The JFK File

JEFFREY A. FRANK's review of my book, *Case Closed: Lee Harvey Oswald and the Assassination of JFK* (Book World, Oct. 31), contains factual errors and not only misrepresents what I wrote in the book but also distorts the actual evidence in the assassination:

(1) Frank states that my tally of what witnesses saw and heard at Dealey Plaza is "lopsided." He cites William Newman, and says "Newman told the Warren Commission that he felt the shot passing over his head and pushed his wife to the ground to protect her." Actually, Newman never testified to the Warren Commission, but his statements to the Dallas Sheriff's office and the FBI are included as part of the Warren Commission exhibits. In neither does Newman say that he "felt a shot passing over his head." He did, however, select the grassy knoll as the source of the shots, and in *Case Closed* I include his opinion in the 12 percent of the Dealey Plaza witnesses who selected the knoll.

(2) Frank charges that I selectively chose the testimony that "suits" me, and he cites the example of Earlene Roberts, the housekeeper at Oswald's Dallas rooming house. He states that I did not find her credible when she reported that a police car stopped outside her house at 1 p.m. and honked twice, but that ten pages later I "was happy to use her as a witness who saw Oswald leaving, wearing a jacket." A great pitfall of serious research is to separate the good information from the chaff. Earlene Roberts' testimony about Oswald arriving around 1:00 p.m. and then leaving with his jacket is the same story she told from the day of the assassination until the time of her death in 1966. However, regarding her story about the honking police car, journalist Hugh Aynesworth interviewed Roberts on the day of the assassination, and then three more times during the following few months. Roberts did not tell the story about the police car in the first two interviews with Aynesworth. According to Aynesworth, after Roberts finally told the story, it changed "dramatically" with each retelling. That is why I rejected it. My reason for that decision is explained in a footnote.

(3) Frank asserts that in my discussion of the young Oswald that I cited only Dr. Kenatus Hartog's testimony to the Warren Commission, "but not the psychiatrist's impressions from 1953." Again, this is wrong. I cited both Hartog's testimony to the Warren Commission and his conclusion from his 1953 "Youth House Psychiatrist's Report."

(4) Frank slights my research for the book. He summarizes my discussion about Oswald's use of "544 Camp St." on some of his pro-Castro leaflets by writing "that Oswald simply fancied that address as he strolled by it." Yet *Case Closed* details the anti-Castro connections to that address (the Cuban Revolutionary Council), and Oswald's desire to embarrass the anti-Castro activists by using their former address on his pro-Castro leaflets.

(5) When discussing an episode in Clinton, Louisiana, where six witnesses later claimed to have seen Oswald together with adventurer David Ferrie, Frank asserts that I did not dispute the witnesses' honesty, but only found contradictions in their affidavits, "a prosecutor's tactic." Frank does not even give me credit for having unearthed missing documents from New Orleans District Attorney Jim Garrison's late 1960s' probe into the assassination. Those affidavits, handwritten statements, and summary memoranda to Garrison, include the most contemporaneous statements of the witnesses (some four years after the assassination). I more than highlight serious inconsistencies. While some of the witnesses described a purported car used by "Oswald" and Ferrie as a new black Cadillac, others recalled it as an old, beat-up Nash or Kaiser; moreover, some thought the sighting had taken place in early October, when the real Oswald had moved from Louisiana and was living in Dallas. The witnesses could not even agree whether "Oswald" was accompanied by several men, or by a young woman and infant. The very heart of their story is invalidated by the disclosure of these hidden Garrison documents, prompting Irvin Dymond, Clay Shaw's chief defense counsel, to conclude that the testimony of the Clinton witnesses "is a pack of lies."

(6) Finally, Frank assails me for misrepresenting computer-enhanced data developed by the California firm Failure Analysis Associates (FAA), inaccurately claiming that the work was commissioned for *Case Closed*, and failing to report that when the work was presented as part of an American Bar Association mock trial on Oswald, the result was a hung jury. The implication that I misrepresented the data is absolutely false. After I saw the FAA work presented on Court TV during the mock trial of Lee Harvey Oswald, at the August, 1992, American Bar Association convention, I contacted FAA and expressed interest in utilizing the work they had put together in the prosecution of Oswald. Dr. Robert Piziali agreed, and not only did FAA check the accuracy of my draft chapter on the single bullet, but they later assisted graphic artists who created the book's appendix about ballistics. Although FAA made presentations both for

the defense and prosecution sides of the Oswald mock trial, they only broke new ground with the technological work done for the prosecution. What is presented in *Case Closed* is a completely accurate view of FAA's technological breakthroughs.

The insinuation that I claimed that the FAA enhancements were commissioned for the book is false. In the book, the citations to FAA's work and Dr. Piziali's testimony refer to the 1992 ABA mock trial, which is a matter of public record.

Frank ends his discussion of the FAA work by saying that the result of the ABA mock trial was a hung jury. I am not sure what significance he implies by that, since the FAA work was only a part of the trial, and did not address the question of conspiracy. I am not surprised at the jury's indecision. According to FAA's Dr. Robert Piziali, all his work proves is that a single shooter had the necessary time to fire three shots from the rear, and that the so-called magic bullet was possible. Beyond that he could not venture a guess as to whether the shooter was Oswald, or if there was a conspiracy in the case.

GERALD POSNER
New York

Jeffrey A. Frank writes that Posner brings nothing new to "one of the most mysterious episodes of Oswald's short life"—his visit to Mexico City—and dredges up the muddy theory that there was a second Oswald. Since when is novelty relevant to historiography? Frank ignores the recollections of the two Australian tourists who saw Oswald on the bus to Mexico and who clearly remembered him at the time of the assassination; the Cuban Embassy staff who identified Oswald; the picture of Oswald on his Cuban visa application; the Soviet KGB agents who met Oswald in Mexico City and subsequently remembered him at the time of the assassination. And, as Posner asks, if there was a fake Oswald why would he call attention to himself by throwing a fit in the Cuban Embassy when his whole purpose would have been to behave discreetly and so avoid comparisons with the real Oswald? Would a sophisticated conspiracy (with, as Frank implies, some involvement of the CIA) have devised a second Oswald who was three inches taller, 11 years older, and had a different build than the assassin?

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Jeffrey A. Frank responds:

Gerald Posner's letter illustrates the central flaw of his book: his determination to make a case by omitting inconvenient testimony and using the evidence selectively. Thus Posner says Newman is "included in the 12 percent" of witnesses who believed shots came from the grass knoll, but when Posner cites that figure in his book, he never mentions Newman by name, nor does he reveal what Newman, a Korean War veteran, said: that he and his wife "fell down on the grass as it seemed that we were in [the] direct path of fire" from the grassy knoll.

As for the "12 percent," readers should be aware of Posner's arithmetic. According to the House Committee on Assassinations, 171 witnesses were interviewed. Of these, 76 did not pinpoint a direction for the shots; 46 pointed to the Texas School Book Depository alone; 29 believed they came from another direction; six believed shots came from both the Depository and the knoll, and 20 believed they came from the knoll alone (Posner's 12 percent). One could just as well have written that 27 percent believed shots came from the Depository, and 29 percent believed they came from elsewhere. Such selectivity is typical of his methodology.

Similarly, Posner returns to his explanation of why Oswald may have used the "544 Camp Street" address on Fair Play for Cuba handouts, and his insistence that Oswald and David Ferrie (who worked for mob boss Carlos Marcello) did not know one another. Posner is so determined to keep Oswald and Ferrie apart that he accepts Ferrie's assertion that he never met Oswald in the New Orleans Civil Air Patrol, where they'd both served. Posner had evidently yet to see the photograph on PBS' recent "Frontline," showing Oswald and Ferrie together at a small air patrol function in 1955.

As for Failure Analysis Associates, Posner acknowledges that he wanted only the prosecutor's side of what was meant as a demonstration—utilized by prosecution and defense—of computer technology. The "insinuation" that there was a "fundamental misrepresentation" of FAA's work comes not from me, but from the chief executive officer of FAA. "It's just disappointing for a guy to go around representing this work as though it had been commissioned for him," Roger McCarthy told The Washington Post's George Lardner. "I would be embarrassed, but apparently not Mr. Posner."

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