

6/4/69

Dear Dick and John,

A hurried, before-sunrise note preparatory to leaving for the day.

Dick's 5/27 interpretation of my belief that you must go "after" Frazier is largely correct, but not entirely, and in that part which is not I do not agree with him. I do not mean a personal attack on Frazier as the basis. I do mean an attack on the evidence, which is entirely inadequate, entirely inconsistent with his experience and competence. I do mean that unless you prove this you have a poor case at best, and you cannot assail the inadequacy of the evidence without criticism of those responsible for the evidence and come through with any credibility. No judge will believe the FBI was incompetent and most will assume the competence and adequacy of the evidence from it. He has already armed you for this (or was it Shaneyfelt?) who took the Eichmann line, I did only what I was told. This is not what a judge wants to hear, not what search for truth requires, and it certainly is the argument you need--above all, it is the FBI admission that it never sought the evidence, to learn what did happen, only if it might be argued that one of the many, many possibilities could be made to seem at all tenable. If you did not get these exact words at the time, do not have the clippings from the transcripts that appeared in the N.O. papers, then you can get them by phone from one of the lawyers, I am sure. There now is not enough time for you to get me to dig them out. I have these stories.

The pictures from the Archives came the day Tom left for a Lions convention. I saw him first thing Monday Morning and delivered them. I spoke to him about an affidavit for John and he agreed, saying he would get that done immediately. He will not be able to do the pictures until tonight. He will also make copies of the negatives, so he will have both sets of negatives, should we ever need them.

I do not agree with Dick's "bubble burst" attitude. I think we have already learned much of value and there is still more. Dick knows my suspicion about the testimony saying there were no blowback markings on the shell heads. I think there is yet work to be done, like comparing the heads and the bolt face. If the negatives of the exhibits introduced during Frazier's testimony are made negatives, that, in itself, is of the greatest significance, for that means he manufactured his evidence instead of photographing through the comparison microscope and this he did not do without some special purpose in mind. It also bears on the possible wrong relationship between specimen and comparison, etc. I think we must establish this in some way, photographically, if possible. I wish I had known it when we were at the Archives.

Now, with markings on the head, if they are identical they strengthen the case, which required they be used. If they were not used, it cannot be assumed this was without reason. I think it must have a reason. I recall also the Hoover statement that one had been in another weapon at some time and recall none of this from Frazier's testimony.

For his purposes, Dick does not believe film overlays are needed. I tend to think more in terms of graphic presentations. I had asked about this earlier and Tom had thought doing it meant a lot of work and trouble. Apparently he has thought about it because he raised the question Monday to tell me how simple it would be, in black and white, as I knew. He just hadn't understood I meant merely to use the enlarger and film instead of paper. Also, I think we have to make a real comparison between the parts of the heads he obscured and the bolt face. He did handle the shells and the bolt, not 399. Hurriedly,

30 May

Harold -

Enclosed is \$10 of the \$65
that I owe you. I now owe
you \$55.

I resist commenting
further on the cartridge
cases until I see the
pictures that we get from
the archives.

I am busy with my thesis,
but will be in touch later.

Dick

BERNABEI

Copy for Weisberg

27 May 1969

John Nichols
Kansas City, Kan.

Dear John:

I delayed writing because I wanted first to see the other pictures that we are getting from the Archive. I doubt, however, that they will cause me to change to a great extent what I say here.

I am satisfied that all three of the evidence cases and Frazier's two tests fired bullets and experienced the full effect of blow-back. Admittedly, there are still anomalies that I would like to resolve, but I doubt whether their resolution will cast further light on what we already know.

Enclosed are Xeroxes with notations that indicate my reasons for asserting that the cases are legitimate-- at least to the extent that their marks were all produced by normal means. I still believe that the cases were planted, but I doubt whether we shall be able to prove it on the ~~xxxx~~ lines that I have been pursuing.

~~The ~~xxxx~~ paste-up of the five bases with the bolt face shows the cases properly in their relative positions to each other and to the bolt face (the bolt face must be regarded as a mirror image of the bases).~~

On the photo of the cases you will not that I have encircled what appears as a pair of marks on CE 543 and 545, and a single corresponding mark on CE 544. These marks undoubtedly were caused by a small defect inside the rifle chamber. Since they are in the same relative position with respect to ~~the~~ all of the dents (mouth and shoulder), I presume that the shoulders were dented by the same process of ejection that caused the case mouth dent. Even though we did not manage to reproduce the shoulder dents, these marks virtual compell~~x~~ the conclusion that all the dents were caused in the same way. It is enormously improbable that the shoulder dents were caused by another means.

Even though the photos of the evidence cases do not show all the points of interest clearly, they do show marks that indicate that they suffered the full effect of blow-back, both on the primers and on the brass. I am sure that direct examination of the cases will reveal many more marks on the ~~xxxx~~ brass than I have indicated.

What puzzles me is that Frazier said there were no marks on the brass, for there are marks that are evident even in our inadequate photos, marks produced by blow-back, I think. I may be able to understand this when I get the books that I requested and learn more about this phase of firearms identification. If there is significance in Frazier's error, I presently cannot understand what it is.

Although the photographs are not adequate to allow a definitive statement, it appears that Frazier's test cases do not show the full effects of blow-back on the brass, but since the marks on his primers correspond with the marks on the primers of the suspect cases, it is certain that all were subjected to the same pressures. It is just another puzzle that I cannot explain.

Concerning what I said about Frazier's use of the same picture in his microscopic comparison photos (CE 544), there is another thing that I forgot to mention. The exhibits showing Frazier's comparisons exist in the archives as negatives, not as photographs.

That is, a pair of negatives were lined up and pasted together. This means that Frazier duplicated the negative, not the photograph. Again, I cannot explain why.

The comparison microscope shows both objects through one eyepiece, and it is my understanding (I am not sure) that photographs illustrating the comparison are ~~in~~ taken through that eyepiece. Under such conditions, a single negative shows both the suspect and the test; I.E., they are photographed by the single snap of the camera shutter. I wish that I had a firearms identification expert in residence, for I just don't know whether Frazier's process is normal. I strongly suspect that it is not, for his method is troublesome and unnecessary.

I'll know more when I get the books that I want. Presently I can understand what happened, but I cannot understand why.

I received Weisberg's two letters to you of 24 May.

The one dealing with Lattimer makes no sense to me, for I don't know who Lattimer is or what he has done. No comment.

I think Harold may be wrong in suggesting that you bear hard on Frazier and the FBI. It's justified, to be sure, but how you treat the case should depend on what your judge is like. You may antagonize him badly if you rap the FBI with accusation of deliberate obfuscation. I think it sufficient to show that you cannot engage in definitive research on the basis of the evidence as it is presented in the Hearings. I may have misinterpreted Harold's remark, "go after Frazier and the FBI as hard as possible", unless that means that you should concentrate on the material that Frazier handled and show that his presentation is sometimes wrong and usually inadequate (I suspect that this is what Harold means).

From time to time in the course of the summer, I'll be reviewing Frazier's testimony and exhibits carefully, and will pass to you anything that I think merits attention.

I suggest that you not waste further time on the matters that I have been dealing with concerning the cartridge cases. I think my bubble has burst; although I shall try to clear a few problems, I do not anticipate significant results.

Let me know whether I should return to you any of the material that you sent me. I would especially like to keep the clip, for I may want to run tests that require it.

I'll be in touch again.

Still,

Dick Bernabei

REFER TO ORIGINAL PHOTOGRAPH —
THIS IS FOR ILLUSTRATING LOCATION ONLY

IDENTICAL MARKS IN
IDENTICAL LOCATION
RELATIVE TO DENTS

LOCATION OF
DENTS.

