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**Subject:** Conversation with Jeff Fogel, DOJ, on Archives Position on Ballistics Testing

I spoke with Jeff Fogel regarding the decision of the National Archives not to do any ballistics testing. The following are the highlights of the conversation:1. DOJ will do nothing until they see the letter from the Archives formally stating their position on the ballistics testing.2. They are interested in the details of the Archives letter to see if there is something short of altering the evidence that would be acceptable to the Archives and worthwhile as far as conclusive information that could be obtained.3. DOJ will probably react to the Archives decision because we are in the best position, given our statute and mandate to make the record of the assassination available to the American public. Thus, it is better to let the Archives and the ARRB decide the matter.4. DOJ is comfortable with how far they went with the issue. They did not expend a lot of resources and stopped short of doing anything that alters evidence. This is what they have done in other instances: take action, if warranted, but without the expenditure of a lot of resources. For example, if he heard that the Toledo Blade newspaper had an original photograph of Oswald with Ruby, they would go after the photograph. It would not require the expending a lot of resources and that is why they would do it.5. The HSCA articulated specific things for them to follow-up on; ballistics testing was not one of them. DOJ was not told to follow-up on simply anything that the HSCA failed to do. In contrast, the ARRB has a more recent and more relevant mandate from the Congress which makes the Board the best body to take action.6. Furthermore, DOJ is not the appropriate entity to order the testing because there will never be a federal prosecution in this case.6. DOJ being the driving force behind any ballistics testing would put a "cloud over" whatever is done. 7. Bottom line: DOJ does not want to tell NARA to do the testing after NARA took a year to look at the issue and said, "no testing." They decided a long time ago where they were going to draw the line on their involvement and initiative, so they are not going to make the testing request/demand after NARA took the year long look at the matter.Fogel and I agreed that we would talk after we have seen the formal Archives letter stating that they were not going to initiate ballistics testing.

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