1 insert on NAAs-- shells

JUL 21 1975

People who are honest in their normal ~~xxxxxxxx~~ personal and professional lives are ill-suited to be crooks. People who are normally trushful do not make good liars.

The FBI was thus better at lying, dissembling, even perjury that ERDA. ERDA also had no pecial interest in taking a fall for the FBI.

And the Assistant United States Attorney's major interest was in getting home on time and getting this disagreeable case past him.

So, with the FBI not filtering what the ERDA finally disgorged - had it the FBI would have realized the ERDA papers proved still more perjury - there was a little carelessness.

Between two pages of handwritten ERDA notes - the first headed "Materials Controls" and the second "Samples from L.H.O." some of the test results on some of the earliest JFK assassination evidence was included under the testing related to the Tippit killing.

The "Materials Controls" sheet provides an example of the care and thoroughness with which tests are conducted when meaningful results are intended. It carries the measurements in millgrams of barium, for example, to the fourth decimal.

There are six different tabulated measurements of the paraffin. Even the Dallas tap water (0.25 milli millilíters) is recorded as having 0.0316 milligrams of barium.

"Samples from L.H.O." on this one handwritten sheet tabulates measurements made from seven different samples of one specimen, Q53

The sandwiched sheet is headed "Cartridges, with three columns of figures.

The first two specimens are of Western and Remington-Peters pistol shells found at the scene of the Tippit killing. Clearly not from the Depository and thus what might be passed over in haste.

But then there follows the two rifle shells the FBI took from the Dallas police immediately, Q6 and Q7. (They later sent Agent Vince Drain to Chief Curry's home in the middle of the night to sieze the third. What follows is enough to explain this.)

At the AEC OakRidge lab these two were identified follwing the FBI lab's idéntifications as Q6 and Q7 as "Rifle" under the heading of "Cartridges." They are not cartridges. They are two of the empty shells found near that sixth-floor window under conditions suggesting immediately that they had been planted there rather than fired from there. All had been in a rifle on an earlier occasion, one at least in a different rifle, as Hoover had informed the Commission (WW, p.)

In each of the four tests that which was tested is identified as "powder from inside." The three columns recording the measurements ate headed Ba/Sb, Barium Micrograms and Sb. micrograms. ~~(The handwriting is not clear, it may be micro-gains.--~~ Ba is the chemical symbol for barium, Sb for antimony.

While these are hardly all the components of gunpowder and real testing required the measurement and comparison of all components, the differences are significant enough.

Under the first column, Ba/Sb the figubes for Q6 and Q7 are 4.8 and 5.9. The same barium measurements are 31.79 and 44.35. For antimony they are 6.62 and 7.42.

In percentages these differences are, in the same order, 21%, 39.35% and 12.1%.

The significance of these substantial differences can be better understood by reference to a document that was secret until after I filed C.A.226-75 and a standard text, an old one selected for quotation to illustrate how unsecret the processes are and how long-standing the potential of the tests.

Under date of December 11, 1963 Paul C. Aebersold, Director of Division of Isotope Revelopment of the AEC, write Herbert J. Miller, then Assistant Attorney General of the United States in Charge of the Criminal Divisoon of the Department of Justice, later one of John Mitchell's defense counsel in the Watergate trials.

His first paragraph records his and AEC persistence despite an obvious crushoff:

"Withing less than 24 hours of the assassination, we had offered verbally our assistance and that of our laboratories experienced in obtaining criminalistics evidence by means of nuclear analytical techniques."

His suggestions included "for gunpowder residues" and of "antimony and barium" as well as the components of the bulletsand its shell holding the gunpowder.

White the AEC did not want to appear to be "intruding" ~~in~~ he also expressed

5 insert on ______ on NAAs-shells

AES's "eagerness to be of any possible help." Our work leads one to expect that the tremenduous sensitivity of the activation analysis method is capable of providing useful information that may not be otherwise attainable."

One possibility is "it may be possible to determine by trace-element measurement whether the fatal bullets were of composition identical (emphasis added) to that of the purportedly unfired shell found with the Italian rifle."

Here, of course, is the real reason Hoover held off on the NAA work and tried to discourage the Commission's interest. (In C.A. 226-75 the government denied the accuracy of Rankin's statements to the Commission that NAAs were under way (Whitewash IV, PP pp.________) obtained those formerly TOP SECRET transcripts by other FOIA action.)

It was the greater, "tremenduous sensitivity" of the neutron activation testing he knew he could not face. Note the "identical" standard AEC said was possible and the "trace-element measurement" required.

The suppressed tests that I got by accident when the government was deliberately withholding them how quite substantial variation in the "trace-emenent measurement" of samples required to be "identical" for the story to hold together.

Standard texts more than 20 years old cite cases of the acquittals of accused murderers because the less sophisticated specroscopy showed bullets not to be the same. They also, that far back and with the less sophisticated test, specify the need for trace-element testing. When we cited these old texts, which stipulated much less than became possible with years of practise, used and perfection, th government merely ignored them in C.A. 226-75.

Clarence Kelley told us in his April 10 letter that this most basic of the comparison's Aebersold offer to make and said had to be made was never made. Naturally. The FBI knew it did not dare make the comparison because it knew from the outset that the bullets were not fired from the so-called Oswald rifle. One of the tests and comparisons completely eliminated in the tests Kelley said were made was any NAA comparison with the unfired bullet, Exhibit 147.

If this suppressed test notation is not totally exculpatory, totoally destructive of the false solution to the assassination of the President by by the FBI and its captive Warren Commission, it is close. In court it would have more than met the "reasonable doubt" standard. The ~~differences, rather~~ tests, rather than showing the "identical" origin of tested evidence, shows to the contrary, that there was substnatial difference and hence common origin -- and this with the testing of but two of the many components of ammunition.

The test represented on this sheet are anything but complete.

Two of the found shells attributed without proof to the Tippit killing are not included.

And what about other components?

The hundreds of sheets of paper finally produced in this suit did not include a single tabulation of all the elements to be tested and compared. Nowhere is there a listing of the components identified in the bullets with which comparison had to be made, Exhibits 147 and 399.

Robert Frazier, who thereafter retired while still relatively young and from the dates alone under the pressures of this suit, actually told Jim Lesar and me at a conference on March 14 yhat the FBI had not done this. When I asked why he said because it was not necessary.

In an ordinary murder trial this alone could have had the case tossed out of court.

The reason it was not necessary, according to this expert, is that the FBI agents could remember the figures and did not need the tabulation. Were this true it would be no answer because the FBI supposedly was to make no judgement. That was the function of prosecutors, if the tests showed Oswald was innocent or not alone, and of the Commission, which alone was responsible for the federal investigation.

The FBI dared not do complete and proper testing because they would, ~~to~~ to the FBI's knowledge, prove the whole case to be false. The Commission did not dare demand them fearing the same guilty knowledge.

But could the FBI keep all these figures in mind, to parts per billion and to decimals to the sixth place?

Of how many test results?

We can never know. The "Q" series results I received run up to 77 and there were two other series. Most of these were duplicated. But it is certain that the most fantastically retentive memory in history could not recall this number of figures.

And it has to be multiplied by the number of components of the rifle bullets allegedly used, perhaps axxxxxx dozen, to take as a comparison the results of an analysis discussed in the Journal of the American Academy of forensic Sciences. (Vol.____ NO.____, / / /) (Get back from JL.

Yet the three FBI agents with whom we met insisted that there were no compiled tests such as those for which I forst asked and then when the FBI stonewalled sued.

They were unembarrassed by the fact that the purpose of making the tests was ro comiple results for others. I asked for the results only. They claimed there were no results and pressed the raw material, these pages of handwritten notes, on me instead.

Here it is informative to review the history of this litigation and the earlier federal representations.

In each suit I asked for "results" only. In the first the FBI filed an affidavit by Special Agent Marion Williams in which he swore - entirely falsely - that the tests"were conducted for law enforcements purposes." He also sware that "The release of raw data from such investigative files to any and all persons who request them would seriously interfere with hhe effecient operation of the FBI." He extended this ot mean "it would open the door to unwarranted invasions of privacy" and were this not horrendmous enough a prospect "could lead, for example, to xxxx exposure of confidential informants."

"Highly dangerous," he swore, total ruin to the FBI.

Yet here the FBI was, telling us but avoiding swearing to it and avoiding telling the judge who refused to ask them to make the statement under oath, that it had not met the purposes of the tests, had no final results. And instead here they were, insisting on this "highly dangerous" procedure of endangering the rights of the innocent, exposing their informants and risking the ruin of the agency by forcing

o

this same "raw data" on me.

When the federal courts are completely indifferent to federal perjury there was no judicial interest in this FBI's proving of the perjurious swearing by its agent on its behalf in the earlier suit, C.A.2301-70, one of the corrupt means by which it then succeeded in continukng suppression of the tests which would have proven the deliberate falsity of the official "solution" to the assassination of a President.

Congress, however, was distiurbed by all this corruption and its resùlts. In 1974 it amended the law (Whitewash IV pp. 123, 167 ff.), overwgelmingly overriding the veto of President and former Warren Commissioner Gerald Ford. The first of four suits cited as requiring the amending of the "investigatory files" exemption is my C.A.2301-70. (Congressional Record 5/30/74, esp. p. S 9336) The language of Senator Edward M. Kennedy is explicit, "to override the court decisions...on Weisberg against United States...the impact and effect...would be to override thoseparticular decisions."

The Conference Report of both Houses in which differences between them were resolved, No. 93-1380, is so explicit on the intent of Congress to end this official fakery about scientific tests of non-secret nature being exempt as "investigatory files" that/it is the longest of the attached explanations (pp.1203)

Especially when in advance the government would not know the judge to whom the case would be assigned did it not dare fly into the face of this lgeislative history and intent. The amending of the law in effect directed the Justice Department and the FBI to deliver to me what it had denied in C.A. 2301.

Nor did anyone dare repeat the Williams perjury.

the xeroxing. After this stonewalling it delivered what it falsely represented as all of this material. Actually we proved in court that all these representations were false and in context, because they were material, were felonious - perjury. There was not even pro forma denial. Instead, for all the world as though it were material, it admitted that I could make and prove charges of withholding "ad infinitim" because I know more about the subject of the JFK assassination that anyone in the FBI!

The need for giving me this raw material, allegedly, is that there were no such results as I asked for.

Were that the case, then in both suits all the government had to do was represent to the courts under oath that what I sued for did not exist. The cases then would have been thrown out of court immediately.

But to attest to this would be to attest that the FBI had not performed the most basic and necessary investigation. This it dared not do.

It also would have been perjury because there were these results. Frazier personally swore to this before the Warren Commission.

Frazier had to get off the FBI payroll before he could be used as an involuntary FBI witness becauase he had already sworn that what I sought did exist, the reason I sought them. Why go to all the cost and trouble of suing for what does not exist?

Frazier had sworn to the Warren Commission that Spectrographer Gallagher "submitted his report to me and I then prepared the formal report of the entire examination." (5H67.

With this as my possible response the FBI dared not swear to a court that the "report" I sought did not exist. This would have required an intial perjury in which there would be no other issue and thus could not be avoided by the most partisan judge.

The FBI's alternative was to pretend that there was a "semantical" difference between us, that what it meant by "reports" were the scientific gobbledegook Hoover wrote the Commission. Even this it refused to give us on the spurious ground that they were available in the National Archives. For all the Months of this suit we

we never able to get the FBI to specify which of Hoover's letters it regarded as incorportaying the final results of all the tests ins a"formal report" or to get all of these communications from the Archives.

Npbody could produce the authentically non-existent and there was no "formal report" hiven to the Commission, by letter or any other conveyance.

The entire story is much more sordir. Perjury was commonplace, Judge John H. Pratt ignored it until he couldn't and then chided Jim Lesar in court on July 15, 1975, saying gentlemen do not call others liars and one gets more flies with honey. To this, gratuitously, he added that we could be sued for making such statements out of court. Jim's response was that we were ready to walk outside the courtroom then and there and repeat the charges without immunity.

Pratt dropped it promptly.

(Actually, I had charged perjury earlier and roeatedly and with regard to this case and the agent swearing falsely, John Kilty. I did this inpress conferences and interviews and it was published in the Washington paper with the largest circulation, the Post, under the Headline "Handling of JFK Data Hit."(6/4/75)

Pratt did have the alternative I gave him: charging me with perjury. I had sworn that all the FBI affidavits were perjurious. If my swearing was false it was actionable and Pratt had the obligation of seeing to it that I was punished. But he dared not. He has a pro-FBI record, he knew I told the truth, and he was determined from the outset to rewrite the law into a nullity.

One interpretation of what Pratt said in court, that we had been overruled before, is that he expected it. Prior to that day the previous - not the only- overturning of his pro-government decisions was in a wire-tapping case in which he held the government could wiretap without court approval. (Post 6/24/74).

This was only 20 days after my previous proof of Kilty's and the FBI's perjury and 16 days before the next proof of the same felony by the same man.

9 insert NAAs-shells on ____

But if Pratt charged me with perjury the whole story would have come apart in my trial.

He was familiar with ~~xxx~~ my earlier suits, even referred to them in court. He knew that I had regularly dared the Department of Justice to charge and try me by making the charges expi~~ci~~it and material. But he is not the only judge to decline this challenge, as the Department also did. Jim calls these unusual and risky means of seeking an ajudication on fact where the Department and judge's can't slirt the law if they accept the challenege the "battle of the affidavits." (Whitewash IV, p 180)

This is the state of the law and respect for the law and the attitude of federal judge when a litigant had to put his own head on the block in a futile effort to obtain enforcement of the law by judges and the Dpartment of Justice. Remember, it is the same Department of Justice that defended the FBI that indicts and prosecutes.

This is also why the available proofs have to be ferreted out of incomplete, uncollated, illegible and irrelevant pages of handwritten notes accompnaied by also illgeible charts some of which are no more than blank graph paper.

This single sheet of handwritten notes on the shells requires more attention because federal corruption persists and the results of the tests as reported are still suppressed/. Is the alternative/ any less unpleasant: that the FBI deceived the Warren Commission with Frazier's testimony that then would have been perjurious.

Is there any comofrt in the FBI deliberately not doing the work required of it in the investigation of the assassination of a President? Or in the other possibility, that it did this work and then both suppresed and lied about it, the lying including the felony of perjury and the suppression of evidence that proved its and all official "solutions" to this terrible crime were knowling false, deliberately manufactured?

This ~~is~~ single sheet is not the only such proof that despite the FBI best efforts and stoutest perjery I did manage to extract from the material it dared not let me have.

(Pick up with other cases or insert before curbstone and follow it with other. Folow that with Kelley's specification of what was not done -hard on)