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# Contrary Data Withheld From Assassinations Panel

## Staff Failed to Advise Lawmakers of Information Disputing Evidence of Conspiracy in Kennedy Death

BY JERRY COHEN and MIKE GOODMAN  
Times Staff Writers

WASHINGTON—The staff of a House committee that recently ruled that John F. Kennedy probably died as a result of a conspiracy withheld from congressmen information that runs counter to their finding.

The conclusion by the Select Committee on Assassinations that two gunmen fired at the President was based almost solely on a type of acoustics experiment tried only once before. It was recommended by the staff to the congressmen who approved it late in December by a 5-2 vote, with five members absent.

The committee's two-year investigation cost about \$6 million.

The committee's conclusion that there was a 95% probability that two

gunmen fired at President Kennedy reversed a preliminary draft prepared two weeks earlier that contended that Lee Harvey Oswald acted alone.

At least two sources informed the staff before the vote that they could repudiate the basic premise of the acoustics work—that a "stuck" motorcycle microphone behind President Kennedy's limousine recorded shots in Dallas' Dealey Plaza 15 years ago.

The staff ignored one of the two challenges and discredited another contained in a critical report by raising a question with which the report did not even deal, a Times investigation disclosed.

G. Robert Blakey, chief counsel and staff director, denied that any information was mishandled. He added that the contradictory information was not presented because of its "irrelevancy" and because it was received in the late hours of the committee's life.

Attempting to squeeze it in would have created "confusion," Blakey told The Times.

"We would not have clarified anything—we would have raised more

Please Turn to Page 18, Col. 1

**Continued from First Page**

questions," Blakey said. "I would have been putting in collateral information."

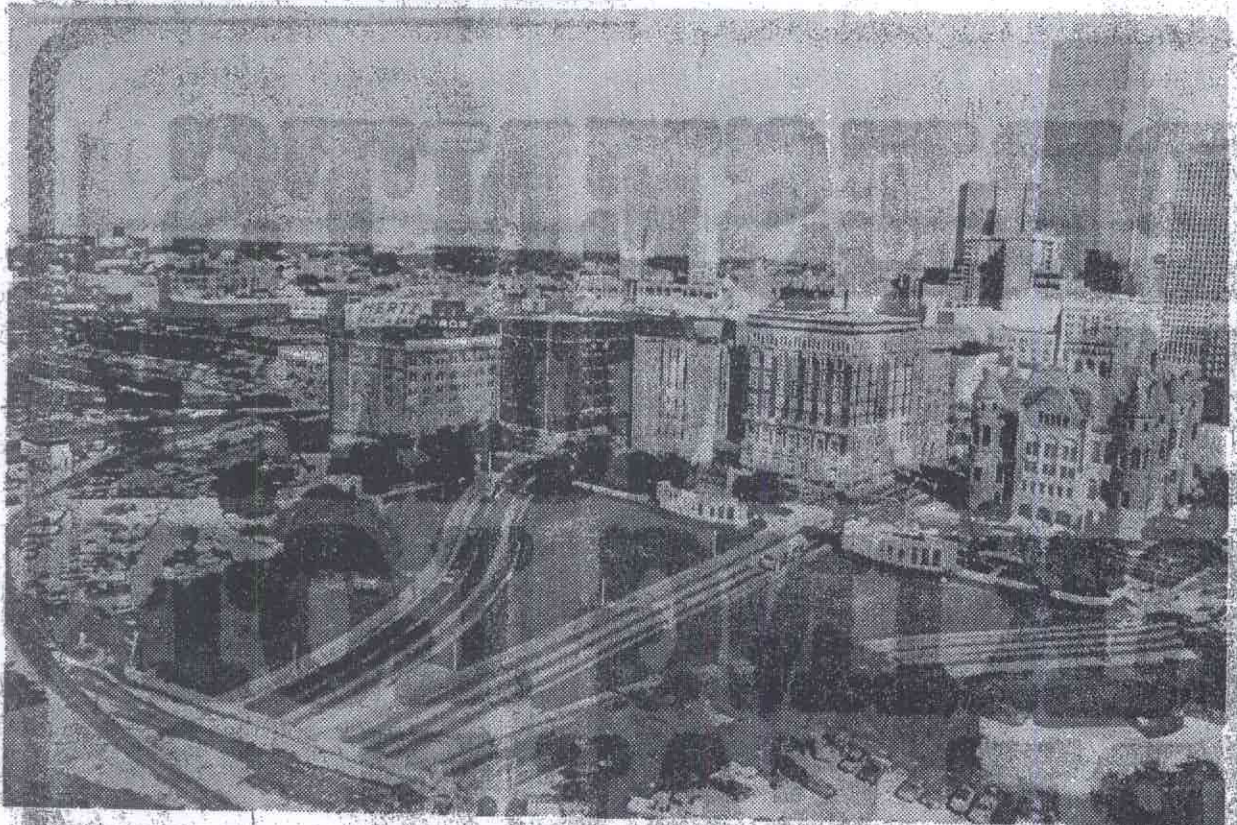
After the December vote, six committee members told The Times they never were told that information was available to the staff that cast doubt on the acoustics tests.

The information suggests, among other things, that the open microphone was not in Dealey Plaza at the time of the assassination but more than two miles away.

A seventh congressman who was not present for the vote, Rep. Harold S. Sawyer (R-Mich.), said he became aware of the contradictory information before the conspiracy finding only because its source informed him of its existence. Sawyer issued a dissenting report Thursday disagreeing with the committee's conclusion.

"We were pushed to a conclusion," Sawyer maintained in a recent Times interview. "We were just fed part of it and not fed the contrary. . . . Taking it all on balance, I do not accept it (the conspiracy finding) . . ."

"I can't agree with the three acoustical experts. There is strong evidence to the contrary. It (the acoustics work) looks like a precise thing but it all started with a pure assumption out of the air (an open microphone in Dealey Plaza) which gives it an aura of scientific accuracy.



ASSASSINATION SITE—Dealey Plaza in Dallas, where President Kennedy was slain 15 years ago.

AP photo

Now have the feeling that Blakey wanted us to come to a conclusion that there was a conspiracy. Otherwise, we couldn't have gotten the contrary information."

The congressman who voted for the staff recommendation, Rep. Samuel L. Devine (R-Ohio), now says he is also preparing a dissenting opinion.

Devine called the conspiracy finding "an assumption based on an assumption," and he said results of the acoustics experiment provided "circumstantial evidence, yes, but conclusive, no."

Devine called attention to an article he wrote for a newspaper in his hometown, Columbus, in which he disputed the committee's conclusion that:

While Lee Harvey Oswald fired from the Texas School Book Depository the bullets that killed the President, a second gunman fired a single rifle shot from a grassy knoll in Dealey Plaza that went awry.

wrote Devine:

First, standing alone, the opinion of the acoustics experts that a third shot came from the grassy knoll is simply their opinion. Unless supported by other evidence, it is not sufficient to establish conclusively there was indeed another shot, another shooter, or a conspiracy.

One of two congressmen who voted against the con-

spiracy finding, Rep. Robert W. Edgar (D-Pa.), maintained that the committee "jumped" to its conclusion with a haste he called "irresponsible," and he said:

"There is no question there were pieces of information that we congressmen did not have."

He was so concerned, he said, about the weight being given the opinions of three acoustics experts that he asked three other scientists to listen to the testimony during the committee's final public hearing.

Edgar said all three of the scientists he invited to the hearing were dubious about what they heard. They are Dr. Francis Davis, dean of science at Drexel University, Dr. Arthur Lord, a Drexel acoustical expert, and Dr. Marvin Wolfgang, director of the Center for Studies in Criminology and Law at the University of Pennsylvania.

Both Davis and Wolfgang later sent written critiques to Edgar.

In the critiques, both expressed sharp skepticism about the committee's finding. Each focused especially on its conclusion of a "95% probability" that a second gunman fired a shot.

Based on testimony he had heard and read, Davis wrote, "I certainly think that 95% confidence is grossly exaggerated and it would take considerably more scientific evidence to convince me and most other scientists that their conclusions were valid. . . . There are still many other analyses that need to be done before one can take their conclusions seriously."

David added:

"All this is not to say that the consultants did not do a good job as far as they went but rather to say that they did not go far enough. There is a first approximation, so to

...speak; necessary, but not sufficient.

Wolfgang wrote to Edgar:

"I think the work of (James E.) Barger and of (Mark) Weiss and (Ernest) Aschkenasy (the three acoustical consultants to the committee) have been exciting from a scientific perspective.

"However, I think it is premature and inappropriate for a federal group, like your committee, to make a major policy decision on the basis of their findings. In none of the testimony I read or heard has there been a single straight-forward answer given about what a 95% probability means."

However, skepticism over the acoustics experiment reached the ear of committee investigators long before the

Please Turn to Page 19, Col. 1

Continued from 18th Page

scientists delivered their opinions to Edgar. They first surfaced as early as late last summer or early fall—four months before the committee issued its finding.

It followed September testimony by acoustics expert Barger, who had just completed re-creation of gunshots fired during the assassination. The re-creation involved the firing of rifle shots in Dealey Plaza from the Texas School Book Depository and the grassy knoll, with mikes strategically placed to record the gunfire.

What Barger sought was to match the test shots with "impulses" he had already discovered on a Dallas Police Communications Center's Dictabelt that had recorded sounds and conversations the day Kennedy was killed.

Barger thought some of the "impulses" might have resulted from gunshots, and, if more than three were found, the discovery would indicate another gunman besides Oswald fired at the presidential limousine.

The first critique of the stuck-mike-in-Dealey-Plaza theory came from Capt. James C. Bowles, a Dallas police communications specialist who is now chief of the department's inspections division. Bowles, coincidentally, said he had transcribed the Dictabelt for the Warren Commission a decade-and-a-half earlier and he knew, among other things, no audible sound of gunfire was etched into the plastic recording device.

Bowles, working from a "good" copy of the Dictabelt he had made shortly after the assassination, undertook his own analysis of conversations, sounds and events recorded on it. This meant comparing what was recorded on Channel 1—the channel on which the open mike was transmitting—with Channel 2, the police radio channel to which officers in the presidential motorcade had been ordered to be tuned.

When Bowles completed his analysis, he informed a House committee investigator doing field work in Dallas that, if given the chance by the committee, he could "repudiate" the acoustics premise.

Meanwhile, working independently, a Chicago-based private investigator and acoustics analyst, Anthony Pellicano, obtained acoustics expert Barger's testimony and compared it against what he considered to be known facts about the day of the assassination. He also made his own acoustics analysis of a copy of the Dictabelt.

At the time, Pellicano and Bowles were unacquainted but each came up with remarkably similar results: some known facts and events recorded on the tape, as interpreted by them, simply do not jibe with the premise of the committee's acoustics experts—that a mike was stuck open about 120 feet behind the President when he was shot.

Here, basically, is how they support their challenge:

—The only mention of a "stuck mike" recorded on the

Dictabelt occurred minutes after the President was shot. A police dispatcher is heard to say: "There is a motorcycle officer up on Stemmons (Freeway) with his mike stuck open on Channel 1."

—Small talk, whistling and police and sheriff's radio broadcasts recorded through the open mike onto the Dictabelt shows the transmitter was on a motorcycle idling at a command post near the Trade Mart where the presidential party was to have lunched, 2.2 miles from Dealey Plaza.

—The stuck mike was on a different channel (1) than that to which officers in the escort had been instructed to remain tuned (Channel 2) throughout the motorcade.

—A carillon bell is audible on the belt seconds after the President is known to have been shot. There is no carillon near Dealey Plaza. (The committee's acoustics experts maintain this could be explained by an officer in another part of town near such a bell trying to cut in on the stuck mike channel.)

—No gunfire is audible on the Dictabelt and dispatchers working in the communications center the day of the killing say they heard none. But during the acoustics experiment 15 years later dispatchers heard the test shots.

"Faint ebbing and receding siren sounds on the belt are inconsistent with what would be recorded from a motorcade racing to Parkland Hospital with sirens screaming. But such ebbing and receding sounds are consistent with those that would be received by a transmitter near the Trade Mart.

—The motorcycle sounds as though it's idling shortly after the known time of the assassination when, logically, the sound should be that of a motorcycle racing to the hospital with the dying President.

The man primarily responsible for the acoustics research is James E. Barger, chief scientist of the prestigious Cambridge, Mass., firm of Bolt Beranek & Newman, Inc.

In an interview with The Times, he declined to address himself to the challenges raised by Bowles and Pellicano because, he said, they were outside the scope of his work.

Barger said that while he listened to both Channels 1 and 2 in their entirety, he was given a precise assignment by the committee: to find whether gunshots were recorded on the Dictabelt at the time of the assassination, and if any were, how many.

Should acoustic tests have been done on other segments of the tape to support a finding there was a stuck mike in Dealey Plaza? For instance, to determine whether sirens heard on the tape after the time-frame in which the President was killed were on motorcycles racing toward Parkland Hospital?

He said that was not his job. He added that he told the committee staff, "Give me a hypothesis and I'll test it."

In a separate interview, chief counsel Blakey said he provided Barger with the hypothesis that shots were fired from the Texas School Book Depository—and the grassy knoll.

Why only the grassy knoll, beside the Texas School Book Depository?

Because of some eyewitness and eyewitness testimony that put a gunman on the knoll, Blakey replied. He added, "We took the two most likely places based on the general thrust of the testimony, and that's all we did."

Please Turn to Page 20, Col. 1

Continued from 19th Page

Given the assumption that one or more shots were fired from the grassy knoll and that the open mike was in Dealey Plaza, Barger began his assignment.

"It was perfectly clear these sounds (of gunfire) were not audible," Barger said when he first testified before the committee in September. He told congressmen that, nevertheless, he hoped by a filtering process to detect impulsive sounds of gunfire.

"And he scored," Blakey told The Times.

Barger explained that what he was able to detect on the Dictabelt were manifestations of gunfire," and he added: "You can't hear gunfire, there is an auditory impression of gunfire. There is a distinction you have to be aware of, there are manifestations of gunfire but they don't sound like gunfire. . . . The auditory impression is a crackling."

Why were gunshots not recorded on the Dictabelt or heard by Dallas police dispatchers at the time of the assassination? Because, said Barger, the radios on motorcycles at that time had an upper limit to the loudness they faithfully record. Louder sounds are chopped off."

Dispatchers heard the gunshots fired during the experiment last year because of better radios and quieter motorcycle engines, Barger said.

Barger conceded that his research for the committee was a pioneering feat, tried only once before during his investigation of the Kent State shootings and during which he worked with equipment of greater fidelity and under different circumstances.

While Barger's scope was limited, the committee staff's was not. Why, then, did the staff not brief congressmen about the Bowles and Pellicano challenges?

Capt. Bowles told The Times he never was contacted after he told a staff investigator he could repudiate the open-mike-in-Dealey-Plaza theory.

Not only was there Bowles' conversation with the investigator, but evidence of the stuck mike on Stemmons Freeway, more than two miles from Dealey Plaza, appears clearly on the Dictabelt that was so highly critical to the acoustics finding.

And knowledge about the stuck mike on the freeway was common among Dallas policemen, virtually all of whom were interviewed by staff investigators, according to Gary Cornwell, counsel for the subcommittee that focused on the Kennedy as-



G. Robert Blakey, chief counsel to assassinations panel.

AP photo

sent him a letter, dated Nov. 7, asking for details about his findings and techniques, a letter in which Blakey wrote:

"Time seems to be our chief enemy though. I recognize we can't expect to ultimately resolve these issues, only set them on a course well designed to contribute to the process of truth finding."

Pellicano said he was "put in touch with Gary Cornwell" and he told the subcommittee counsel that "Barger was definitely wrong." Cornwell asked Pellicano to put his conclusions in writing.

"Gary Cornwell convinced me that I should submit it (a written report to the staff)," Pellicano added, explaining that he wrote it "in language that ordinary people would understand

So that I didn't go into a great acoustical analysis . . . or any of the mathematical stuff that Dr. Barger used."

Pellicano said Cornwell told him he wanted the report "immediately" because time of the final public hearing was nearing. Pellicano said he put the report on an airplane for Washington and also told Cornwell he planned to send copies to congressmen members of the House committee.

"And he (Cornwell) said, 'No, no. Just send me that report and I'll make sure they get it,'" according to Pellicano, who added:

"And he said he was going to present my report to the committee on Monday. Well, I found out he did not do so. I called him on Tuesday and asked him, why not? He said that he planned to do with it as he saw fit. And he said that I would be called (to testify). I was going to be called if the committee was going to have another open hearing."

Pellicano recalls that he "was suspicious at the time. At the time, I thought to myself, 'Well, it seems to me that he is suppressing my report.' So I began calling a few congressmen on the committee."

None of the congressmen with whom he talked, he added, knew of the existence of his report.

A final open hearing was held but Pellicano was not summoned to testify.

Cornwell insists he never told Pellicano he would be called to testify and that he told the Chicagoan not to send his report to individual con-

assination. (Another subcommittee concentrated on the Martin Luther King murder.) It also is contained in the Warren Commission Report, a starting point for the House Assassinations Committee's review.

Asked about challenges from Bowles and others, Blakey said the committee staff made an effort to talk to everyone who approached the committee with information to "find out what their ideas were."

As for the Pellicano material, Cornwell maintained that it was the "only substantial piece of contradictory evidence at the time" of the final public hearing.

Pellicano told The Times he began communicating with the committee staff in early fall. Blakey, he said,

gressmen because "they did not have time to see things piecemeal."

Blakey branded the Pellicano report "scientific nonsense."

Yet, Cornwell said, "We submitted it as an exhibit in the hearings and we asked questions based on it."

But the brief allusion to the Pellicano report had no bearing on the thrust of the report itself, which was that the open microphone could not have been in Dealey Plaza.

It occurred during the questioning of Barger. He was asked by a staff attorney if an open microphone on a motorcycle 300 feet behind then Dallas Police Chief Jesse Curry would have picked up the sound of the chief's siren.

In a recent interview with The Times, Cornwell insisted that that question was central to the "basic premise of the Pellicano report."

But in the Pellicano report there was no mention of an open mike on a motorcycle 300 feet behind the chief's car picking up the sound of his siren. In other words, the "fact" that Barger was asked to discredit never appeared in the Pellicano report.

The salient details of the Pellicano report were never heard by congressmen attending the final public hearing and the report itself was a mystery to them.

"They sidestepped my whole report," Pellicano said later.

Another witness called during the final public hearing, Dallas police officer H. B. McLain, said his testimony before congressmen was distorted for two crucial reasons. The committee staff suggested to the congressmen

that McLain's motorcycle probably was the one that carried the open microphone in the motorcade.

McLain said if he had been asked if he immediately turned on his siren after he heard gunfire, his response would have been yes. He said he kept his siren on all the way to Parkland Hospital and, if his had been the supposed open-mike in Dealey Plaza, his siren would have drowned out all other sounds on the Dictabelt.

Asked why McLain was not asked the question, chief counsel Blakey said, "I don't know."

McLain also said he was never asked to listen to the recording of both Channels 1 and 2 while in Washington. He said that when he listened to both on his return to Dallas, he recognized nothing on Channel 1. Conversations and events were familiar to him on Channel 2, however, meaning he was tuned to Channel 2 at the time of the assassination.

Asked why McLain did not listen to the recording of both channels before or during his testimony, in the interest of verification, Blakey replied, "He never asked to."

McLain was called to Washington because Rep. Louis Stokes (D-Ohio), committee chairman, and Richardson Preyer (D-N.C.) wanted photographic evidence to bulwark the acoustics findings that an open mike was about 120 feet behind the presidential limousine. "Stokes and I insisted that you get us a picture of the motorcycle or it puts everything in doubt," Preyer recalls.

With only days left before the public hearing, a search for such a photo began.

Richard Sprague, a former photo consultant to the House committee and himself an assassination buff, was

one of those asked for assistance Sprague (no relation to the committee's former chief counsel) has amassed one of the most extensive collections of Kennedy assassination pictures. He told The Times he received an urgent phone call from Gary Cornwell during that final week.

"Dick," he quoted Cornwell as saying, "I hate to ask you this but we need help. Do you have any films or photos showing any cycle 120 feet behind the limousine as it turns down Elm (the street the President was traveling on as he was shot)."

Next day, Sprague said he told Cornwell he had bad news for him: Sprague's collection not only showed no motorcycle where the acoustics experts said it should have been but that he possessed pictures that proved "beyond a shadow of a doubt" no motorcycle was about 120 feet be-

hind Kennedy at the time of the killing.

"Oh, my God," Sprague recalled Cornwell as replying. But he said the attorney asked for certain of Sprague's films and photos anyway.

Sprague said he was "shocked when I saw them go ahead with this farce" at the final public hearing two days later. "They were trying to prove something they'd already concluded by judging," he added.

Asked about Sprague's "contrary" photo evidence, Cornwell told The Times the photos and film clips "don't prove anything one way or another."

A section of a movie film was introduced at the hearing, however, showing McLean's cycle in the motorcade seconds before the gunfire.

But it shows the cycle more than 200 feet behind the President's car, although the acoustics findings require that the stuck mike be only

about 120 feet behind the limousine.

The Times learned from Pennsylvania Rep. Edgar that a mere two weeks before the final public hearing—during which two other acoustic experts refined and reinforced Berger's findings—congressmen were prepared to endorse a staff finding that Lee Harvey Oswald had acted alone.

Edgard said that from a 600-page document on its work, the staff had drafted a so-called "black letter" dated Dec. 13, 1978, which read in part:

"There is insufficient evidence to find that there was a conspiracy to assassinate President Kennedy."

Said Edgar:

"To make that momentous jump to the second gunman you'd better have your ducks in order. You'd better be prepared for the implications. That everybody is still a suspect."