

# CTIA

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## Newsletter

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This is the third issue of the Committee's Newsletter to be published this year. Originally we had hoped to make this a quarterly publication but pressures of time and cost have made it difficult to fulfill that objective.

We would like to say, however, that we have been very pleased with the response to the previous issues of the Newsletter. Contributions for the year have totaled about \$1200. Although that does not meet our expenses, we are still quite grateful for it and hope that the New Year will find our readers willing and able to make further contributions.

### Freedom of Information Suits

Several Freedom of Information suits which were discussed in previous issues of the Newsletter are still pending. Weisberg v. Department of Justice (No. 71-1026) is presently before the U.S. Court of Appeals for the District of Columbia. This suit seeks access to the spectrographic analyses made on the "bullet, fragments of bullet and other objects, including the garments and part of vehicle and curbstone said to have been struck by bullet and/or fragments during the assassination of President Kennedy and wounding of Governor Connally." These analyses ought to reveal important information bearing on how many shots were fired and whether there is any evidence that the same bullet struck both President Kennedy and Governor Connally. If these tests do support the Government's thesis that all shots were fired from a single rifle, then a baffling question arises: why is the Government fighting so hard to prevent the release of scientific data which would support its thesis?

Indications are that a hearing on Weisberg's "Spectro" suit will be scheduled for next spring.

In July, U.S. District Court Judge Aubrey Robinson, Jr. granted summary judgment against us in Committee to Investigate Assassinations v. Department of Justice (Civil Action 3651-70), a suit which seeks

access to the FBI file on the assassination of Senator Robert F. Kennedy. Judge Robinson's decision came unexpectedly, without a hearing and while we were still awaiting further action on our requests for discovery.

In his opinion Judge Robinson ruled that the FBI documents are "investigative files compiled for law enforcement purposes" and thus, under exemption 7 of the Freedom of Information Act, are not required to be made public. Our position is that once such files have been made available to the defendant and others--in this case they were made available not only to Sirhan but to authors and journalists whose published works relied on these files--they lose their protected status and must be made equally available to all members of the public. George Washington University law student Hal Dorland assisted in the preparation of the appeal brief which we filed last week.

#### James Earl Ray

James Earl Ray's Petition for Post-Conviction Relief is now before the Tennessee Court of Criminal Appeals in Jackson, Tennessee. A three judge panel of that court heard arguments by Ray's attorneys on October 6. There are encouraging signs that the Court of Criminal Appeals will have to order that an evidentiary hearing be held on Ray's allegation that his guilty plea was coerced by his former attorney Percy Foreman. Several recent decisions by various three-judge panels support Ray's contention that he is entitled to an evidentiary hearing before the merits of his claim can be determined. In one such case, Guy v. State, the petitioner alleged that his own attorney coerced him into pleading guilty. The Court of Criminal Appeals sent this case back for an evidentiary hearing. In its opinion the Court noted that "so far as can be recalled, no trial judge has ever been faulted for granting a prisoner an evidentiary hearing on a post conviction petition, and it is held out as an excellent guide in all cases where it appears doubtful if an evidentiary hearing is necessary to resolve the doubt in favor of a hearing."

If Ray does get an evidentiary hearing, it will be significant because under Tennessee law Ray is entitled to testify at such a hearing. In addition, his former attorney Percy Foreman would probably be asked to testify as to why and how Ray came to plead guilty to a murder which he says he did not commit.

All of this is very encouraging. But regardless of how the Court of Appeals decides, the losing party is virtually certain to

ask for a review of the decision by the Tennessee Supreme Court. Such a review could consume many months before a decision is reached. In fact, it is entirely possible that Ray may yet have to go into Federal District Court on a habeas corpus petition before he can vindicate his right to an evidentiary hearing.

An intriguing new development on the Ray case occurred two weeks ago when Ray's attorneys acted on a discovery that three years after Dr. King's assassination a federal conspiracy charge was still hanging over Ray's head. The charge stems from a federal complaint which was filed in Birmingham, Alabama on April 17, 1968. The complaint charged that "Eric Starvo Galt" (one of Ray's aliases) and an individual whom he alleged to be his brother conspired to violate Dr. King's civil rights by planning to "injure, oppress, threaten or intimidate" him.

On November 22, Ray's attorneys filed a motion in the U.S. District Court in Birmingham asking that Ray either be given a speedy trial on the charge or that it be dismissed. When the U.S. Attorney failed to respond to this motion, the judge dismissed the conspiracy charge against Ray.

#### New Developments in Sirhan Case

The existence of a conspiracy is far more readily demonstrated in the assassinations of President Kennedy and Dr. Martin Luther King than it is in the case of Senator Robert F. Kennedy. One excellent book, "R.F.K. Must Die" by Robert Blair Kaiser, does argue very persuasively that Sirhan Sirhan murdered Senator Kennedy under the influence of post-hypnotic suggestion and probably as part of a conspiracy.

A second approach to the assassination of Senator Kennedy claims that a second gunman--not Sirhan--fired the fatal shot which killed the Senator. This second theory, closely identified with the work of Ted Charach of Los Angeles, has figured in some new developments on the West Coast. Because of scant, almost non-existent coverage in the national media, we are summarizing the major points here. Much of our information comes directly from the Los Angeles Times, particularly from the long article by Dave Smith in the August 16 issue.

The new developments were initiated on May 28, 1971, when Los Angeles attorney Barbara Warner Blehr requested a hearing before the Civil Service Commission on the qualifications of DeWayne Wolfer

in an attempt to block his appointment as head of the Police Scientific Investigation Crime Laboratory. In her letter to the Civil Service Commission, Mrs. Blehr alleged that Wolfer had violated four basic precepts of firearms identification when he testified at Sirhan's trial that Sirhan's gun (Serial No. H53735) and no other was involved in the shooting of Kennedy and two other persons on the scene. In her letter, Mrs. Blehr charged that:

"The physical evidence, however, upon which his (Wolfer's) testimony was based established that the three above mentioned evidence bullets removed from victims were fired, not from the defendant's gun but in fact from a second similar gun with a Serial No. H18602. The only possible conclusion that must be reached is that two similar guns were being fired at the scene of the crime."

Attached to Mrs. Blehr's letter were exhibits which showed that although gun No. H18602--the one which was used to test fire the bullets--was physical evidence in the case on June 6, 1968, "the gun was reportedly destroyed by the Los Angeles Police Department roughly one month later in July, 1968."

Los Angeles officialdom reacted in confused and evasive embarrassment to the charges leveled by Mrs. Blehr. On June 1, Los Angeles Police Chief Edward M. Davis characterized Mrs. Blehr's charges as a "vendetta" against Wolfer and said that Wolfer "in my estimation is the top expert in the country." The Los Angeles Times of October 19 reported that the D.A.'s investigation of Mrs. Blehr's allegations revealed:

"That serious errors in Mrs. Blehr's charges against Wolfer were uncovered."

"That a careful study of these errors refute Mrs. Blehr's allegations."

"That a clerical error was made (by Wolfer) in the labeling of an envelope containing three bullets test fired from Sirhan's gun by Wolfer."

"That serious questions concerning the present integrity of exhibits in the Sirhan case were raised because of the handling of the evidence by unauthorized persons while it was in the custody of the Los Angeles County Clerk's Office."

Unfortunately, the Los Angeles papers did not indicate that the D.A. ever provided any specifics to back up his claim that his office had uncovered serious errors in Mrs. Blehr's charges, nor did he show how the careful study of these unspecified errors refuted Mrs. Blehr's allegations.

More importantly, the D.A.'s investigation left unanswered the charge that the ballistics markings on the bullet removed from Senator Kennedy's neck and those on a bullet taken from victim William Weisel do not match up, thus indicating that the two bullets were fired by two different guns. Retired criminalist William Harper, who has studied these bullets through photomicrographs, states that: "I can find no individual characteristics in common between these two bullets."

Harper also examined one of the three bullets in the envelope which the D.A. now says was mislabeled as a result of a clerical error by DeWayne Wolfer. According to the D.A., this bullet (trial Exhibit No. 55-3) was test fired "from the gun wrenched from Sirhan's hand." However, Harper claims that bullet 55-3 matches neither the Kennedy nor Weisel bullets: "I can find no individual characteristics that would convince me that the bullet from Kennedy's neck was from the same gun that fired this Exhibit 55-3."

The obvious practical way to try and resolve these conflicts would be to test fire Sirhan's gun now and see what matches and what doesn't. But according to Ivan Dryer of the Los Angeles Star, District Attorney Busch admits that would settle the two gun theory once and for all but refuses to do it on the grounds that ". . . this presumes that there is credible evidence that would require us reopening an investigation."

While the investigation promoted by the District Attorney seems to have been just another whitewash, it has had the effect of further discrediting the investigation which police authorities made into the assassination. In one instance D.A. Busch has maintained that Sirhan's gun was unavailable for test firing after June 7, 1968, whereas former Deputy Police Chief Robert A. Houghton's book on the assassination, Special Unit Senator, asserts that powder burn tests were performed on June 20, 1968 using Sirhan's gun.

There have been some indications that Sirhan's attorneys will cite some of the new ballistics evidence in appealing his conviction.

THE RESEARCH CORNER

(prepared by Robert Smith, Director of Research)

Herewith and in future issues of the CTIA Newsletter, the Director of Research will review items of current research for the benefit of our readers. Previous issues have been somewhat deficient in this respect for various reasons. One recurrent problem concerns the propriety of discussing matters which are still being investigated, particularly where sources of information might be frightened or antagonized by premature disclosure. Another lies in the differing political or theoretical views of the various critics, and the difficulty in presenting such views accurately and objectively.

The Director of Research is not without his own biases and preferences for certain subjects, and it is inevitable that they are going to show in anything he writes. He is also aware that there are many things in the field of assassination research of which he is uninformed, or only partially informed. Nevertheless, he thinks the effort ought to be made and welcomes any suggestions for future coverage. The errors and the opinions can be blamed on him.

We begin with what amounts to a book review of some recent work by R. B. Cutler, Two Flightpaths: Evidence of a Conspiracy, Mirror Press, Danvers, Mass., 1971, 81 pages, illustrated (available at \$7.00 from the author at 38 Union Street, Manchester, Mass. 01944; also available from either him or the CTIA are copies of the Zapruder film for \$25.00.)

Where Did the Bullets Come From?

Bob Cutler is a professional architect and an expert in the analysis and solution of civil engineering problems. Solving the assassination of President Kennedy in Dealey Plaza involves a great deal more than engineering analysis, and Cutler does not claim otherwise. But in his latest work, Two Flightpaths: Evidence of a Conspiracy, he has shown how helpful such analysis can be toward understanding what happened on November 22, 1963.

Students of the Warren Report have long been aware that the Commission and its Staff, lacking in any real scientific competence and smugly oblivious to the need, never satisfactorily reconstructed the dynamical details of the shooting. Proceeding frankly on the principle of consensus of opinion, the Commission concluded that three shots were fired, all from the same source.

But the Commission failed miserably to account for the actions of any of the three bullets, or for their effects on the bodies of President Kennedy and Governor Connally. On several details crucial to the whole official theory, such as whether the bullet known as Exhibit 399 could have done all the things that the Commission claimed it did, while remaining as nearly unblemished as it was found to be, the Commission even rejected its consensus-of-experts approach and resorted to proof by proclamation.

Mere technical details, the Commission's apologists might say. But the troublesome fact remains, eight years after the event, that the medical evidence, or that portion of it which the public is allowed to see, simply does not jibe with the postulated trajectories of the shots. Flight angles of the bullets stand in naked contradiction to the reported entry angles of the wounds. Reactions of the victims' bodies seem to have defied both the expectations of physiology and the laws of physics. Serious and baffling questions remain unanswered about the impact and subsequent fate of the bullets or their fragments, e.g., how, when, where, and in what condition they were found or, as in some instances, why they were not found at all.

Running through all the Warren Report's ballistic analyses, the careful reader detects a sophomoric approach to the computation of angles, distances, speeds, times of events, and other technical matters. Yet all these things ought to have hung together, at least approximately, if the official theory was to be worthy of public credence.

All this has been known to diligent students of the Report for many years, and it has been documented in several publications. Yet the Government seems not to care. The Warren Commission, having operated in almost cathedral isolation from criticism throughout its existence, promptly disbanded upon submission of its Report, leaving no official body to whom such weaknesses could be pointed out. The Justice Department and the FBI, who did most of the investigating for the Commission and who might be thought to have retained some interest if not jurisdiction, have been about as responsive as the Pyramids. Most Congressmen have been unapproachable on the subject. It now seems clear that if the mysteries of Dealey Plaza are ever going to be solved, private citizens will have to do it rather than the Government.

This is where work like Cutler's comes into consideration. It is a serious, technical analysis of ballistic, photographic, medical, and architectural data which attempts to reconstruct the probable bullet flightpaths and thus determine where the shots came from. It is exactly what the Commission should have done but failed to do.

The first part of his analysis is a refutation to the "Single-Bullet Theory," the Commission's fantasy that Exhibit 399 caused seven different wounds (four entries and three exits) on two different bodies, broke two bones in Governor Connally, lodged temporarily in a third before "falling out," and emerged from all of this destruction with little more than a moderately flattened base.

Cutler analyzes the possible flightpaths of this bullet, examining a range of times when the remarkable event might have occurred, and shows by diagrams that it just could not have happened the way the Commission said it did. This part of his work, subtitled "The Flight of CE 399," had been published previously, but there are some who are not aware of it and many who have not given it sufficient attention.

The second part is genuinely new and is devoted to estimating the source of the shot that pierced Governor Connally's chest. Here, of course, Cutler is under no constraints, as was the Commission, to find that this bullet had to come from the same source as the one that initially struck the President, nor to account for other wounds conceiv-

ably inflicted at other times. Cutler's answer, which may disturb some critics as well as defenders of the Warren Report, is that the shot did come from the sixth floor of the TSBD, but from a window well over toward the west of the building rather than from the south-east corner window where Oswald was supposedly located.

I hasten to add that there are many uncertainties in Cutler's calculations, as he himself is careful to point out. There is actually a zone of possible firing locations indicated by his calculations, and it extends both horizontally and vertically around the point which Cutler finds most likely. Those who naively imagine that calculations must be precise or else they have no value should realize that practically all such analysis is approximate. Only such amateurs as the staff of the Warren Commission would pretend to have calculated angles to tiny fractions of a degree.

Moreover, it should not be forgotten that Cutler's estimate applies only to one particular shot, namely the one that caused Governor Connally's back and chest wounds. More work of this kind needs to be done. Perhaps if we can ever get an unequivocal description of the President's wounds from the Government, it may be possible to estimate the source or sources of the bullets that caused them also.

One can find matters on which to disagree with Cutler in his analysis, and some of his comments on peripheral matters are a little incautious. Some critics will feel uneasy with the admitted uncertainty in his work, sensing a possible resurrection of one or another conclusion of the Warren Report. Still others seem to disdain hard thinking about the physical evidence altogether, preferring instead to reason from assumed motives in faraway places such as Moscow or Vietnam. To each his own, but to this reviewer the kind of work done by Cutler seems more likely to achieve some real understanding of what happened during the JFK assassination. I'd like to see more of it.

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FOR IMMEDIATE RELEASE

#### GU RECEIVES RESEARCH DATA ON KENNEDY, KING ASSASSINATIONS

WASHINGTON, D.C.--Georgetown University and the Committee to Investigate Assassinations have reached an agreement whereby data assembled by the Committee on the Kennedy and King assassinations will be transferred to Georgetown University.

The research materials, collections of printed matter and manuscripts, will be housed in the Special Collections Division of the University's Lauinger Library.

The purpose of the Committee, which considers the official reports on the assassinations to be inadequate, is "to set the historical record straight and see that all records are made public now," according to Bernard Fensterwald, Jr., a Washington lawyer who is executive director of the Committee.

The first portion of the materials, a group of printed books from Mr. Fensterwald's personal collection, is now available to researchers at the Special Collections Division.

According to the terms of the agreement, the university and the Committee will try to assemble at Georgetown all relevant materials on the assassinations of John F. and Robert F. Kennedy, and Martin Luther King, Jr. This attempt will utilize as much as possible the collections developed by members of the Committee, a nonprofit educational organization, and other interested parties.

Besides a wealth of printed books and articles, the Committee has agreed to transfer to Georgetown much of its noncurrent files, and later such currently active files as that concerning James Earl Ray. Mr. Ray, who was convicted of murder in the King assassination, is petitioning for a new trial.

Data which has not been released to the public as yet, such as the 6,000 page report on the Robert F. Kennedy assassination prepared by the Federal Bureau of Investigation, will be added to the Georgetown collection as it becomes available. Members of the Committee and others have initiated law suits under the Freedom of Information Act to have such materials released.

Depending on the cooperation of individual researchers, the collection should eventually comprise several hundred books, unpublished manuscripts, motion picture films, slides, tape recordings, and copies of official data such as the files of the Attorney General of Texas on the assassination of President Kennedy.

Restrictions on the use of Committee material transferred to Georgetown will be minimal, Mr. Fensterwald said, in keeping with the Committee's concern for freedom of access. It is hoped to make each group of material received available to researchers as soon as possible, allowing time for the preparation of adequate reference aids by the library staff.

The Committee, a private group headquartered in Washington which receives no financial support from the government, depends upon contributions from the public for its existence.

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