

Dear Howard,

2/23/78

Your 2/19 got to me so severely I put that date on this.

You need the vacation I never get, I think from this.

It also makes me wonder if I sent you all the various papers, including affidavits, toward the end of 226 at district court level. I'll be copying them for Dave when Lil cleans up the FOIA accumulation. If he can't make copies for you we will. I'll ask him. (This IS tax season and Lil has plenty to do. Had to take time off this morning to get her a new printing calculator.)

But what troubles me is not your devil's advocacy, which is a good and necessary thing, but that you have not put anything in context, beginning with a misrepresentation of the Commission evidence. Neither would I have ever thought of you!

That the FBI never denied there was a visible mark on the curbstone is not the point at all. Rather in this part is the point that the FBI ignored the entire matter. Totally until Tague forced its hand. There is no mention of it or the "missed" shot in CD1, for example. There is no mention of it in the various FBI accountings of the shooting, extending even into the Exhibits Division. And this was later, too.

The FBI continued to avoid it, with no hassle from the Commission, until by happenstance (this is new) Tom Dillard forced their hand. He bumped into Barefoot Sanders and asked him how come there were all these official accountings of the crime without any reference to the "missed" shot, which he and Underwood had photographed. Sanders, probably through the woman lawyer whose name slipped my mind, wrote Rankin. Faced with this Rankin's position was untenable. He had to ask the FBI to do the necessary.

ONLY - by then there was no longer a visible physical damage. There was a visible difference. AND, the alteration was much earlier than that July. It was by some time in May, when Jim Tague went back to take pictures to show his folks when he went back home to Indiana. He went there with a movie camera and took a roll of film showing where he had been and where the mark had been.

Now when Liebeler was deposing Tague, again not until after Dillard had nudged Sanders without either of them being aware of it as a nudge, Liebeler unbagged the cat. He showed Tague a picture and asked him if it is a frame of the movies he took. This startled Tague, who was unaware that anyone knew he had taken any pictures. (And I have not been able to get from anyone any record that Liebeler could have been drawing on.)

Shaneyfelt is sent down after the Dallas FBI FO, knowing better, pretends that the wind and the rain and the sun had erased the small hole in the concrete. They posed an alternative: that the street-cleaning equipment jumped the curb every week and filed away at that "scar." This, obviously, could not have eliminated the "nick." (I'm using the contemporaneous descriptions of the news accounts, which are in the 226 record now.) But if they had done the simplest thing, what Shaneyfelt had to do, get the contemporaneous pictures and ask the observers, they'd have had no trouble getting the right spot. The background alone made this easy and made positive determination easy. Without Tague even, and Shaneyfelt did stay away from him.

They not only had Dillard's picture, they kept the negative. The only extant print outside the poor ones Sh. made is that in the newspaper morgue. I got the two other Dillard shots. He then told me that "the federales" did not return the other one, the clearest.

You are quite correct, the original shot shows the physical damage. So the question really is how come, instead of all the who struck John from Hoover and Shaneyfelt, there was no accounting of the magical healing of the curbstone? As you ponder this flash back to the original FBI and Commission omissions- no mention of the missed shot. Think a bit as Specter and his single-bullet theorizing, too, and other problems caused by the inability to ignore that faint trickle of blood down good ol Jim's cheek.

As you ponder consider also that of all the spectro plates the only missing one is guess which - - -? The one of the curbstone! Explanation? Probably the FBI needed files space so they threw it away.

You conjecture that the that the concrete could have been removed and the original mark analyzed. While I disagree I also not that the traces of metal might have been scraped out prior to the patching. You also conjecture that the FBI could have stuck to its "original" story. There was none and they could no longer stonewall once Rankin was written to by, her name returned, Martha Joe Stroud.

Your next conjecture floors me: "Why would they analyze a mark they knew to be a fake and then report that it had a different metallic composition/ than Oswald's bullets?" Well, they did "analyze" what they knew to be a fake. And because they controlled all the lab work and had a Commission as anxious as they to get it all washed out they did not file a report on the spectrographic examination. Instead they have a simple and incredible worksheet on which they say that they found a "smear," as you should recall of an impossible dimension and direction, the composition of which was "lead with a trace of antimony." And there is the proof of the pudding in the eating: they got away with it!

"Patching would be superfluous, if not dangerous." Nothing as dangerous as a real examination of that mark, which would have shown copper traces because it could not, thanks to Newton and his laws, have been a ricochet. This is why they ignored it. I could add to this but hope by now there is no need to.

And, my dear in this case non-Watson, they did get away with it. So of their alternatives they did opt the best and for them the successful one.

To now.

So let us consider, brief, Gemberling's cat unbagging.

AFTER Shaneyfelt's examination, after his reporting of bullshit signed by Hoover rather than fact and the relevant, after the FBI ordains "no visible mark," Good Old Gem files a report in which he says first that there had been a visible mark and then there is no visible mark. This means that the FBI knew that the curbstone had been altered. It is no longer the only reporting they ever did, despite your factual error, that they could not find the right spot because Dallas' streets are so spotless.

The FBI knew there had been a mark. They knew something had made that mark disappear. Knowing this they did not report it to the Commission. Knowing this they proceeded with a fake spectro and then filed a fake commentary on it.

This is the kind of small thing on which I believe major lawsuit and prosecutions can turn. (Yes, we do have it in King, too, given the chance to use it.)

I don't know how much of all they great number of words will be read by the appeals court, beginning with their overworked clerks. But the record is there, and it has not been assailed by the DJ lawyers or the FBI - not in any way. You know the way the system works - they don't have to. But I believe that to reasonable people their failure to will in time have significance.

And I think I can guarantee you that bitter John Pratt will never cut discovery off again with a litigant like me and tell him he can file affidavits instead of taking first-person testimony.

I've done this in haste and I'm sorry I had to. But because you are not dull I do believe that you are overly tired and I would encourage you to take a least a long weekend away from your work and its pressures. You are getting as forgetful as I and that is not good. You also have not addressed the relevant and have conjectured, I think, irrelevantly. All so unlike your usual very sharp and always relevant self. Ergo, go away and have some fun. You need it. Wish I could be with you for it! Best,

CC JL-

2/19/78

Dear Harold,

Re the new FBI documents and the mark on the curbstone, I am still not convinced.

You write that what is new "is the FBB explicitness and recognition: There had too been a visible mark." So far as I am aware, the FBI never denied that there was--at some time prior to the first examination in 1964--a visible mark. With extant photographs of it taken on the weekend of the assassination they weren't about to deny that there had been a mark. I don't think that was ever an issue. All that the FBI maintained was that when they went back to locate it at the WC's request, they couldn't find it --or, to put it another way, it wasn't there.

The more I think about the whole curbstone matter, the more troublesome it becomes, from any point of view. That is because a lot of what is virtually certain doesn't neatly fit any explanation. I agree that the curb appears to have been "patched." But why? Covering up the mark would not negate the fact that there was an errant shot, since Tague had been hit and that fact was reported to the police and recorded almost immediately. Similarly, the mark had been observed by many and had been photographed. Its existence was undeniable so patching makes no sense to that extent. Patching perhaps to prevent an analysis of the metal left behind on the curb? I have problems with that too. If only a "patch" were used, it could be chipped away and the metal smear uncovered. ~~The~~ The easiest solution to avoid analysis of the metal was just to scrape it away. In that case, patching would be superfluous, if not dangerous. So, if the "patcher" acted to cover up evidence, I think he did not act rationally.

There is also another side to the mystery. If the original mark was patched over, what mark was eventually found and analyzed? Also, if the FBI is in any way actively implicated in this falsification of evidence, why would they analyze a mark they knew to be a fake and then report that it had a different metallic composition than Oswald's bullets? For that matter, why did they not stick with their original version that time had washed the mark away?

I'm playing devil's advocate. But I still fail to see what is new in the FBI documents on this point. Perhaps "new" is the wrong word. "Significant" might be better.

Hurriedly,

HR

CC: JL