaged in the preparation of a dishonest program on the assassination, which " . . . in any manner aids . . . " the guilty parties to escape punishment. As a layman, I am inclined to think it would not apply.

However, I have no doubt that, whatever the legal implications, all persons in positions of authority who participate in such an undertaking will be adjudged morally guilty by posterity.

The responsibility is yours, the choice is yours; and so, in large measure, the credit -- or culpability -- will be yours.

Sincerely,



Raymond J. Marcus

enclosures: photos; Display #2, Display #5,
Willis No. 5, Willis No. 6

copies:

Richard Sclant ✓
William Paley ✓
Robert Richter ✓
Walter Cronkite ✓
Dan Wraith ✓
Fred Friendly ✓
Cong. Theodore Kupferman ✓
Judge Edw. A. Haggerty ✓
Dist. Atty. Jim Garrison ✓
Judge Bernard J. Bogen ✓
Judge Brokney ✓