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WORKFORCE

April 24, 2012

The Honorable Eric H. Holder
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530-0009

Dear Attorney General Holder:

Thank you for your letter dated April 20, 2012, written in response to my letter of April 2011 requesting that the Department of Justice (DOJ) undertake a forensic analysis of the "Strubbe Tape," an audio recording of the 1970 shootings at Kent State University. While I appreciate the detailed response, I remain concerned that major discrepancies in conclusions among expert analyses have not been addressed. In order for the American people to have the clearest picture of what happened that day, I am requesting that the Justice Department provide the full analysis used to come to the conclusion that no shots were fired prior to the fatal shots delivered by the National Guard.

The Justice Department concluded that the sounds preceding the lethal shots from the National Guard (thought to be gunfire) were the sounds "made by the door to Mr. Strubbe's room shutting as people entered and exited the room."

This conclusion is disputed by Stuart Allen, a forensic audio expert with decades of experience who has previously worked with the Federal Bureau of Investigation (FBI). According to Mr. Allen, the sound of a door being slammed and the sound of a .38 caliber gun being fired are "not even close." It was Mr. Allen made the discovery of an altercation on the Strubbe tape, including purported shots of gunfire that preceded fire from the guardsmen.¹ This is a major discrepancy. In order to support the credibility of its finding with respect to the nature of the sharp noise on the tape, the Department of Justice must make a serious attempt to reconcile this discrepancy.

¹ Mangels, John. (2012, April 24). Justice Department won't reopen probe of 1970 Kent State shootings. *The Cleveland Plain Dealer*, online. Accessible:
http://blog.cleveland.com/science_impact/print.html?entry=/2012/04/justice_department_wont_re-ope.html

A second discrepancy arises from a putative vocal command before the guardsmen fired. In my April 7, 2011 letter to you, I described the analysis given by two audio forensic experts, including Mr. Allen, which concluded that an order to prepare to fire was given. Your letter of April 20, 2012, stated that "no military-like voice commands to fire or otherwise were heard."

The analysis conducted by DOJ also states that no unattributed shell casings were found on the campus, yet photos in Yale University's archives show .38-caliber shells recovered from Kent State. The DOJ letter makes no mention of this discrepancy.

A thorough investigation would include an effort to reconcile opposing expert conclusions that differ so widely and starkly on fundamental questions. Mr. Allen was not contacted as part of the investigation. It is yet unknown whether Mr. Owens, the second audio forensic expert, was contacted.

I am also concerned that the role of Terry Norman was not discussed in the response. The response from the Justice Department states that

"An extensive review of FBI and DOJ files, as well as the Kent State Special Report revealed no evidence of any shots fired prior to the gunshot sequence produced by the guardsmen. All of these documents indicated that the only shots fired were by the guardsman during a period of 12.53 seconds, as corroborated through interviews of guardsmen, students and other witnesses."

It is well-known that Mr. Norman was an FBI informant operating on campus the day of the shootings. Eyewitnesses have testified that they saw Mr. Norman brandish a weapon. Your letter leaves no indication that FBI files about their informant were even accessed, raising questions about whether DOJ attempted to reconcile any of Mr. Norman's previous statements that may have come from a debriefing or prior investigation of the events documented in the tape.

Please provide the full analysis, including detailed methodologies, that was used to come to the conclusions described in the response to my request. Your discussion of the statute of limitations is beside the point. The American people have a right to know whether or not the information that their government has provided them with respect to the events at Kent State is comprehensive and accurate. The significance of the Kent State shootings in American history merit nothing less than full disclosure of the efforts used to investigate the incident.

Sincerely,

A handwritten signature in black ink that reads "Dennis J. Kucinich". The signature is written in a cursive, slightly slanted style.

Dennis J. Kucinich
Member of Congress