

NEW JFK BOOK "CONTINUED COVERUP"
CLAIMS UNIVERSITY LAW PROFESSOR

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What a shame it is that attorney Gerald Posner's book, *Case Closed* (Random House, 1993) is now, in the 30th year after the assassination of President John F. Kennedy, a national best-seller. The book purports to prove that the Warren Report was right: that 24-year old Lee Harvey Oswald was a violence-prone, disgruntled, pro-Communist misfit and loner who, without help from anyone, murdered JFK; that Oswald accomplished the assassination with a bolt-action 6.5 mm Italian rifle manufactured around 1940 and ammunition manufactured in 1944; that shortly afterwards Oswald killed a Dallas policeman, J. D. Tippit, with a pistol; and that the evidence of Oswald's guilt as the lone assassin is so strong that the JFK murder may be described as a closed case.

Posner's book is interesting; the author has obviously done a lot of research, and he demolishes several extravagant conspiracy theories concerning the assassination; but nonetheless the book wholly fails to demonstrate that there was no conspiracy behind the assassination. The effect of the book is to continue the coverup of the sinister and strange circumstances of the assassination, a coverup which began with the Warren Commission in 1964 and continues to be embraced by the media and press establishment. If the case is closed, it is only because the coverup continues.

Posner is one of the very few researchers to have looked at the evidence and concluded that the Warren Report was right, and in that sense he is a sort of lone nut among JFK assassination buffs. The reviews of Posner's book generally have been favorable, but this is unfortunate, since Posner's book is not the result of a judicious and impartial inquiry; it is not the fruit of a quest for the truth; it is a work of special pleading. In order to prove Oswald's guilt as the sole assassin of a president and the lone murderer of a police officer, Posner ignores or disparages facts to the contrary, and erroneously asserts that certain matters are proven facts when in actuality they are not. Incredibly, he attempts to resuscitate the discredited "single bullet theory"--the theory that a bullet fired from behind entered JFK's back or neck, transected his body, and then struck Texas Gov. John Connally. In appraising the activities and statements of the police and intelligence agencies which failed to warn or protect JFK and then failed to adequately investigate the assassination, he displays a disturbing naivete surprising in a lawyer supposed to be a sophisticated investigator. He cannot give a good reason why Oswald would kill the President, and his lame explanation of Oswald's alleged motive flies in the face of Oswald's behavior after the assassination.

In a vain effort to uphold the single gunman theory, Posner constructs an absurd account of the actual assassination: he asserts that a lone Oswald, who would have had an easy, unobstructed shot as the presidential limousine approached the Texas School Book Depository, foolishly waited until the limousine had passed the Depository and was moving away from him before firing, when his target was harder to hit; that Oswald then proceeded to fire his first shot while his view of the limousine was obstructed by both a tall street lamp and a tree, rather than waiting

the three seconds more it would take for the car to move to a position where his view was unobstructed; that the first shot missed and his second shot, fired 4 seconds later, wounded both JFK and Gov. Connally (even though none of the eyewitnesses thought both men had been hit by the same bullet, even though Connally and his wife adamantly maintained that Connally was hit by a shot fired after JFK had already been hit, and even though the famous Zapruder film of the assassination shows that Connally did not react to his injury until seconds after JFK had reacted to wounds far less serious than Connally's); and finally, that 5 seconds later, using a cheap, flimsy, dilapidated, 25-year old second-hand rifle that sold for \$2.00 wholesale, Oswald (a poor shot) was able to shoot JFK in the head at a distance of 265 feet (88 yards) while the presidential limousine was moving away, downhill, and at an angle from the sniper's perch in the Depository. Posner even refers to the fatal headshot--a shot which would have required the combined talents of Robin Hood, William Tell, and Annie Oakley--as "a simple shot" (!) (*Case Closed*, p. 476).

Posner's book is not above stating as "fact" matters which are by no means proven.

To link Oswald to the Italian rifle found on the sixth floor of the Depository, Posner asserts that in the Warren Commission proceedings the FBI fiber experts who examined the paper bag Oswald allegedly used to carry the Italian rifle to the Depository "discovered that the bag contained microscopic fibers from the blanket with which Oswald kept his rifle wrapped" in a garage prior to the assassination (p. 225). In actuality, the FBI fiber expert who testified before the Warren Commission refused to make a positive identification, stating (Warren Commission Hearings, vol. 4, p. 81): "All I would say here is that it is possible that these fibers could have come from this blanket ..."

In an attempt to pooh-pooh the large body of evidence that a hidden gunman fired at JFK from the grassy knoll located to the right front of the presidential limousine, Posner heaps scorn on the eyewitnesses who saw a puff of smoke arising from the knoll at the time of the shooting, asserting that "since modern ammunition is smokeless, it seldom creates even a wisp of smoke" (*Case Closed*, p. 256). However, the panel of firearms experts retained by the U. S. House of Representatives Select Committee on Assassinations (which in 1977-78 reinvestigated the JFK murder) reported that even smokeless powder emits residue and smoke when a cartridge is fired; and the panel further reported that when they test-fired the "Oswald" rifle "some smoke was observed coming from the muzzle of the weapon." (House Assassinations Committee Hearings, vol. 7, p. 373.)

Consider also Posner's statement of the "proof" that Oswald killed Tippit, a killing that Posner says "is [the] key to understanding Oswald's" murder of JFK (*Case Closed*, p. 280). Four bullets were removed from the body of Officer Tippit. In 1964, at the request of the Warren Commission, experts from the FBI Crime Laboratory compared those bullets with sample bullets fired from the pistol taken from Oswald after his arrest. The FBI experts determined that because the barrel had been modified (apparently before Oswald obtained the pistol), bullets fired from the pistol did not have sufficient identifying marks to be linked with the pistol, and they therefore concluded that, although the bullets in Tippit's body could have been fired from Oswald's pistol, it was "not possible" to say with scientific certainty that they had been (Warren Commission Hearings, vol. 3, p. 475). Another ballistics expert retained by the Warren Commission, Joseph Nichol of the Chicago Police Laboratory, also tested the bullets and agreed

with the FBI experts, except that Nichol claimed that his tests proved one of the Tippit bullets had been fired from Oswald's pistol. Thus Nichol claimed to have proved what the FBI experts said it was "not possible" to prove. The Warren Commission accepted the view of the FBI experts that the Tippit bullets could not be shown to a scientific certainty to have been fired from the Oswald pistol (Warren Report, pp. 172, 176).

In 1978 the House Assassinations Committee had the Tippit bullets examined by a panel of five firearms experts who, like the FBI experts, concluded that the bullets "could not be conclusively identified or eliminated as having been fired from the [Oswald] revolver." (House Assassinations Committee Hearings, vol. 7, p. 377.)

Yet this is how Posner states the "facts" concerning Oswald's pistol and the bullets that killed Tippit: "On three of the bullets, the best the experts could conclude was that the bullets had the same characteristics as Oswald's revolver, but they could not isolate them to that gun. However, a fourth bullet had enough unique characteristics that it was matched to his revolver to the exclusion of all others." (Case Closed, p. 279.) In a footnote supposedly supporting this emphasized mistruth, Posner audaciously cites the testimony Nichol gave to the Warren Commission!

In claiming that Oswald was a loner with no ties to American intelligence agencies, Posner dismisses summarily a massive amount of evidence that Oswald had intelligence connections and frequently hung around with right-wingers, and refuses to accept the plain truth that "loner" Oswald associated with intelligence operatives, including CIA operative and right-wing extremist David Ferrie and another far-rightist, ex-FBI agent Guy Bannister, both of whom had close dealings with Oswald, the supposed Marxist, in New Orleans in the summer of 1963. He also finds "understandable, rather than sinister" (p. 87), Oswald's close relationship in Texas with the mysterious George de Mohrenschildt, a wealthy, right-wing, Russian aristocrat whose cover was "petroleum engineering" and whose entire life was steeped in intelligence work. Amazingly, Posner accepts at face value solemn statements, sworn testimony, and affidavits by American intelligence agencies denying they had dealings with Oswald, and appears to actually believe that the absence of proof in the files of these agencies that Oswald was an intelligence agent demonstrates that he was not such an agent.

Like all single-assassin theorists, Posner can advance no plausible reason why Oswald would have desired JFK's death. There is no evidence that Oswald ever said anything bad about or indicated any hostility to JFK, and there is evidence that Oswald admired JFK. The best explanation he can offer is that Oswald was the classic lone nut, a wifebeater, a Marxist, a malcontent, a misfit; Oswald, he says, killed JFK because he was "driven by his own twisted and impenetrable furies" (p. 472) and because he wanted the "fame" and "glory" that crazies attribute to assassins who kill notable persons. But there are thousands, perhaps millions of people as sick or strange as Oswald supposedly was, and they do not attempt presidential assassinations; why then would he? And if Oswald wanted to bask in the splendor of being a presidential assassin, why after his arrest did he deny guilt? Why, when he was surrounded by the press, when the cameras were rolling and the whole world listening, did he not (like all previous presidential assassins) glory in his deed and brag about it to the world? Why did he instead say, "I didn't shoot anybody," "I'm just a patsy," and "I emphatically deny these charges"?

At the end of his book Posner flatly claims that Oswald "was the only assassin in Dealey Plaza on November 22, 1963," and contends that "[t]o say otherwise" is "to mock the President he killed" (p. 472). As usual, Posner is wrong. To leap to the conclusion that Oswald is "a man with blood on his hands" (p. 472), to claim that there is overwhelming evidence or scientific proof that Oswald was the lone assassin, to deny that the evidence against Oswald is weak, to ignore the compelling evidence that JFK's motorcade came under gunfire from several directions, or to otherwise try to cling to the quaint, obsolescent notion that Lee Harvey Oswald alone killed John F. Kennedy, is what really constitutes mocking the truth.