Dear Richard, 10/13/95

Somehow, I suppose from weariness, I'Ve mislaid a couple of the copies I've been sending you of what I quote that I would have had with this chapter. I have the originals. I've be n making and sending you copies so Herman Graf would have no questions. If required I can dig the originals out but I'm not up to it now. Much of it was used earlier and I then sent copies. Like the ChiTri and and Newsdays stories that I recall. Ditto for Holt from the SF Whronicle. But I think there were a couple from retrieval systems.

I've had a check made but do not have it in writing. All those who provided those glowing puffs for Random House's dust jacket on Posner's atrocity are published by R H. L'I'll be surprised if they did not accept the book on faith and if in the end they do not raise hell about it. RH got them to shit on themselves in public!

I hope you are finding this as scandalous as I think it is!

Best,

NOW HOW Portner "Found" That me Commission was Right after all

What made me think that there was so ething familiar about what Posner presented as his own work with all that modern superscience did come to mind when some time after Case Closed its September 5, 1993 publication date I was Asont a copy of the lead/book review in the San Francisco Chronicle. It was by Patricia Holt, the Chrinicle's book editor and it did not go into p negyrics of praise. At the end of her & length and perceptive I K admin Attacher review she quotes Posner as quoting William Panchester, father of the "Camelot" nondense as saying "t here is no evidence whatever that there was one," referring to a conspiracy. She ee Her concluding paragraph is,

"You can't say that by Posner's account, srely. In fact, the only reason
"Case Closed" works as a tiltle is that regad readers may be so sick of JFK
assassination books they couldn't possibly stomach another one."

This, however, is not what triggered my recollection.

n her "Between the Lines" column on the eco sc second pages she says what she did not say in her review. It is not lengthy and it deserves quotation in full:

# **Assassination Enigma Endures**

hat was quite an ad from Random House in a recent issue of the New York Times for Gerald Posner's "Case Closed" (see review on cover). Above mug shots and selected quotations (Jim Garrison: "The JFK assassination was a homosexual thrill-killing") by five authors and a film maker (Oliver Stone), the headline announced, "GUILTY / Of Misleading the American Public." The ad smacks of playing dirty and sounds a little lame. If Posner's book should be judged on its own merits, why stoop to the "Most-Wanted" poster approach?

Of course, using selective information to prove one's case is common practice among JFK assassination authors. But Posner wants to distance himself from all others; he wants his book to be regarded as so fair and complete that after reading it, we'll all say, OK, that's the end of it — "case closed."

But take the case of Failure Analysis Associates, the Menlo Park firm that used computer enhancements to reconstruct the JFK assassination for a 1992 study. Posner refers to that study repeatedly but does not explain that Failure Analysis was commissioned by the American Bar Association to create its reconstruction for the ABA's mock trial of Lee Harvey Oswald in San Francisco last year. The trial ended with a hung jury.

According to Angela Meyer of Failure Analysis, "Our job for the ABA was to provide evidence and expert witnesses for both the defense and the prosecution." Posner appears to draw from testimony for the prosecution's case, not the defense's case.

Although Failure Analysis was not asked to provide its own opinion of Oswald's guilt or innocence, the company's CEO, Roger McCarthy (who testified for the defense at the mock trial), offered what host Brian Banmiller called "a startling conclusion" during the TV program "On the Money" on July 31.

Failure Analysis, announced Banmiller, "made a compelling argument that Lee Harvey Oswald did not act alone." According to McCarthy, the gunman

"gave up some awfully good shots to take some awfully bad shots" to "(drive) the quarry into a second shooting" by other assassins.

Banmiller then remarked, "Few sharpshooters, much less Oswald, could hit a moving target taking shots as rapidly as Oswald supposedly did." He asked McCarthy, "Can it be done?" McCarthy responded, "I can't. I'm the best shot I know. I can't do that."

Banmiller concluded, "Thirty years later, no one, not even Failure Analysis, is ready to say conclusively who killed President Kennedy." Case onen.

Then I remember the fat file I have on that ABA mock trial, but not one of those You's here. By many news accounts mentions Failure Analysis. So, with McCarthy's name I wrote him on September 17. When I received no ashwer I wrote him again, telling him that I would have much prefer not to but if I did not hear from him I would have to report that when I asked him for whatever information he could provide he did not respond. Then, two days after she wrote it. I did get an informative letter from Dr. Angela Meyer, Failure Analysis' Manager of Client Services and a participant in the work done for the

4FO A

I probaly forgot all about that ABA mock trial of Oswald because at that time comentrately
I was working intensely on NEVE AGAIN!

American Bar Association. Because her letter is neutral, really impartial and much calmer than under the same circumstances I would have written I wrote immediately and asked for her permission to see use it. Except for the last paragraph, in which she wishes me well with this book and sxixx looks for to reading it, here letter, in full and unchanged follows:





Failure Analysis Associates, Inc.
Engineering and Scientific Services
149 Commonwealth Drive, P.O. Box 3015
Menlo Park, California 94025
(415) 326-9409—Telax 704216 Fax (415) 326-8072

October 7, 1993

Re: Your Request for Information

Mr. Harold Weisberg 7627 Old Receiver Rd. Frederick, MD 21702

Dear Mr. Weisberg:

Thank you very much for your letters dated September 17th and September 29th. As we received both letters within the last two days, any delay in our response has been a function of the Post Office.

I am familiar with your work having read your books last year during our trial preparation for the American Bar Association (ABA) Section of Litigation's Mock Trial, "U.S. vs. Oswald". In fact, your work resides in our in-house library. With your permission, I would like to spend the next portion of this letter describing to you the background of our work for the ABA Mock Trial so that you are more familiar with why we created these animations and why they are being utilized so much now, in the 30th anniversary year of the JFK assassination.

## Background to the Investigation

Failure Analysis Associates, Inc. (FaAA) is the nation's leading consulting firm dedicated to the investigation, analysis, and prevention of failures of an engineering or scientific nature. Our work is well-known throughout the litigation field and we pride ourselves in utilizing the most state-of-the-art techniques in engineering analysis and demonstrative evidence preparation. This is why we were contacted by the ABA.

In March, 1992, members of the Litigation Section of the ABA approached FaAA to assist with a Mock Trial Presentation for their 1992 Annual Meeting in San Francisco later that year. The ABA asked FaAA to provide expert witness testimony for both sides of the litigation - a first for our organization. We were also asked to provide all demonstrative evidence (courtboards, video, graphics, and computer animation) After much discussion, the decision was made to put Lee Harvey Oswald on "trial" at the event. Please be advised that this was a Mock Trial designed to educate attorneys on proper trial techniques as well as the use of technology to display demonstrative evidence. This trial was not used as a forum to prove or disprove that Oswald killed President Kennedy.

pordface

Mr. Harold Weisberg October 7, 1993 Re: Your Request for Information Page - 2

# **Trial Preparation**

It was determined that the Prosecution would consider the following issues: The Magic or Tumbling Bullet Theory, Injury Analysis, and Path Trajectory of the Bullets. The Defense team, of which I was a member, concerned itself with Ballistics, Other Potential Firing Positions/Assassins, as well as "shooting holes" in the Prosecution's case. Both sides utilized the following background information: Warren Commission Report, House Select Committee Report, "Crossfire" as well as a copy of the Zapruder Film. In addition, either side could acquire additional materials if necessary, if approved by the other side. That is how we acquired your books. Latimer's medical work was also used extensively and we had many discussions with Larry Howard in Dallas as well.

#### The Prosecution

The work that the Prosecution team presented you have seen in Posner's book. The lead member of the team was Dr. Robert Piziali, a V.P. and Manager of our Biomechanics Group. Injury analysis was performed using information provided in the record as well as photographs that have appeared in numerous books and articles. The Zapruder film was enhanced and each frame captured as a still to analyze the movements of the vehicle's occupants. During this analysis, the Prosecution was able to detect movement in the lapel flap on Governor Connelly's jacket which prompted them to associate this with the timing of the first/second shot. Frame by frame analysis was also used to determine timing sequences for the firings of the three bullets.

FaAA obtained aerial photographs of Dealey Plaza as well as photographs of each building in the Plaza to assist in the creation of the computer animation of the area. The data was precise, most likely within an accuracy of approximately two inches. Using this information, the potential entry point of the President's head wound, photogrammetric positioning of the Governor and the President as well as reverse projection techniques, the Prosecution located the positions of the two men in the vehicle and then related the injury positions in the bodies. In this way, the trajectory of the bullet, i.e., the cone that you see in Posner's book, could be estimated. As you can see, there is not a straight line trajectory, but a cone, to incorporate the ± accuracy of the analysis. As the cone happens to take in all of the 6th floor window, the prosecution used this to build a strong case.

#### The Defense

We were able to obtain a Mannlicher Carcano rifle and bullets from the same lot that Oswald was alleged to have fired. We concentrated on his ability as a marksman to make that shot; the quality of the weapon utilized, the "better shot" available as the vehicle moved toward the 6th floor on Houston Street; and the timing sequence of shots.



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October 7, 1993
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To do this analysis, we instrumented the weapon in all directions so that we could monitor the gunman's head movement as well as the rifle movement when the shots were taken. Dr. McCarthy, our CEO and a expert shot, performed the experiments as well as provided testimony during the trial. We were able to produce timing sequences that corresponded to the sequences found by the House Select Committee investigation as well as the Warren Report. In addition, we obtained skulls and attempted to reproduce the "pristine bullet". In one or two instances, a slightly damaged bullet was obtained, in others, it was heavily damaged. Dr. McCarthy also looked at using other weapons, as well as other ammunition, which might have used to make the shots. We also located positions on the grassy knoll where witnesses alleged to have located the sounds of gunfire. In this way, we developed a "killing zone" - i.e. the first shot was taken from the 6th floor, then the vehicle moves into the "killing zone" location and the other gunmen have better shots. Remember, all we needed to do was put "doubt" in the jury's mind with regard to the facts of the case. The Prosecution had the burden of proof.

### The Trial

We produced all demonstrative evidence for the trial - graphics of the scene, aerial photographs of Dealey Plaza, video of our tests, and three-dimensional animations of the Tumbling Bullet, Fly-Around of Dealey Plaza, Timing Sequence of Shots, Killing Zones, etc. The enclosed tape has a review of the trial. We hope that, as you requested, the tape will be housed in the Hood College library so that students many look at it and gain understanding on how technology can be utilzed in the courtrooms of today (and the future).

The trial lasted 16 hours (2 days). It was attended by well over 500 people. We had a real jury, picked from San Francisco residents. The jury, and a shadow jury, were monitored real-time for their responses by jury consulting experts from DecisionQuest. These juries were not able to see their reactions, but the audience was. The trial was presided over by some of the most senior judges in the country, including two Federal Court Judges. Other participants besides Dr. Piziali and Dr. McCarthy were Dr. Cyril Wecht and Dr. Martin Fackler. In additions actors and members of the FaAA staff acted as witnesses. The trial resulted in 7/5 split by the jury. 7 to convict and 5 to acquit. I have enclosed a copy of the program from the event for your review of the participants.

## After the Mock Trial

We were very pleased with the success of the Mock Trial and the materials that we produced. At present, a continuing legal education (CLE) video tape is being produced by our organization for the ABA and its members. Everyone here has their own view of whether or not Oswald was responsible for the death of the President, but FaAA takes no



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position on this matter. It is my understanding that Mr. Posner contacted Dr. Piziali after he saw the COURT TV show. I am not aware of what was discussed, but Mr. Posner apparently thought the prosecution's case was worth discussing and informed Dr. Piziali of such. Thus, Dr. Piziali gave approval for him to utilize their work for his investigation. We were unaware of Mr. Posner's investigation results until we saw the US News and World Report article last month (enclosed for your review). I have read the chapter in "Case Closed" which acknowledges the work of Dr. Piziali and his team. It is, however, a bit confusing as to the understanding that the work was done for the ABA and not Mr. Posner.

Since FaAA has not proved, or disproved anything with regard to the person (or persons) behind the assassination, we have therefore decided to make no public statements with regard to Mr. Posner's book. We leave it up to researchers, like yourself, to analyze all the facts, and myths, and draw conclusions that the rest of us can learn from.

We have received many inquiries from the national media and have been fortunate to have much of our work shown on the national networks because of Mr.Posner's reference to FaAA. If there is confusion on the part of the media when they request information from us, we correct their confusion with regard to who we performed the work for.

I hope you found this information useful and I wish you much success with your manuscript. When it is published, please let me know so that I can obtain a copy. With regard to your colleague who's request was apparently ignored, I can only tell you that I am answering each inquiry personally. Our work product is confidential and not normally distributed to the general public. It is highly unlikely that we would have deliberately ignored his request. Please have him contact me directly to discuss his request.

If you have any questions, please feel free to contact me directly at 415-688-6951.

Thank you again for your inquiry

Sincerely,

Angela A. Meyer, Ph.D., P.E.

Manager of Client Services

enclosure: JFK Materials

.cc: Dr. Roger McCarthy (w/o attachments)

What I amaddressing, the question I raise here and throughout, is not whether within the law and its various interpretations and court decision what Posner did is literally, legally theft. That is a matter for court decision that does not appear to be in prospect. Although he is careful not to say so or even indicate it in his book, according to Neyer Posner did "Drackiziatizet" approval for him to utilize their work for his investigation from Piziali. This in itself is ambiguous and confusing. While it does indicate that Posner get "approval" it seems that all he sought was some form of permission to make some kind of use of what the prosecution only presented to and for the ABA. As Posner both used and misused the projecution only pt sentation, there is no indication at all that he sought or was given permission to take Failure Analysis's work and present it as his own or as done for him. As Neye/wrote me, the is "Whit confusing as to under standing that the work was done for the ABA and not Mr. Posber."

We return to this.

However, there is no doubt at all that in his book Posner represents this work as his and as done for him. He also did that quite literally after the book was published, as we have such.

Itzisxinothiaxsenseyonotzasxaxmatterxof lawoofxguiltxofzazerimezthatxixincludexsonerxex thexpressive that

And, as we have seen, this is not the only time he did this in his book.

This presentation, while referred to as a "mock trial," was not that at all. It was much too limited to be referred to properly as a "mock trial." All that ABA asked Failure Analysis to do was to provide all demonstrative evidence (courtboards, video, graphics, and computer animation" using "the most state-of-the-art techniques" to Educate attorneys" and Neyer emphasized "educate" in her Itetter, in which there was a ex definite limitation on what would be addressed and it definitily was not "a forum to prove or disprove that Oswald killed President Kennedy."

The definite limitation was to the three and only the three of the many elements of fact in the rime itself, as Neyer also sateted. One was to the missed shot, one to Path Trajectory of Bullets" and the third was to "Injury Analysis."

Thus it was not the need of the "defense" presentation for the purpose of educating lawyers about the new technology to make any use of it at all and it did not. The very who was part of that team, limited presentation of the "defense" also was stated by Neyer, "all we needed to do was put 'doubt' in the jury's mind."

In this Posner, deliberately, exe suppressed for hus use of the Failure Analysis presentation for and to the bar associations of the fact that the prepartion was for the that purpose and withese great limitations built into it and that there was a efense against of and that there was a "jury" decision in which the work he uses as the only work, as definitive and beyond question, and his or done for him was evaluated, judged.

When judged, as Posner's readers, naturally, have no way of knowing, it as found wanting.

It failed! This is the exact opposite of what Posner says. When the "defense" against what Posner used was limited to only raising "doubt" in the "jury's" mind, even with that mis great limitation on disputing what Posner uses as without aby dup dispute even possible, five of the twent twelve jurors agreed with the "defense." And that with a all the razzle-dazzle of all that gee whiz! use of the most modern computer technology.

What she does not say is ap arent: Posner did not ask Failure Analyses' permission to use its work that it dod for the bar association, which commissioned and paid for it, me bard as the ren work of as done in him.

I refer back to a simple sentence in her letter: "It is a bit confusing confusing as to the understanding that the work was done for the ABA and not for Mr. @sPosner."

"Confusing," I believe, is the very least that can be said about it.

She also is probably following a Failure Analysis policy decision to make no public complaint about what Posner did in taking their work not for him and presenting it as done for him and thus his.

From Posner's own publisher's unabridged dictionery this seems to be within its own definition of plagiarism. 401A

What is remarkable, especially because of the great att 1992 attention to that mock trial throu hout most of the major media is that with the single xception of perceptive Patricia Holt's column I know of not a single major-media comment on or reporting of Posner's taking Failure Analysis' work for the ABA and presenting it as done for him, his. Holt fell short of full reporting and comment. She said only that "posner of referred to that study depeatedly but does not xplain that Failure Analysis was commissioned by the American Bar Association" to do that work. She does not say that Posner presents it as done for him, as his. 4068

So, and this is a further measure of Posner, in addition to presenting as his what Failure Analysis did for the bar association, he is as deliberately and dishonestly see deceptive and dihonest as he can be in privately pretending that the sole study was for and for prove Oswald guilty. Beth sides were presented using the the science and methods.

And far from proving Oscald guilty, Posner's false pretense, the jury hung and would not convict after getting the full treatment Posner takes as his only part of.

all those papere and magzines that went ape for Posner and his book, all those secstatic reviewers and their lauditory reviews, all the electronic media virtually falling all over themselves to air him and sell his fraudulent book - not a peop of of this fauth was though, which I've heard after, as keyer says, they heard from so mant of "the national media."

about our major media-

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This, too, speaks for itself-shamelessly and shamefully.

Robert Kennedy misquoted Dante appropriately for this total abdication by the charl major media. It was something like this: "In time of moral crisis a special corner of hell is preceived for those who preserve their tranquility." Or, are silent when they should not be silent.

of all I have seen, heard of been told about, of all the copies of what the pentirely uncritically, major media said and did when it made itself the offix propagandists for the monumental fraud perpetrated on us and on the world, this Orwellian rewriting of so crucial an event in our hestory with such terrible consequences, this most effective and most knew successful of all the efforts to protect the official miscreants, to hide what truth can be whith when their president was bell assassinated only Patricia Holt had any question at all. The record of the rest is that of a Sieg Heil! major media.

Still again, as at the time of the s assination, throughout the official investigations, when the Warren Report was issued and thoughout all the subsequent controversies, when records that had been suppressed were forced to light and in all the many court proceedings when the official production was proven to be false, it failed to meet its responsibilities in a society like ours — in any society that is supposed to be free and ants to continue to be reex free.

As I seed in the eplicage to my second book, Whitewash II in the late summer of 1966, reporting on the past and not realized that I was also forecasting the future, if the assassinated Precident had been "boll-weevil," or "a pig in interstate commerce," cotton or "but a piece of iran, a content fabric or an immitation genanium" the government ould have mobilized all its great power and the major media would have asked all the necessary questions if there were anything questionable at all.

As it does with a crooked petty flunky.

not recognize that Posner had cribbed from that so very well reported ABA educational "mock" trial of Oswald? That not one thought of pushing the right button to retire

Terrefort this truth

retrieve by the marevlous modern retrieval systems all have have a word about that while praising Posner and his book to the heavens?

What massive reporting there was to be retrieved, too. The small proportation of the printouts given to me are more than a compressed half-inch in my file.

All ignored by all the major media and by all the innumerable but great number of reporters, editors and reviewers, save by Holt, when they made an international ensation of the most de; iberatly dishonest book I can remember, when they made themselves into an adjunct of Big Brother.

There is also the question of when Posner learned about it and what that then means and to his book.

to him/ Herexis/butxaxminute/samplexof/whatxwaxxpublishedxatxthaxtiamx

As noted earlier in this book, Posner's work on the book that emerged began, from what the book itself says, about a year/and a half before it appeared. But in his subsequent appearances Posner said that he was looking the filled over with a book in mind some timeearlier, perhaps, from his representations a year or a year and a half before that.

Here is but the timiest semple of what the major media could have retrieved about that mock trial and Failure Anayl a Analysis and the minutest fragment of what Posner could and should hea have learned about before that mock trial if he had really been These are a small but representative sample of the major media could have retrieved about the minutest fragment of what Posner could and should hea have learned about before that mock trial if he had really been there are a small but representative sample of the major media could have retrieved about that mock trial if he had really been there are a small but representative sample of the media could have retrieved about that mock trial and Failure Anayl a Analysis and the minutest fragment of what Posner could and should hea have learned about before that mock trial if he had really been the minutest fragment of what Posner could and should hea have learned about before that mock trial if he had really been the minutest fragment of what Posner could and should hea have learned about before that mock trial if he had really been the minutest fragment of what Posner could and should hea have learned about before that mock trial if he had really been the minutest fragment of what Posner could and should heat have learned about before that mock trial if he had really been the minutest fragment of what Posner could be a small but representative sample of the minutest fragment of t

It goes without saying, of course, that all of the major media that reported this ABA/Failure Analysis event, not only the small percentage of that reporting retrieved for me or the smaller sampling of it that follows, knew it it and had at the least to wonder before abandinning all responsibilities in comepting to extol this munumental fraud, the person on pinnacle of dishonesty of a book.

As he told the Chicgao Tribune's Paul Galloway farxixa in the intesviewe that was publish October 5, to begin with "Posner's interation was to write a primer of sorts about the assassination after examining the wealth of conspiracy theories to see was what credible and what wasn't."

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while this does not been to be the kind of book Posmer would, find worthwhole or and enough it to invest the fune and many morted in the mayn effort) that would in any way excite Random House, it certainly is not the book that appeared.

Earlier, in his Jack Sirica interview published by Newsday on Septmber 16 Posner began "thinking that Oswald might have been part of granized frime or even a small group of friends." Sirica then quotes Posner as telling him, "I believed, anyway, that Oswald had done the shooting."

He could not have been any more specific in representing the purpose of his book to be nothing at all like this. He could not have been any more specific in telling me, and this was in February, 1992, over that three-day period, that he was doing a book to expose the commercialism and exploitation of the assassination.

This, from Posner homself, we have three different books as the one upon which he was working. That Posner is a liar is not the point I am making and it is a fact that at this point in this book needs no repetition. The real point is which does he lie about something as simple as the kind of book he is writing? Why to two different review intervoewers after the book it out and why to one from whom he seeks help for the book he has not yet written? At the very least this is quite abnormal. The one thing that is certain, if anythings ever is from what Posner says, of that without question he was not working on the book that finally emerged. In the absence of what neither he nor Random House is now likely to reveal, the book that was contracted, there is it way of knowing.

However, Posner himself, made it clear that the book he produced is not the book that he conttacted to to.

About three weeks after being closer to thruth with Sirica for Newsday Posner chaned his approach with Galloway for the Chicago Tribune. That very big ego is that small man had him not even indicate to Galloway that what emerged was not his at all and that

the book as it appeared resulted from his own investigation and research. The quotation that follows continues, with nothing omitted, was is quoted from "alloway above ont Posner's original intention, to evaluate "the welter of conspiracy theories":

## Poking in the garbage

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"When you read all the conspiracy books, it's apparent they can't all be right because they flatly contradict each other," he said. "I knew there was garbage on the record. I didn't know how much."

After he debunked as many inaccuracies and false leads as he could, he assumed there would be some issues that would require further investigation, perhaps questions about acoustics or ballistics or possible Mafia involvement.

Yet toward the end of his research, Posner notified Bob Loomis, his editor at Random House, that he had taken an unexpected turn.

"I was convinced the Warren Commission had gotten it right. The evidence was overwhelming," he said.

Posner also was aware, of course, that a large majority of the populace thinks the Warren Commission had gotten it wrong, maybe on purpose.

He got a feel for such skepticism when Loomis, vice president and executive editor of Random House, took his own poll at the next meeting of the publishing house's top editors, who periodically gather to report on works in progress.

"Bob told them about what I'd found and asked how many believed the Warren Commission was right," Posner said. "Remem-

ber, these are some of the brightest, best-informed, best-educated people in New York City, and no one raised a hand except Bob Loomis."

Posner was not dismayed. "When people cite polls showing 70 or 80 or even 90 percent of the public as believing the assassination was the result of a conspiracy, I say I'm surprised it's not 100 percent when you consider that people have essentially heard only one side for three decades."

Anyone who knows aything at all about publishing, particularly on the subject of the JFK assassination, knows that it simply is not possible that Random House would Not HING have considered publishing a pook in which all the money it had contracted and advanced would be one in which the author said, "I was convinced the Warren Commission had gotten it right." There had to have been some special twidt , & something more than mere reptition of the official mythology. Posner does indicate that he told "comis and that Loomis repeated it to other at dandom House: "Bob then told them what about what I'd found." If boomis had told others where he worked merely that Posner had "found" that the Warren Report was correct they'd have laughed in his face.

Newsday's Newsday's

What Posner "found" and where he found it is his aberrational half@truth to/Sirica of three weeks earlier:

> Surely, the conspiracists argue, the seven entrance and exit wounds that the bullet allegedly produced had to be evidence of more than one shooter. To some reviewers, Posner's account of the path of the bullet is among the most persuasive material in "Case Closed." In examining the bullet's trajectory, Posner leaned on modern technology that was unavailable to the . commission, Although his personal research already was leading him to conclude that the bullet did indeed pass through both Kennedy and Connally, he became a true believer after stumbling across the work of Failure Analysis Associates, a Menlo Park, Calif., engineering firm that specializes in computer recreations of accidents for use in negligence cases. The firm had done computer imaging of the Kennedy assassination for a Court TV mock trial of Lee Harvey Oswald last year. After seeing the show, Posner contacted the com-

pany, which allowed him to use its computer modeling

in the book.

In the next sentence the 2company" referred to is Failure Analysis. As Neyer wrote me, Posner did not ask the "compray" to allow him to use its work. He asked Piziali. And as was reported publicling Piziali was not even an employee of Failure Analysid. He worked for "Spectus Technologies Inc., a subsidiary of The Failure Analysis Group," in a copyrighted & "PR Newsire" account of July 24, prior to the aix presentation to the ABA convention.

Posner says he "stumbled" In the Failure Analysis work and its telecasting on Court TV. If that is how he blundered into it then it is to wonder what he was really investigating and researching with all the major notional atternion/the fact that the ABA convention would include a samplock trial of Lee Harvey swald did not get his Fattention in any ay,

heyer's letter does confirm that it waw was was after Pisner"saw the TV COURT told/show" of the prese "mock trial" at the ABA convention that he asked Piziali that his "prosecution case was worth discussing."

It is apparent that what Posner excited Loomis with is what I he could misrepresent as the truth yielded by modern technology. The lawyer in Posner, clear on the dishonest y he intended that is basic to his formula, got Piziali's verbal agreeto use Fail we only in worth a formula for ment what the process what lever refers to as "discussion," in his book.

Whatever that verbal agreement was, and the lawyer knew that Feilure analysis would not want to itigate when there was any kind of agreement, Poster Posner not only presented the Failure Analysis work as his work, he was careful, not to include in his book that he had permission to use it. If he had to have permission to use it, obviously he could not have represented that it as his, done for him.

(Pages 554-5) They hold a single reference to his Piziali's appearance at the mock trial and nothing else at all.

Keeping it verbal, Seeing to is that he did not have what lawyers ordinarily prefer to have, written approval, is consistent with the fraud that Posner perpetrated as his interior all along.

The catalogue of Posner's synstered dishonesties, all carefully plotted, is not complete. If it can ever be complete.

In his six hundred pages he had no space to refer to any mock trial at any

ABA convention. So, his readers were not only given the false impression that Fail
its ret gives no for any other purpose. The AMMORE else.

Thus, too, the added Posner dishonesty in not reporting that there was any defense against what he selected to use of what Failure Analysis presented at that "trial" and that the corrupte history'A record this he was able to deceive his readery on the both the import of what he used, how eed ac credible it was found to be when tested before a jury, as well as on the fact that it was and was intended to be only extremely limited in application and above all, not as even ddressing Oswald's guilt or innocence by Failure Analysis. Actor all these and other related dishonesties Posner, naturally, with his the basic dishonesty of his approach and of his misues of the Failure Analysis work, had no reason to include, after all, he had only six hundred pages, the fact that it all failed in the terms in which he misues it.

It did not convince the jury, As the Journal of the bar association headlined the its account, "Jury Deadlocks in Oswald Nock Trial."

Posner knew this at the outset because he had his first knowledge of any of this not from his own research or investigation because as he indicated to Sirica and as Never told the filter of the country of the country of the entire proceeding and it repeated that airing a number of time. The (decision was also reported nationwide by the media.

And all the accounts highlight Posner's one calculated dishonety, a dishonesty that appears to be the only means by which he could get Loomis and a Random House to accept his indicated not use in his book and pretnds does not exist, knyloing better, knyloing the truth. And this should be considered with the intention, of the very limit d and carefully defined purpose of the entire thing, as keyer reported it officially for Failure analysis.

TODAY reported headlined its account, "Hung jary in Oswald trial." The third sentence in the account is that "the results were inconclusive: The Jury deadlocked after 2 1/2 hours."

This is not P sner's account so effectively distributed and prometed throughout the entire world by Kendern House. He sup only the heart official.

The five balked because: "The theory that Oswald fired a single, magical bullet was unbelievable; his motive for killing Kennedy was unceal; many doubts remain."

This is an entire disproof of Posner's entire book, that whole phony concoction he fabricated beginning with Hatrog what he exaggerated and distorted Hartog's opinion of the boy to forecast and winding up with his misrepresentation of thoth the purpose and meaning of the part of the Failure Analysis presentation he did not suppress. The jury itself refused to ccept what Posner himself represents as beyond any question at all, as absolutely ughuestionable.

The very conservative Washington <u>Times</u> of the same day concluded its story, "The trial's purpose wasn't to reach a definitive <u>EXERCIMENTAL</u> verdict, bit to demonstrate advances in the age-old art of lawyering."

Eliz Elizabeth Risberg's stroy of that day for the Associated Press, which blankets the country and the world, begins, "Even hi-tech computer animation could not help jurors at a mock trial decide whether Lee Harvey Oswald assassinated on F. Kennedy."

"not A guilty" verdict in hanging, report that the "defense" was by Wall Street
lawyers Posner's old firm, and by those at the top of it, its very best lawyers and Senion

Carata C ravath, Swaine and Moore!

One of them David V Bets Boies (right) that that after that entire presentation

Posner used and misused the prosecution "hand't met its budden of proof."

Boies was not alone of the very best lawyers in the firm that kept Posner working for it so short a period of time and from his own account, where he boasted of his mind being perfect for analysis, in the most menial chorse chore of going over discovery evidence, a chore assigned by some of the major corporations to those who do

mot even have a law degree, as I know from having friends who had no law training doing that for years, Thomas Barr, quoted in the same San Ffancisco Chrinicle's August 11 story, said, "There should not be the slightest doubt of any kind as to what the facts

are. And yet every single fact of any significance is open to serious debte doubt."

Still another of the top partners in the firm that did not need to continue Posner's services, Evan Chesler, joined his associates at the firm and in the ABA's presentation of the defense at the mock trail in saying that "no one can be sure about how may shots were fired or where they came from. Despite all the evidence, the government only has circumstantial evidence to string together... The doubts are such that in this are case (the government) cannot carry its burden, said Barr'."

This is the most ea exact opposite of P sner's representation of that failure

Analysis work he used as his and the opinion could not have come from better, more
respected, more establishmentarian lawyers that those at the top of the firm he had such
a short association with that he inflated into his being a cover-worthy and publicity angle "W all Street lawyer."

Led us now return to Particia Holt's "Between the Lines" column of in the September 5, 1995 Mironicle:

When Court TV asked Failure Analysis's chief executive office, who was part of the "defense" team and testified at the "trial" this question, "Few sharpshooters, much less Oswald, could hit a moving target as rapidly as Oswald is sup osedly did-can it be done, RicCarthy replied "I can't. I'm the best shot I know, I can't do that."

 host Brian Banmiller and McCarthy spoke the obvious, that makes shooting with such a accuracy more difficult. And when McCarthy, whose perfessional qualifications greatly exceeded obvious and say he could not do it, there is still another reason Posner had to suppresse the fact that there was a defense and a jury remid verdict.

From merelt the half-hour video cassette Never gave me there are many other reasons Posner did not dare use all of that production. Of these I here cite only a few:

It made no sense to use such piece of junk as an assassination weapon;

JFK was shot while hidden from Wapruder's amora by the sign before Posner theorized his he was and the raction to it is not that fancy of the urologist, John "attimer but is in reaction to that shot a (Lattimer's first attempt to use "science" to prove his preconception that Oswald was the lone assassin was to slice the sample bullets crosswise in his laworatory, with precisions equipment with conclusion he has not repeated since then to my knowledge);

The prosecution acknowledge that there was were only have shots is mere conjecture;

The wax time added for the shooting by additional theorizing, that seight-second scenario, is not Pagner's, it is the porsecution, and he pilced that up from the Fairure Analysis presentation to the bar association convention;

The computer's projected path of that magic bullet through both JFK and Governor Connally in fact shows its ext deflected to the President's ring on leaving his neck;

And where it allegedly went through his neck it was low evough to have and to

go through the shirt and tie neither of which was struck in the front by any bullet, from the official evidence itself.

Why McCarthy did not respond to my 2 letters 1 do not know. Heyer indicates that all correspondence wax was routed to her, that esponse was her official responsibility. In any organization this is comprehensible, not really unusual. I wrote McCarthy because I wanted to be able to quote what he and Failure Analysis said with complete accuracy, neither the the organization nor McVarthy had a policy of not responding for quotatimn. He was quoted by the media and he did agree to be quoted when my friend

David week, which him to for direct quotation in a bank review of Posner's book.

Dave has been studying the subject for some years. He teaches history at the Dublin,

Ohio High Schools. He lives in Westervalle, not far from that s chool. With permission
to quote what he will say and with what he quotes directly within within quotations

marks he sent me a memorandum covering his interviews with McCarthy and several others.

His conversation with "cCarthy was on Monday September 13. He also spoke about Posner's

On September 18.

Ovril

Book to Cyril Banks Weeht. whs, as we have seen, is both a lawyer and a forensic path
ologist and is the former head of the American Academy of Forensic redictine. He was
alogs involved in the ABA mock trial as an expert.

911

Dave's memoral memorandum quotes Wecht on his conversation with McCarthy in which McCarthy "confirmed that Posner never consulted with or met with them. They was ent him a courtesy summary of the mock trial information." More, "Posner never commissioned them or paid them a penny." Wecht said that McCarthy "was very angry with Cosner that clear inference (was made) on intrviews that he commissioned them to do it." He further quotes McCarthy as saying, "Thus "This was done as a project, (with ) no unanimity of opinion amongst them...Posner is a writer and a lawyer - what he's done can't be attributed to sloppiness."

Dave's memo continues with his own words in which he also quotes McCarthy:

"Regarding the allegations that Posner implied that he commissioned Failure Analysis:

Posner has Exempted to create that Image: Then, "' We are terribly amused at this concept of "casw closed.""

For the prosecution, McCarthy, of the defense teams, told Dave, "There warms are bigger problems than the wounds."

As we have seen, those that Posner did not deal with infaithfully in various ways and degrees, he just ignored to help him deckide declare that was as he did, Sad Case & "Case Cloded."

One problem with that rifle, as I knew from my duplicate of it on the local range, as McCarthy said, "It is a "high energy rifle' with a 'pretty fair kick'." Those who fired mine on the range found the kick, the receli recoil that thrustes the butt

of the rifle strongly into the should and "licks" the muzzel tend strongly upward, to be guited strong. Especially in using a telescopic sight this maker a problem of getting the target back into the lenses of the scope to sight and then fire. It takes more time, the amount more ra varying with the experience of the shooter and it should be recalled Oswald is never known to have fired that rifle a single time so he could know about and adjust for that string kick.

McCarthy also told Keck as Holt quoted him, good a shot as he is, "I couldn't duplicate the it, " referring to the shooting attributed to Oswald. And McCarthy is an experienced, practising rifleman.

Dave also noted some of Posner's glaring errors that I skipped. One tat amused me

for that pretended know-it-all Posner is that with regard to a nan said to have

"confessed" to being one of those utterly irrelevant "tramps" in this pictures, Posner

refers to him as Charles 'Buddy' Harrelson' The name, Dave says, is "Charles Voyd Harrelson." He says that "Buddy "arrelson was an infielder for the New York Mets."

Wecht made a trenchant observation, deferring to that really zany concoction of Fosner's, that the bulle that miseed and hogays was the very first shot fired, in order to make the have the jacket and core separate so that in Posner's ignorant interpretation of what he says the FBI Lab's report on the impact on that curbstone means, hit a twig or about branch of a tree. That, in Posner's imagination, required for his scenario to have any possibility at all, is extrapped so that the traces the FBI got from that curbstone could be attributed to the core of that bullet.

As we gave seen the FBI so tested a control concern paste patch over the him chip made by that impact, But is Wecht observed, that bullet "breaks Connally's rib and radi radius (the heaven wrist bone) and doesn't separate bit hits twigs and separates."

Obveriously, Posner's fabrication to make the his theory, and it is only a theory, what he cities so other for, he had to make this improbability have the semblence of possibility and he writes about it for all the world as though it is real. A little twig cause the packet to separate itself from the lead core by smashing Connally's rib and wrist bone did not red little indeed!

History teacher Dave Keck the baseball fan and Wecht, of the most impeccible at opposite extreme's, underscored professional credentials as a forensic pathology, each in his own way the arrogance of mind, the celfo self-concept that takes to Ponner real cut of the unreal so he puts it on paper. Then his cuttory Random House editor Bob Loomis, who is also its executive edior and vice president, had no editing questions and rquires no authentic peer review, and withouthern make an internation I sensation of the book.

The Lack and Webet observations are of a different kind of dishonesty that Posner employed to make his book what it is, what he could not be pssible have done without which neme all his more serious, unqualled, I think unprecedented dishonesties of heih none is more essential to his book than his knowing false pretense that the Failure Analysis work was done for him and that he faithfully reported that work in his book.

With the most the thoroughgoing contempt for all concepts of decency, honesty, fairmore work of standards of personl behavior, and with the most total disregard for
our history and popular understanding of it as he tenering he does so falsely w rewrites
it, he did more, ever so much more than any one person the have the grossest and most consciously dishonest and false account of it accepted internationally and by own own megligent and uncaring media that made him a famous hero and fine publis servant for it.

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quit e aside from Former's raping of all the fine traditions of the honorable proper 1706 craft of writers in a society like ours, a society whose function depends of the people being honestly informed, he has once again given the major media an opportunity to refuse to meets its oblihations as, as it has from the moment those terrible shots were fired in Dealery Plaza, it has failed itself and all of us again.