

1 Q -- after the assassination, wasn't it?

2 MR. TONAHILL: We object to leading questions,
3 Your Honor.

4 THE COURT: Sustain the objection to it.

5 MR. ALEXANDER: I believe that is all. May
6 this young lady be excused?

7 MR. BELL: We stipulate that she may be
8 excused.

9 THE COURT: All right.

10 - - -

COMMISSION EXHIBIT No. 2408--Continued

1 T. D. McMILLON

2 a witness called by the State, being first duly sworn,
3 testified on his oath as follows:

4 DIRECT EXAMINATION

5 BY MR. WADE:

6 Q State your name to the jury.

7 A Thomas Don McMillon.

8 Q How are you employed, Mr. McMillon?

9 A As a police officer for the City of Dallas, Texas.

10 Q How long have you been with the City of Dallas Police?

11 A Seven and a half years.

12 Q In what department are you presently in, Mr. McMillon?

13 A In the Auto Theft Bureau.

14 Q Auto Theft Bureau. Mr. McMillon, on the 24th of
15 November, last year, were you assigned to any special duty in
16 the City Hall?

17 A Yes, sir, I was.

18 Q Tell the jury what that was?

19 A It was for the purpose of security in the moving of
20 Lee Harvey Oswald from the Dallas City jail to the Dallas
21 County jail.

22 Q Where were you stationed, or where was your position in
23 the basement of the City Hall?

24 A I was just outside the jail office door. North side.

25 Q Step down here and let me show you what has been marked,

1 this is what's been marked as State's Exhibit 13, which is
 2 a picture of the basement, that being a swinging door in the
 3 basement. Where were you standing? Can you get that picture?
 4 A Right along here.
 5 Q You're standing right along there?
 6 A Yes, sir.
 7 Q Right there?
 8 A Yes, sir.
 9 Q Now, Mr. McMillon, did you see Lee Harvey Oswald come
 10 out between Officer Lovelle and Officer Graves?
 11 A Yes, sir, I did.
 12 Q They passed right in front of you, I presume, didn't
 13 they?
 14 A Yes, sir, they did.
 15 Q Headed for a car that Officer Daugherty was in. Did
 16 you see the car?
 17 A No, sir.
 18 Q You couldn't see it?
 19 A No, sir.
 20 Q Now, as they approached the entrance to the driveway
 21 there that goes down in the City Hall, and out on the other
 22 side, what, if anything, happened at that time? Did anything
 23 unusual happen?
 24 A Yes, sir, there did.
 25 Q Did you see a person come out of the crowd?

1 MR. TONAHILL: We object to him leading him.
 2 THE COURT: Sustain the objection.
 3 Q (By Mr. Wade) With reference to that, what did you
 4 see?
 5 A I saw a man dart from the crowd, with a gun in his
 6 hand.
 7 Q Did you see the gun as it was raised, or when did you
 8 first see the gun, Mr. McMillon?
 9 A As he was raising it up, as he was coming up with the
 10 gun.
 11 Q Tell the jury what position he was in, with reference
 12 to standing, or crouched over, or running, or what was he
 13 doing?
 14 A This man was kind of in a lunging motion. He was in a
 15 crouch, and this all appeared to be one movement; the crouch
 16 and the movement and the gun coming up at the same time.
 17 Q Now, did you actually see where he came from in the
 18 crowd?
 19 A No, sir, I couldn't tell that.
 20 Q He was out of the crowd when you first saw him?
 21 A He had already come through our line, through our
 22 barrier there when I first saw him.
 23 Q About how many steps did you see him take towards Lee
 24 Harvey Oswald?
 25 A About two.

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1 Q Have you later learned who that man was?

2 A Yes, sir, I have.

3 Q Is that the defendant, Jack Ruby, in this case?

4 A Yes, sir, it is.

5 Q Now, when you first saw him and prior to the shooting --

6 he did shoot Oswald, didn't he?

7 A Yes, sir, he did.

8 Q Prior to the shooting, did you hear him say anything?

9 A Yes, sir, I did.

10 Q Tell the jury what you heard the defendant, Jack Ruby,

11 say at that time, Mr. McMillon?

12 A He said, "You rat son of a bitch, you shot the presi-

13 dent." And then a shot rang out.

14 Q Was that all right the second before the shot went

15 off, or about the same time as the shot went off?

16 A Yes, sir.

17 Q And what did you do at that time, Mr. McMillon?

18 A Well, I broke and tried to get to him.

19 Q Did you eventually get to him?

20 A Yes, sir, I did.

21 Q At that time, was there utter confusion in the base-

22 ment of the City Hall?

23 A Yes, sir, there was.

24 MR. BELLI: Can the answer hold pending the ob-

25 jection? Can he describe what the confusion was?

1 Q (By Mr. Waco) Well, describe the number of people,

2 the total number of people and what they were doing and say-

3 ing about that time, by way of whether it was quiet or noisy,

4 or what?

5 A It was very noisy. There was t.v. cameras, reporters,

6 newsmen around the place. There were a number of officers

7 there in the basement, and then of course, there were a num-

8 ber of officers trying to get to the man besides myself.

9 Q How many officers do you think were trying to get to

10 the man?

11 A I don't know, sir. Quite a number.

12 Q Quite a number. Were you excited yourself to some

13 extent?

14 A Well, yes, sir.

15 Q Now, when you got to him, what did you all do with

16 Ruby, or what was done with Ruby?

17 A Well, a scuffle followed and we hit the floor there

18 for just a little bit, and of course, we were trying to take

19 the gun away from him, trying to get the gun. I had his

20 right arm, and later on several other officers and I took

21 the man inside this door into the jail office and put him on

22 the floor, and we handcuffed him there.

23 Q From the time after the shooting, as you were carrying

24 him inside to get on the floor, did the defendant, Jack Ruby,

25 say anything at that time?

1 A Yes, sir, he did.

2 MR. TOMAHILL: We object to anything he said.

3 THE COURT: Overrule the objection.

4 Q (By Mr. Wade) What did he say?

5 MR. TOMAHILL: He object to anything he said

6 while under arrest as being in violation of his

7 statutory and Constitutional rights.

8 THE COURT: Overrule the objection.

9 MR. TOMAHILL: Note our exception.

10 Q (By Mr. Wade) What did the defendant, Jack Ruby, say

11 at that time?

12 MR. TOMAHILL: Same objection.

13 MR. BELLI: No foundation.

14 A He said, "I hope I killed the son of a bitch. I hope

15 I killed the son of a bitch." He said it more than once.

16 Q (By Mr. Wade) Said it more than once?

17 A Yes, sir.

18 Q Did you hear him say anything with reference to who

19 he was?

20 A Yes, sir, I did.

21 Q What did he say along that line?

22 A He kept hollering, "You know me, you know me, I'm Jack

23 Ruby."

24 MR. TOMAHILL: Just a minute. Do we have a full

25 running Bill to anything said under arrest?

COMMISSION EXHIBIT No. 2409—Continued

1 THE COURT: You can take that as you go along,

2 counsel.

3 MR. TOMAHILL: All right. We object to anything

4 he said while he was under arrest.

5 THE COURT: Overrule the objection.

6 Q (By Mr. Wade) Where was he at the time he said that,

7 Mr. McMillon?

8 MR. TOMAHILL: Said what? What's he talking about?

9 MR. WADE: "I'm Jack Ruby."

10 A This was during the scuffle and during the time we were

11 taking him in through the jail office there.

12 Q (By Mr. Wade) Part of that was out in the corridor

13 there where the shooting took place, where you took him in, he

14 was saying that?

15 A Yes, sir.

16 Q And what was the other statement he made?

17 A Well, he kept hollering "I hope I killed the son of a

18 bitch. I hope I killed the son of a bitch."

19 MR. TOMAHILL: Your Honor, we object and ask that

20 it all be stricken.

21 THE COURT: Overrule the objection. You may have

22 your exception.

23 MR. TOMAHILL: Exception.

24 Q (By Mr. Wade) Where was he when he said that, the first

25 time you heard him say it?

COMMISSION EXHIBIT No. 2409—Continued

1 A This was during the scuffle and then after we got in
2 the jail office too.

3 MR. TONAHILL: We have a full Bill on this, Your
4 Honor?

5 THE COURT: Yes.

6 Q (By Mr. Wade) He said that also after he got on the
7 floor of the jail? Did he make that statement in there also?

8 A Yes, sir, he did.

9 Q Now Mr. McMillon, did you assist in handcuffing him?

10 A Yes, sir, I handcuffed him.

11 Q Whose handcuffs did you use?

12 A Mine.

13 Q You used yours?

14 A Yes, sir.

15 Q And then I believe you and Officer Archer and somebody
16 else --

17 MR. TONAHILL: Again we object to telling him what
18 he wants him to say, Judge.

19 Q (By Mr. Wade) Well, what did you do then with him, Mr.
20 McMillon?

21 A Well, after he was handcuffed, we gave him a very fast
22 preliminary search, and we took him directly to the fifth
23 floor of the men's jail.

24 Q And proceeded to take all of his clothes off there, I
25 believe?

1 A Yes, sir. Almost all of them.

2 Q Let me ask you, from the time of the shooting until the
3 time you got up to the fifth floor of the jail, can you esti-
4 mate in minutes how long it probably was?

5 A Probably no more than three minutes.

6 Q At that time was -- were you and everybody else still
7 excited over the shooting to some extent?

8 A Yes, sir, I was.

9 MR. TONAHILL: We object to that "everybody else."

10 MR. BELLI: Because we already know that Ruby was
11 calm.

12 THE COURT: Overrule the objection.

13 MR. TONAHILL: Exception.

14 Q (By Mr. Wade) How long did he keep saying the statement,
15 "I hope I killed the son of a bitch"?

16 MR. TONAHILL: We have a full running Bill of
17 Exception on that? Statements made by Ruby, Judge?

18 THE COURT: Yes, sir.

19 Q (By Mr. Wade) Was he still saying that when you got up
20 on the fifth floor?

21 A No, sir, he didn't say that up there.

22 Q When you got up to the fifth floor, what did he say?
23 The defendant, Jack Ruby.

24 MR. BURLESON: Object to anything he said while
25 he was on the fifth floor and under arrest.

1 THE COURT: Overrule the objection.
 2 MR. BURLESON: Note our exception.
 3 Q (By Mr. Wade) This was a matter of less than three
 4 minutes, you say, after the shooting?
 5 A Yes, sir.
 6 Q What was said at that time, Mr. McMillon?
 7 MR. TOMAHILL: Now, Your Honor --
 8 A Well, he said, "I meant to shoot three times --"
 9 MR. TOMAHILL: You've been a witness before. You
 10 know you're not supposed to --
 11 THE COURT: Make your objection.
 12 MR. TOMAHILL: All right, Judge. Do we under-
 13 stand the Court's ruling to mean that we have a full,
 14 running Bill of Exception on any and all statements made
 15 by the defendant, any and all times while under arrest?
 16 THE COURT: Yes, sir.
 17 MR. BELLI: Then we don't have to object, Your
 18 Honor, and we won't every time.
 19 Q (By Mr. Wade) All right now, Mr. McMillon, what did
 20 the defendant, Jack Ruby, say at the time you got him out of
 21 the elevator on the fifth floor?
 22 A He said that he meant to shoot the man three times.
 23 MR. BELLI: We'd like to have the exact words,
 24 Your Honor. He said that "he want". We'd like to
 25 have the conversation as nearly as he thinks he can

1 remember it.
 2 THE COURT: All right.
 3 Q (By Mr. Wade) Do you recall more of his exact words,
 4 of what he said? As you recall them?
 5 A Well, he made this statement, sir. Detective Archer had
 6 told him, "Jack, I believe you killed him." And he said that
 7 he meant to kill him, that he meant to shoot the man three
 8 times, but that we moved too fast for him and had prevented
 9 him from doing so.
 10 Q And he didn't get the three shots off?
 11 A No, sir, he didn't.
 12 Q While you were stripping him down there, did Officer
 13 Dean arrive?
 14 A Yes, sir, he did.
 15 Q And then did someone else arrive also?
 16 A Yes, sir, they did.
 17 Q Was that Sorrells of the Secret Service?
 18 A Yes, sir. Mr. Sorrells was there.
 19 Q He was there? And they started talking to him at that
 20 time while he was undressed, I believe. Is that right?
 21 A Yes, sir.
 22 Q Did you say how many minutes it was before -- between
 23 the time of the shot and the time that Dean arrived there?
 24 Estimate it in minutes.
 25 A Seven or eight minutes.

1 Q Something of that nature?

2 A Yes, sir.

3 MR. WADE: I believe that's all.

4 CROSS EXAMINATION

5 BY MR. BELLI:

6 Q You recall -- Did you call him Jack?

7 A Mr. Ruby, did I refer to him as Jack?

8 Q Yes.

9 A Yes, sir, I did.

10 Q Did you know him before?

11 A Yes, sir, I did.

12 Q And was he a peculiar character around town?

13 A Well, I didn't know him that well, sir. I knew him by
14 sight though.

15 Q Then not knowing him very well still would you character-
16 ize him as peculiar?

17 A I don't believe I knew him well enough to characterize
18 him.

19 Q But you had heard of him as being a peculiar character?

20 MR. WADE: We object to that. He's testified.

21 MR. BELLI: Character is proved by hearsay only,
22 it can't be proved by specific events, Your Honor.

23 THE COURT: Go ahead. I'll let him answer.

24 Q (By Mr. Belli) Did you know of him by hearsay as being
25 a rather unusual man about town?

1 A Well, the things I had heard about him, I knew he had
2 had some trouble with the police before, had been arrested
3 several different times, and that he did run some taverns.
4 And that's about my extent of knowledge. I don't know him
5 real well.

6 Q Now by being arrested before, he was arrested two times
7 with reference to the license at the club, wasn't it?

8 A I'm not at all sure what all the arrests was for. I
9 just know that he did have some trouble with the police before
10 and that he had been arrested.

11 Q There were no arrests for any robbery, burglary, rape,
12 mayhem, kidnapping, child molesting, or sex offenses, or any-
13 thing that involves moral turpitude, that's correct, isn't it?

14 A I don't know what the total arrest record consists of.

15 Q All right. At least being acquainted, if not socially,
16 professionally then, with the Police Department, you did know
17 him in that regard, did you not?

18 A I knew him through the police department, yes, sir.

19 Q And the word was around that he was a sort of a queer
20 character, is that right?

21 MR. BOWIE: We object to that, Your Honor.

22 MR. BELLI: Foundation, Your Honor.

23 MR. BOWIE: We object to the terminology used.

24 MR. BELLI: Withdraw.

25 Q (By Mr. Belli) You regarded him as being unusual,

1 didn't you? And the rest of the police?

2 A I didn't know him that well, sir.

3 Q Let me ask you by reference to hearsay, you not knowing

4 him, you had heard about him as being unusual, hadn't you?

5 A No, sir, I didn't hear anything particular about him.

6 I knew that he had those arrests, but I didn't know him very

7 well at all myself.

8 Q Well, after the event, now I ask you his reputation

9 after the event of the shooting, you heard that he was un-

10 usual, didn't you? Not normal?

11 MR. WADE: We object to that, Your Honor, after

12 the shooting what he had heard.

13 THE COURT: Sustain the objection.

14 MR. BELLI: Well, Dr. Guttmacher hadn't met him

15 until after the shooting, and he is going to testify as

16 to whether he's normal or abnormal.

17 MR. BOWIE: We object to any other witness, and

18 the proper question is available to ask if he wants to

19 ask it, and that is not the proper question.

20 MR. BELLI: Did Your Honor sustain the objection?

21 THE COURT: Yes, sir.

22 MR. TONAHILL: Exception.

23 Q (By Mr. Belli) Now, that was the prelude to what I

24 came to now. You recall Jack Ruby saying that he meant to

25 shoot Oswald three times, but that you police moved too fast

1 and prevented me from doing so, is that right?

2 A Yes, sir. He answered that in reply to Don Archer's

3 statement.

4 Q Who have you gone over this with, this testimony with?

5 The District Attorney?

6 A I don't understand the question, sir.

7 Q Well let me put it to you clear. Have you discussed

8 this testimony with Mr. Alexander or Mr. Wade?

9 A I have discussed this testimony with the District

10 Attorney's office.

11 Q Well, I asked specifically Mr. Alexander or Mr. Wade.

12 A I have gone over what facts I could testify to with

13 both Mr. Alexander and Mr. Wade.

14 Q At different times?

15 A Yes, sir.

16 Q How many times?

17 A I believe that I've discussed the case with them three

18 times with Mr. Alexander, I believe, and once with Mr. Wade.

19 Q Do you have a pretty good memory?

20 A I'd say at least average.

21 Q Who was doing most of the remembering in this conversa-

22 tion, you or the District Attorney?

23 A I don't understand that.

24 Q Did you remember that -- did you tell them three times,

25 or was it four times you went over it with them?

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1 A With who, sir?

2 Q The District Attorneys; Mr. Wade and Mr. Alexander.

3 A I discussed it once with Mr. Wade, three times with Mr.

4 Alexander.

5 Q Four times, and you went over four times this statement --

6 Will you repeat that statement again that Mr. Ruby said?

7 A Which statement?

8 Q The statement that, "I meant to shoot him three times,

9 but you police moved too fast and prevented me from doing so."

10 Is that what he said?

11 A That's about what it consisted of, yes, sir.

12 Q Now, would you repeat that into the record, please?

13 Will you repeat what he said into the record, just so we'll

14 have it?

15 A Don Archer told him, "Jack, I believe you killed him."

16 Q "Jack, I believe you killed him."

17 A Right.

18 Q Yes, and what did Jack say?

19 A Jack said, "Well, I meant to shoot him three times but

20 you all moved too fast and prevented me from doing so."

21 Q I thought before you said, "I intended to shoot him

22 three times." He used the words, "I meant to shoot him three

23 times"?

24 A Well, they mean the same.

25 Q What did he say? I meant to shoot him three times?

1 A Yes, sir.

2 Q All right. "I meant to shoot him three times, but you

3 all moved too fast and prevented --" what was the rest?

4 A From getting off but one shot.

5 Q From getting off one shot?

6 A But one shot.

7 Q But one shot. Now this is the thing that you went over

8 with the District Attorney four times before you took the

9 stand, sort of a rehearsal?

10 A This is part of the facts that I went over, that I

11 could testify to, with Mr. Alexander and Mr. Wade.

12 Q All right. Did you go over anything else with the

13 District Attorney, other than this statement, "I meant to

14 shoot him three times, but you all moved too fast and I could

15 only get off one shot"?

16 A I went over the facts with Mr. Wade and Mr. Alexander

17 that I could testify to, pertaining to this case.

18 Q All right. And you had given a statement, had you not,

19 to your superior in the police department?

20 A Yes, sir, I did.

21 Q Who was your superior in the police department?

22 A Captain Nichols.

23 Q And there is a rule in the Civil Service Commission in

24 Dallas that you were not allowed to give a statement to de-

25 fense counsel, is that true?

1 MR. BONIE: To which we object, Your Honor.
 2 THE COURT: Sustain the objection.
 3 MR. BELL: We offer to prove that, Your Honor.
 4 May we have an offer of proof and full Bill of Excep-
 5 tions, Your Honor, on that?
 6 THE COURT: Yes.
 7 MR. TONAHILL: You say we have a full Bill?
 8 THE COURT: Yes.
 9 Q (By Mr. Bell) And how long after this event did you
 10 give this statement to the police officer, your superior?
 11 A I started writing on the report around four o'clock,
 12 sir.
 13 Q And in that statement you have exactly what you have
 14 testified to on the witness stand, is that right?
 15 A What I have testified to on the witness stand is in
 16 there, I believe.
 17 Q Are you sure?
 18 A Yes, sir.
 19 Q When did you look at it last?
 20 A I believe that was about two or three days after the
 21 shooting.
 22 Q Have you seen it since then?
 23 A No, sir, I haven't.
 24 Q And the statement that you made, you have to make after
 25 any unusual occurrence; shooting or robbery or any crime, right?

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1 A No, sir, that's not correct.
 2 Q Who asked you to make this statement?
 3 A I was instructed by Captain Nichols to write a special
 4 report, covering -- regarding this incident -- covering this
 5 incident.
 6 Q You did write that and you did sign it?
 7 A Yes, sir.
 8 Q And was it in duplicate, or was it just the original?
 9 A I wrote it out in longhand, printed it in longhand.
 10 Q All right. And when you looked at it again, everything
 11 that you had written on there the first time was still on
 12 there, right?
 13 A Yes, sir.
 14 Q Hadn't been changed?
 15 A No, sir.
 16 MR. BELL: We ask for that statement, for Your
 17 Honor's inherent power, for an impeaching document;
 18 whether it be oral, whether it be in the ordinary
 19 course of business of whether it be a mnemonic or
 20 memory aid.
 21 THE COURT: The Court will refuse your request,
 22 counsel.
 23 MR. BELL: We also ask for it for the purpose of
 24 impeachment, not for its probative value or substantive
 25 value in evidence. We offer to impeach this witness by

means of that statement, Your Honor.

THE COURT: Same ruling.

MR. ALEXANDER: Let the record reflect that the District Attorney's office does not have a copy of the statement referred to. And we ask that the record show that the witness doesn't have a copy of the statement, under his testimony, his having testified he had not seen it since two or three days after the writing.

MR. TONAHILL: Let the record show that the District Attorney has the complete report from Chief Jesse Curry on this entire matter, and he has failed and refused and denied to give us the report --

THE COURT: Let's not go into all that, Mr. Tonahill.

Q (By Mr. Belli) Let's see. I couldn't get all of this down here. Let me try it once again. He said, "I meant to shoot him three times --" and what?

A "You policemen moved too fast and prevented me from doing it."

Q What?

A "That you policemen moved too fast and I only got off one shot."

Q "I only got off one shot." Okay. Now, if he said that, was he calm at that time? I would presume just a man being shot, he must have been agitated?

A I don't know if he was agitated or not, sir.

Q Well, how did he look to you?

A He looked about like he does now, I guess.

Q Was he talking in a normal tone of voice?

A It appeared normal to me

Q And he didn't raise his voice when he said this, did he?

A No, sir.

Q After he said that, was anything else asked him, or anything else said?

A Well, there was several different things said, but I wasn't present when all of them was said. That's all during the course of my time with him.

Q You just happened to be there when this was said, but not the rest, is that right?

A We were in the process of searching him.

Q All right. Would you say first that there was other conversation?

A During the time that we were with him?

Q No. First, was there other conversation after this was said, "I meant to shoot him three times"?

A What was the question, sir?

Q Was there other conversation with Jack Ruby after this conversation, "I meant to shoot him three times"?

A Yes, sir. During the day there was lots of other conversation.

1 Q What was the next conversation?

2 A I don't recall. I may or may not even have been present
3 then.

4 Q All right. Now let's move to the other end. Was there
5 conversation just prior to this being said, if it was said?

6 A Yes, sir.

7 Q And what was the conversation just prior to this being
8 said?

9 A I didn't hear that. If I did, I don't recall it. I may
10 not have been in a position to hear it.

11 Q You didn't hear anything said to Jack just before this?

12 A I was about the jail taking care of some other details
13 with regard to Mr. Ruby.

14 Q So before Jack said, "I meant to shoot him three times,"
15 you didn't hear anybody say anything to him?

16 A I had just come back, I believe.

17 Q Let me refresh your memory. You told us earlier today
18 that you had heard one of your brother officers tell him that
19 Oswald was going to die. Don't you recall that now?

20 A Yes, sir.

21 Q You do recall that?

22 A Yes.

23 Q All right. Let me see if I can refresh your memory
24 a little bit more. When was that said, if that was said,
25 that Oswald was going to die? How long before Mr. Ruby said,

1 "I meant to shoot him three times"?

2 A Sir, I believe I can clarify the deal there. After we
3 arrived up in the jail, I stepped around the corner there a
4 minute to, like I said, to take care of some other details.
5 And I believe this is going to be one of those times that I
6 came back and Archer was telling him this.

7 Q You believe it was one of the times that you came back
8 that Archer was telling him this?

9 A Yes, sir, but I won't swear it.

10 Q Well, how much else was Mr. Archer telling him?

11 A Well, I didn't hear that, sir.

12 Q But he was telling him something else?

13 A I don't know if he was or not. I wasn't there. I
14 didn't hear it.

15 Q Well, was everything quiet and all of a sudden, we get
16 these lines, "Oswald is going to die", Ruby answers, "I meant
17 to shoot him three times, but you all moved too fast and I
18 could only get one shot off"?

19 A No, sir. Everything wasn't just completely quiet. I
20 did hear Archer make that statement, and I did hear Mr. Ruby
21 reply with that answer.

22 Q Was there sort of a hush up there when Archer said,
23 "Oswald is going to die"?

24 A No, sir, but I was close enough at that point to hear
25 that.

1 Q You just happened to go over there and hear Archer, and
 2 then hear Ruby and then you went away?
 3 A No, sir, I didn't just happen to go over there. I told
 4 you I was returning.
 5 Q All right. You just happened to be returning?
 6 A Well, I was returning from taking care of these other
 7 details.
 8 Q But you went away afterwards? Right?
 9 A I left at several different times during the period of
 10 time that we were with him.
 11 Q Who did you leave with Mr. Archer and Mr. Ruby?
 12 A Detective Clardy, my partner.
 13 Q Now, did you come up in the jail elevator with them?
 14 A Yes, sir.
 15 Q It was a rather quiet ride, wasn't it, up in the eleva-
 16 tor?
 17 A No, sir, not especially so. I mean, about like most
 18 rides are up and down in an elevator.
 19 Q Well, it doesn't make much noise, the machinery, does
 20 it?
 21 A Most of the time it doesn't.
 22 Q Can you hear people talking in the elevator?
 23 A Yes, sir.
 24 Q How many people were in the elevator?
 25 A I don't know the total number, sir.

1 Q Well, was it filled to capacity?
 2 A No, sir, I'm sure that it wasn't.
 3 Q Well, you had room enough to turn around?
 4 A Yes, sir.
 5 Q So there was you, Officer Archer and Ruby, and who else?
 6 A Captain King.
 7 Q Captain who?
 8 A Captain King.
 9 Q K-I-N-G?
 10 A Yes, sir. I believe that's right.
 11 Q Anyone else?
 12 A Detective Clardy.
 13 Q C-L-A-R-K?
 14 A No, sir. C-L-A-R-D-Y.
 15 Q Anyone else?
 16 A Yes, sir, but I don't recall who they were.
 17 Q That's one of those elevators that's semi-freight and
 18 semi-passenger; carries quite a few and goes slowly, doesn't
 19 it? Withdraw. Isn't that a slow moving elevator?
 20 A It moves about like the elevators here in the courthouse.
 21 Q And it makes about as much noise as the one here? Right?
 22 A When it's working properly it doesn't make a whole lot
 23 of noise.
 24 Q It was working properly on this day, wasn't it?
 25 A As far as I know it was.

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1 Q And then you went from the basement to what floor?
 2 A To the fifth floor.
 3 Q To the fifth floor?
 4 A Yes, sir.
 5 Q Now, from the basement to the fifth floor, was anything
 6 said?
 7 A Yes, sir.
 8 Q What was said?
 9 A I believe -- I'll correct that and say --
 10 Q I didn't hear what you were going to correct. First,
 11 why don't you tell me that and then go on?
 12 A All right, I will. I started that statement --
 13 Q Are you correcting a story that you've memorized?
 14 A I haven't memorized --
 15 MR. BOWIE: To which we object, Your Honor.
 16 THE COURT: Sustain the objection.
 17 Q (By Mr. Belli) Well, tell me what you were going to
 18 correct.
 19 A I started my statement by the words, "I believe."
 20 Q Go ahead.
 21 A Captain King asked the man, somewhere between the base-
 22 ment there, after we had handcuffed him, and the fifth floor,
 23 -- and whereabouts in between --
 24 Q Well, this elevator goes up and down, it doesn't run out
 25 into the basement?

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1 A Well, the point I'm trying to make, sir, I don't know
 2 at what point, whether it was on the elevator or whether it
 3 was getting on the elevator or not. But somewhere between
 4 the time that I handcuffed him and the time we got to the
 5 fifth floor, Captain King told the man, "Of all the low life
 6 things that's happened and all, this took the cake," and he
 7 asked him why that he did it.
 8 Q Captain King told all the low life -- I don't get that.
 9 A He made some statement about "Of all the low life things,
 10 and scum and all, why did you do it?"
 11 Q "All the low life things, why did you do it?" Is that
 12 right?
 13 A Well, I don't --
 14 MR. WADE: I believe he said "scum" too, didn't
 15 he?
 16 A Yes, sir. I don't know exactly how Captain King worded
 17 that, but he wound up with why did he do it.
 18 Q (By Mr. Belli) And what did Jack Ruby answer? Any-
 19 thing?
 20 A Well, Mr. Ruby replied that somebody had to do it, some-
 21 body had to take care of him, that we couldn't do it..
 22 Q "Someone had to do it, someone had to do it, we can't do
 23 it". Right?
 24 A No, he said someone had to do it, that we couldn't do it.
 25 Q Who did he refer to as "we"?

1 A He said "you guys."
 2 Q "You guys"?
 3 A Yes, sir.
 4 Q And you think this might have been said in the elevator?
 5 A Well, I don't know at what point it was said. It was
 6 some time between the time we handcuffed him and the time we
 7 got to the fourth floor -- the fifth floor.
 8 Q All right. Do you think this might have been said in
 9 the elevator?
 10 A I don't know at what point it was said.
 11 Q Could it have been said in the elevator?
 12 A I don't know at what point it was said, sir.
 13 Q Well, I'll ask you, was it said in the elevator?
 14 A I don't know at what point it was said.
 15 MR. WADE: He said he didn't know.
 16 Q (By Mr. Belli) What was said in the elevator? Any-
 17 thing?
 18 A There was some conversation, but I don't recall what it
 19 was.
 20 Q You don't recall what it was, but there was conversation
 21 in the elevator?
 22 A Yes, sir.
 23 Q Did you put it in your report, the conversation that was
 24 in the elevator?
 25 A No, sir.

1 Q It was fresher in your mind at that time, wasn't it?
 2 A Well, I was trying to catch my breath at the time.
 3 Q You were trying to catch your breath when you were
 4 going up in the elevator?
 5 A Yes, sir. We had just been in this scuffle.
 6 Q And that's the reason you don't remember what you heard
 7 in the elevator?
 8 A I couldn't hear all of it. I wasn't paying any atten-
 9 tion to it. I was holding onto the prisoner.
 10 Q Let me see if I can help you. Was something said about
 11 s.o.b. to Jack in the elevator? "Jack, you s.o.b."?
 12 A I didn't hear that, sir.
 13 Q Did you hear Jack say anything in the elevator?
 14 A I recall him talking. What statements he made, I don't
 15 know.
 16 Q But you did hear Jack talking in the elevator?
 17 A Yes, sir, I'm sure he was.
 18 Q Did you hear him ask what he was doing there?
 19 A I don't recall what the conversation was in the eleva-
 20 tor, sir.
 21 Q He could have said, "What am I doing here"?
 22 A I don't recall what was said, sir.
 23 Q But there were some words said that you don't remember?
 24 A At which time, sir?
 25 Q In the elevator.

1 A I couldn't -- I made no point to remember. I don't
 2 know what was said there. There was some conversation though,
 3 sir.

4 Q You do remember these other two occasions; number one,
 5 "I meant to shoot him three times" and also number two, of
 6 Captain King, "All the low life scum things, why did you do
 7 it." You can remember that? Right?

8 A That's not Captain King's exact statement. I said that
 9 it was words to that effect. And exactly how he put it, and
 10 in what order it came in, I don't know.

11 Q Well, your statement has this in it, doesn't it?

12 A No, sir.

13 Q You don't have this in your statement?

14 A No, sir.

15 Q When did you come up with this then, if it was not in
 16 that statement that was made right afterwards?

17 A When did I come up with what, sir?

18 Q Captain King saying, "All of the low life scum things,
 19 why did you do it". You didn't put that in the statement you
 20 made right after the shooting?

21 A No, sir, I did not.

22 Q When did you recall that, or who helped you to remember
 23 this?

24 A That's one of the things that sticks freshest in my
 25 mind, just like the rest of the things. I know there's more

1 that happened, that I should have seen, but I didn't see it
 2 all. There's more that's been said. I didn't see it all,
 3 and I didn't see it. I just didn't see it, sir.

4 Q All right. We're not criticizing you for what you see.
 5 We'll come to that later. We're asking you now about what
 6 you heard. Now, which of the four conversations that you had
 7 with the District Attorney, did you finally remember that
 8 someone said, "All the low life scum, why did you do it" and
 9 Mr. Ruby answered, "Someone had to do it"? Did you tell that
 10 to the District Attorney on the first conversation, on the
 11 third conversation, or on the second conversation, or did it
 12 take to the fourth conversation before you remembered that?
 13 The fourth?

14 A That fact came out the second time that I discussed the
 15 case. It was not with the District Attorney, but with Mr.
 16 Alexander.

17 Q The second time you discussed it with Mr. Alexander,
 18 that fact came out?

19 A Yes, sir.

20 Q Out of whose mind?

21 A That's what I heard, sir.

22 Q From Mr. Alexander?

23 A No, sir.

24 MR. BELLI: Does Your Honor want to take the
 25 recess now? I'll be quite some time.

1 THE COURT: You will be?

2 MR. BELLI: I think so, Judge.

3 THE COURT: We'll recess until 1:45 for lunch.

4 (Whereupon the court was in recess until 1:45 P.M.,

5 at which time the following proceedings were had)

6 Q (By Mr. Belli) Mr. McMillon, were you there later,

7 after all of these events that you have testified to, trans-

8 spired, when Captain Fritz asked Mr. Ruby, "Why did you do it"

9 and Mr. Ruby answered, "Do what?"

10 A I wasn't present during Captain Fritz' interrogation at

11 all, sir.

12 Q Did you see that transpire on the television subse-

13 quently, of Captain Fritz talking to Mr. Ruby?

14 A No, sir. I didn't see Captain Fritz talking to him;

15 either on television or in person.

16 Q You didn't hear Jack answer to Captain Fritz' "Why did

17 you do it", Jack Ruby answer, "Do what?"

18 A No, sir, I didn't.

19 Q Okay. Now, let's take the sequence of events. First

20 let me ask you, did you have occasion to refresh your memory

21 from any instruments or documents during the noon hour?

22 A No, sir, I didn't.

23 Q Did you talk with anyone during the noon hour about this

24 case?

25 A Yes, sir, I did.

1 Q Who did you talk with?

2 A Mr. Wade, Mr. Alexander, Mr. Bowie, of the District

3 Attorney's office.

4 MR. ALEXANDER: Was your question today at noon?

5 Q (By Mr. Belli) That was today at noon?

6 A Yes, sir.

7 Q Your memory certainly can remember back to about half an

8 hour ago. Where did you go to discuss this case at noontime,

9 Mr. Wade, you, Mr. Bowie and Mr. Alexander?

10 A We were in Mr. Wade's office.

11 Q And how long did you discuss it?

12 A Oh, probably some ten minutes.

13 Q What phase of it did you particularly discuss that you

14 weren't sure of?

15 A Well, there wasn't any of the facts that I've testified

16 to that I'm not sure of, sir. We went over the facts again

17 that I could testify to.

18 Q You went over the facts again that you had testified to,

19 is that right?

20 A No, sir. We went over what facts that I could testify

21 to.

22 Q That you could testify to?

23 A Yes, sir.

24 Q Well, does that mean then there are some things that

25 they have brought out in your memory that you haven't testified

1 to yet?

2 A No, sir, they didn't bring anything out that I hadn't

3 already told them about. It just hasn't come out in the trial

4 yet.

5 Q What was this ten minutes that you talked with three

6 District Attorneys that you could testify to? You understand

7 that?

8 A No, sir.

9 Q I understood you to say that you talked with Mr. Wade,

10 Mr. Alexander and Mr. Bowie in the District Attorney's office?

11 A Yes, sir.

12 Q During the noon hour?

13 A Yes, sir.

14 Q For at least ten minutes?

15 A Yes, sir.

16 Q About some things you could testify to in the case?

17 A Yes, sir. Some of them I have already testified to, and

18 some additional things that I could testify to. Some addi-

19 tional facts that I might have.

20 Q What additional things now do you have for us?

21 A I don't understand what you mean, sir. You mean --

22 Q Why did you go over that which you have already testified

23 to?

24 A We didn't go over that.

25 Q What did you go over?

1 A The facts that I have testified to and could testify to.

2 Q Well, just so I understand, "could" means future to me.

3 Does it to you?

4 A Well, if it were to be admissible in court, yes, sir.

5 Q I mean if I were to ask you things in certain areas,

6 you were told by Mr. Wade, Mr. Alexander and Mr. Bowie to

7 answer in a certain manner?

8 A They didn't instruct me how to answer, sir.

9 Q Well, did they instruct you at all?

10 A No, sir.

11 Q What did you go over?

12 A Facts that I could testify to and some that I had

13 already testified to.

14 Q Let me ask you, you understand what the word "could"

15 means, don't you?

16 A Yes, sir.

17 Q And you say you went over facts that you could testify

18 to? Right?

19 A Yes, sir.

20 Q I'll ask you, what are those facts?

21 A Well sir, they're very numerous.

22 MR. ALEXANDER: Go ahead and tell the man.

23 MR. BRILL: I didn't hear what Mr. Alexander said.

24 What are the instructions that Mr. Alexander gave the

25 witness?

MR. ALEXANDER: Mr. Your Honor, some of these things at this point are probably not admissible. Now he's asked the question and he realizes what he's asked and what he's doing, then we tell the witness to go ahead.

MR. BOWEN: If he wants to go into all that happened after that, then we have no objection.

MR. BOWEN: Let's do this. Let's see what they've tried to have this man with, so that --

MR. ALEXANDER: We object to that in the presence of the jury.

THE COURT: Sustain the objection.

MR. BOWEN: Now we ask to have this out, out of the presence of the jury.

THE COURT: Mr. Belli, let the Court act on the objection before you go on. The Court would sustain the State's objection to the word "bait". Let's don't use it any more.

MR. BOWEN: All right.

Q (By Mr. Belli) Now did they tell you with reference to answering any question this afternoon?

A Sir, the only thing that Mr. Wade or Mr. Bowie or Mr. Alexander, or any of them has ever told me, is to tell the truth. They want to know what facts there is that I could testify to. The truth.

Q Did they also tell you if you were asked to say, "to tell the truth"? That, "I've been told to tell the truth"?

A Sir?

Q Did they also tell you if I asked you about this luncheon conversation, that you were to say, if you had been told anything, to answer: "Yes, I've been told to tell the truth"?

A They instructed us that if I was asked about the luncheon conversation, to tell the truth. They didn't tell me to answer that way. They instructed me to tell the truth.

Q To tell the truth?

A Yes, sir.

Q All three of them told you to tell the truth?

A All three were present. I believe Mr. Wade told me that.

Q All right. Now, this will make the fifth conversation that you had with the District Attorney's office, is that right? We had four this morning, and this is the fifth?

A Those three covered -- didn't cover four times. There were two times with Mr. Alexander, once again with Mr. Alexander and Mr. Wade, and then again this time with Mr. Alexander and Mr. Wade and Mr. Bowie.

Q I count five. Is that right?

A Well, I don't count five, sir. That's four.

Q Let's do it again to be sure. Twice with Mr. Alexander,

1 on three times with Mr. Alexander?

2 A Twice with Mr. Alexander alone.

3 Q Yes.

4 A Once with Mr. Alexander and Mr. Wade. That's together.

5 I'm counting that as the third time. And then this time is

6 the fourth.

7 Q So you only went over this case with them four times.

8 Is that right?

9 A As to what facts I could testify to.

10 Q And coming back to the statement, you say that you

11 didn't have in your statement when you were finishing this

12 morning, about "all the low life scum things, why did you do

13 it"? You didn't have that in the statement?

14 A No, sir.

15 Q You told us you told Mr. Wade about that, or Mr.

16 Alexander about that, in the second conversation that you had

17 with him. Right?

18 A Sir?

19 Q The second conversation that you had with Mr. Alexander

20 you told him about this morning? You say happened, that

21 Captain King said, "all the low life scum things, why did

22 you do it?"

23 A I don't recall which conversation it was that we dis-

24 cussed that. It may have been in all four.

25 Q Well this morning you said it was the second. Do you

1 recall that?

2 A I don't recall telling you that this morning. Maybe it

3 was. But I have discussed it with them, sir.

4 Q All right. Now, suppose you tell us, from the beginning

5 if you will, and we'll have it in sequence for the first time.

6 Now alone --

7 MR. WADE: He said it had been a secret so far,

8 and we object to that feature of the statement.

9 MR. RUMF: Sequence.

10 MR. WADE: Sequence. Oh, I thought you said

11 secret. Withstand the objection.

12 Q (By Mr. Bell:) Sequence. One event following another

13 in historical activity. Have you got it? Are you with me?

14 A Yes, sir.

15 Q Let's go. Oswald is brought out of the basement. Right?

16 A Yes, sir.

17 Q When he is brought out of the basement there's a

18 tremendous hubbub there, isn't there?

19 A There's a lot of activity, yes, sir.

20 Q And a lot of talking and a lot of shouting?

21 A Yes, sir.

22 Q And did they ask Oswald? How did you do it, why did you

23 do it?

24 A I heard that question being asked.

25 Q That question, "Why did you do it, why did you do it?"

137 1 A I heard that shouting, yes, sir.
 2 Q Did you hear him shouting to be an S.O.B.?
 3 A No, sir.
 4 Q Did you hear him referred to as a rat, or anything else?
 5 A Yes, sir.
 6 Q And did you see him at that time, give the Communist
 7 salute, with one hand like that, when he was in handcuffs?
 8 A No, sir.
 9 Q You didn't see that at that time?
 10 A No, sir.
 11 Q Now, you standing over to the corner. Let's see how we
 12 can do this. You were over in this corner here, and that
 13 looking at number thirteen, you were over in this corner here
 14 against the wall?
 15 A I'm sorry sir, but I can't see what he's pointing to.
 16 MR. WARD: Stand up and show him.
 17 Q (By Mr. Belli) Was this corner here? Is that where
 18 you made that "M"?
 19 A No, sir. I didn't make that "M".
 20 MR. TONAHILL: Mr. Wade made it for him.
 21 Q (By Mr. Belli) Is there where you were, where that "M"
 22 is?
 23 A I was about center way, or between the door and the
 24 edge, right here, sir.
 25 Q Between the door and the edge?

3 1 A This opening right here.
 2 Q All right. Would that "M" be about where you were?
 3 A That would be about where I was standing.
 4 Q Now, if we come down here then at the time of the shoot-
 5 ing, we should see you in there, shouldn't we?
 6 A Not in this picture, no, sir.
 7 Q Well, that's the time of the shooting.
 8 A I'm right over here.
 9 Q Well, can we see you there?
 10 A No, sir. I'm between this man and this man.
 11 Q Well, is this you here?
 12 A No, sir, that's not me.
 13 Q Then you are in back of here, aren't you?
 14 A I'm behind in here.
 15 Q All right.
 16 A I'll correct that. I believe that's Mr. Graves.
 17 Q All right. So anything that was said at the time of the
 18 shooting, the sound would have to come through all of these
 19 men in front of you, wouldn't it?
 20 A No, sir.
 21 Q It came over them?
 22 A No, sir.
 23 Q And you heard Mr. Ruby just at the time of the shooting?
 24 A Well, I was looking straight at him.
 25 Q Through these men?

- 1 A No, sir.
- 2 Q Well, would you step down here and we'll hold this up
3 and see if we can see. Here is a picture with Ruby coming up--
4 and by "here" I'm referring to -- this is number nine again.
5 Here's Ruby coming up. You don't see yourself in that picture,
6 do you?
- 7 A In this picture?
- 8 Q Yes.
- 9 A Yes, sir.
- 10 Q Where are you there?
- 11 A Right here.
- 12 Q Is this you here?
- 13 A Yes, sir. That's me.
- 14 Q All right. You're looking the other way, is that right?
- 15 A Well, I am according to the picture.
- 16 Q Well, according to you. The picture may be wrong.
- 17 A I don't know if the picture is wrong or not, but I
18 looked around from this way.
- 19 Q This officer was in front of you at that time, wasn't he?
- 20 A He came right by the side of me.
- 21 Q All right. And this is about at the exact time of the
22 shooting, isn't it?
- 23 A No, sir. That's going to be a second before the shoot-
24 ing.
- 25 Q All right. Well, this is seconds after the shooting.

- 1 and these men are in front of you, aren't they?
- 2 A I don't know if that was after the shooting or not.
- 3 Q Well, here's Officer Lovell, and here's Oswald holding
4 his side where apparently he's been shot. Right?
- 5 A I don't know if he's been shot at this point or not.
- 6 Q And you say that you heard somewhere at the time that
7 Ruby shot Oswald, what? What did you hear?
- 8 A Just after the same moment? The same moment?
- 9 Q Right about this moment here.
- 10 A No, sir, it wasn't right about this moment. It was
11 after I turned, and he said, "You rat son of a bitch, you
12 shot the president."
- 13 Q All right. And where was Ruby at that time?
- 14 A He had moved on in closer once the shot was completed.
15 What point are you talking about?
- 16 Q At the time you heard him say, if you did, "You rat son
17 of a bitch, you shot the president."
- 18 A He was in a position similar to this one. He was in a
19 crouch, and moving up.
- 20 Q Well, if he was moving up he would be in front of this
21 man, wouldn't he, and you would be back here?
- 22 A No, sir. I don't know what you mean.
- 23 Q Well, I'll make it very clear to you, sir. This picture
24 here is Ruby in action; Ruby moving forward towards Oswald,
25 isn't he?

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1 A I don't know whether that's Ruby in action or not.
2 That's a still of him. That looks like him.

3 Q All right. And he kept moving forwards towards Oswald,
4 didn't he?

5 A All in one motion.

6 Q All right. He kept moving forward towards Oswald. This
7 would be the next step. He's closer and you're back here
8 where you can't see anything. Right?

9 A No, sir. That's not right. I don't know whether this
10 would be the next step or not. This is probably a step up,
11 but I don't know if that's the next step or not.

12 MR. TOMAHILL: Your Honor, I'd like to point out
13 under the subpoena duces tecum, Captain Nichols is here
14 and has this man's written statement, and we would like
15 to have Mr. Nichols brought in for examination purposes.

16 THE COURT: I'm not having him brought in for
17 examination purposes. We've gone through that before
18 and I won't go through it again. You cannot have the
19 statement. Just take your exception.

20 MR. BELL: May we have the statement marked for
21 identification, Your Honor?

22 THE COURT: No, sir.

23 MR. TOMAHILL: May we have a full Bill of Excep-
24 tions?

25 THE COURT: Yes, sir.

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1 Q (By Mr. Bell) Now, you heard that prior to this, in
2 just the second it took from the time that Oswald came out of
3 the door, until the time of the shooting, it took matters of
4 seconds, if that long. Is that right?

5 A I didn't catch all of that.

6 Q From the time that Oswald came out of the door, until
7 the time he was shot it was a matter of seconds?

8 A Yes, sir, it was.

9 Q All right. In those seconds, you heard people say to
10 Oswald, "Why did you do it, why did you do it?" Is that right?

11 A Yes, sir. Conversation.

12 Q And then within those seconds you say you also distinctly
13 heard Ruby say, "You rat s.o.b. you shot our president"?

14 A Yes, sir.

15 Q Then what is the next thing you heard Ruby say?

16 A Well during this scuffle, sir, and at the time we were
17 taking him into the jail office, he was hollering, "I hope I
18 killed the s.o.b." and then he was hollering -- he said that
19 several times. And then he said, "Don't you know who I am,
20 don't you know who I am?" I'm Jack Ruby. I'm Jack Ruby."

21 Q Now, which did he say first? "I'm Jack Ruby, I'm Jack
22 Ruby"?

23 A I believe he said "I hope I killed the son of a bitch"
24 first.

25 Q He said, "I hope I killed the son of a bitch" first?

1 A This was during the struggle.

2 Q Were you still standing back over here when he said
3 that, "I hope I killed the son of-a-bitch"?

4 A No. Now when these statements were being made, this is
5 during the struggle and at the time we were going into the
6 jail office.

7 Q They were struggling back over to this direction,
8 weren't they?

9 A Well, I can't --

10 Q To the right of this picture here. And this picture I
11 refer to looks like number eight.

12 A I don't -- I can't tell from the picture. I can't see
13 it all the way, exactly what you're pointing at, sir.

14 Q The struggle, the action, was going in this direction
15 here, wasn't it? That way, and Oswald was going that way?

16 A Oswald was coming out.

17 Q Now, after Oswald was shot, Oswald went down this way,
18 to the left of this picture, Ruby went to the right. Isn't
19 that right?

20 A Sir, I don't know which way Oswald went. I had Mr.
21 Ruby's right arm there, and I held on with everything that
22 I had. I don't know what they did with Oswald. Now, what
23 transpired during that time -- I held onto the man's right
24 arm.

25 Q Who was holding on to Ruby's pistol?

1 A I don't know. I don't know who got the pistol. I have
2 since been told, or learned who got it, but I didn't know at
3 that time, even when we got him in the jail office and had him
4 handcuffed, I still didn't know who had that pistol.

5 Q Well, when you got hold of Ruby's arm, was there anyone
6 holding onto his pistol?

7 A I couldn't tell. There was somebody else had hold of
8 his arm besides me.

9 Q I'm talking about -- were there two people holding his
10 arm, and one person holding his pistol?

11 A I don't know.

12 Q Don't you know whether they had a hand on the pistol,
13 and that the pistol was being worked? Didn't you see that?

14 A I saw the pistol in his hand, and I had my hand on his
15 right arm, and holding on for dear life because the man had a
16 pistol in his hand.

17 Q When you saw the pistol in his hand, did you see anybody
18 else's hand on that pistol?

19 A No, sir, I couldn't tell. I saw the pistol --

20 Q Yes or no?

21 A Yes or no what? What's the question, sir?

22 Q MR. WADSWORTH: He doesn't have to answer yes or no.
23 He said he didn't see it.

24 Q (By Mr. Belli) Well, let's see if your answer is the
25 same as Mr. Wade's. When the pistol was being held down at

1 the side, was anyone else's hand on the pistol?

2 A I couldn't tell that, sir. We were in a scuffle and we
3 went to the floor there shortly after the scuffle started. I
4 held onto that right arm. Who wound up with the pistol, or
5 who got it, I didn't know at the time, and didn't learn until
6 later.

7 Q Is it your answer that you don't know whether anyone
8 else was holding onto the pistol? Is that your answer?

9 A I didn't see anyone holding on.

10 Q All right. Did you see the pistol at that time?

11 A Yes, sir, I did.

12 Q And you didn't see anyone else holding onto it?

13 A No, sir.

14 Q And which way was it pointing?

15 A When I saw that pistol, it was pointed right about here.

16 Q And you were over to the right, over in this direction
17 here? Is that right?

18 A No, sir, that's not right.

19 Q Well, you didn't move over to the left, did you?

20 A But I'm -- I'm not where you're pointing, sir.

21 Q Did you at any time -- would you come down here -- Did

22 you at any time, move to the left side of this picture?

23 Weren't you at all times over at the right side of the picture?

24 A I came out here, right around here to Mr. Ruby, heading
25 onto his right arm, right here.

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1 Q All right. And the gun was pointed right at you?
2 Right?

3 A During part of the scuffle there.

4 Q And Oswald was over to this side, is that correct?

5 A Well, I don't know where Oswald was.

6 Q You didn't see him, is that correct?

7 A I could see him in the circle, but I was watching the
8 man with the gun.

9 Q Where was Levelle, do you know?

10 A I don't know. I wasn't watching Levelle.

11 Q Will you resume up there please? Now when Jack Ruby
12 was down on the ground -- was he down on the ground at any
13 time?

14 A Yes, sir. We were both on the ground. I say "ground",
15 I mean concrete, the floor.

16 Q Well now, what is the answer? Was he down on the
17 ground?

18 A Well, no, sir. He wasn't on the ground.

19 Q I didn't hear what you said.

20 A I said, he wasn't on the ground.

21 Q He wasn't on the ground at any time? Is that right?

22 A During the scuffle he wasn't on the ground, no, sir.

23 Q Well, was he on the ground any time before he was taken
24 into the jail?

25 A He wasn't on the ground. He was on the floor.

1 Q Was he on the ground, floor, deck or covering that we
2 walk upon at any time from the time of the shooting until the
3 time that you took him into the jail?

4 A He was on the concrete floor.

5 Q On his back?

6 A We were on our knees where the scuffle took place. As
7 we took him into the jail we laid him face down on the floor.

8 Q Was he on the floor before you took him inside? Is my
9 question clear to you?

10 A No, sir, it's not.

11 Q Floor, deck, covering, ground. Right?

12 A Right.

13 Q Was Jack Ruby at any time on the floor, deck, covering
14 or ground before you took him through this door, or this door,
15 inside?

16 A Yes, sir, he was.

17 Q And what did he say when he was down?

18 A During the time that he was down -- now, this is part of
19 the scuffle, and during part of this scuffle there -- I don't
20 know --

21 Q Do you have the question in mind?

22 A I think I do. I thought I heard you.

23 Q Could you answer it?

24 A I'm trying, sir.

25 Q Just tell me what he said.

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1 A Well, it's a chain of events, sir.

2 Q Never mind the chain. We'll come to those. Tell me
3 what he said while he was down on the ground.

4 A All right, sir. As best I can. During this scuffle,
5 at which part of the time we were down on the ground, this is
6 part of the time that Mr. Ruby was hollering, "I hope I killed
7 the son of a bitch."

8 Q Now, when did he say, "I'm Jack Ruby"?

9 A I remember him saying, "I'm Jack Ruby" -- now this is
10 as we were taking him into the jail office, and after we had
11 gotten him into the jail office.

12 Q After you had gotten him into the jail office?

13 A Yes, sir. On the way, and while we were in the jail
14 office.

15 Q Well then it was rather redundant, wasn't it, for the
16 other officer, Archer, to say later on, "Jack, I believe you
17 killed him" if Ruby had already said, "I hope I killed the son
18 of a bitch"?

19 A I don't know what Mr. Archer testified to, sir.

20 Q Didn't you hear -- what did you hear Archer say to him?

21 A At what point, sir?

22 Q At any point.

23 A After we had reached the fifth floor of the jail, and as
24 I was returning, I heard him say, "Jack, I believe you've
25 killed him."

1 Q But Jack had also said that he hoped he had killed
2 him when he was down there.

3 A Yes, sir.

4 Q All right. And that is in your report, is it? Let me
5 put it to you this way. That's not in your report, is it?
6 Under oath?

7 A What is not in my report?

8 Q What you have told us here.

9 A What is the question, sir?

10 Q The statements that you've made are not in your report
11 to your official, are they?

12 A Maybe not --

13 Q I beg your pardon?

14 A Maybe not worded exactly as you have put it, but it is
15 covered in my report.

16 Q It's covered?

17 A Yes, sir, it's covered.

18 Q Are the statements that you have given us here, to the
19 ladies and gentlemen of the jury, "I hope I killed the son of
20 a bitch", are those in your report?

21 A Yes, sir.

22 Q All of them?

23 A Everything I have testified to is covered in my report.

24 Q And is the statement in there about "you saw, why did
25 you do this" in your report?

1 A No, sir, it isn't.

2 Q That's the only thing of all of these statements that
3 isn't in your report?

4 A I don't know if that's the only thing or not.

5 Q Is your statement that you have given us here with
6 reference to shooting him three times, in your report?

7 A Yes, sir, it's included in the report. Sure is.

8 Q Did you tell this to the F.B.I.?

9 A Yes, sir, I did.

10 Q You wouldn't have any objection to us seeing this report
11 would you, if it's in there?

12 MR. BOWEN: To which we object, Your Honor.

13 THE COURT: Sustain the objection.

14 MR. TONAHILL: Exception.

15 Q (By Mr. Belli) And you went over this part that I'm
16 talking to you now, with three District Attorneys during the
17 lunch hour, didn't you?

18 A Which part is that, sir?

19 Q The part about shooting him three times?

20 A I believe that was discussed, yes, sir.

21 Q You say you believe it was discussed. Do you mean to
22 tell us that you don't know whether you discussed this with
23 the three District Attorneys during the lunch hour?

24 A Oh, I know we discussed it. I don't know if all three
25 were present. Part of them were there.

1 Q Well, what was the purpose of discussing that? You had
2 just testified, and you knew that you were a witness under
3 oath, going back on the stand, and witnesses are not supposed
4 to be in the courtroom. You know all that, don't you?

5 A Sir?

6 Q What was the purpose of going over this with you during
7 the lunch hour, do you know?

8 A I was instructed not to discuss the case with anybody
9 but counsel, and that's what we did.

10 Q Discuss it with anybody but the District Attorney, isn't
11 that right?

12 A I believe that's going to be correct.

13 Q Is there any doubt about that?

14 A Not in my mind.

15 Q No. Not in your mind. Now, in the elevator, we've
16 gotten to the elevator. What was said in the elevator?

17 A I don't know all the conversation that was said in the
18 elevator, sir.

19 Q There was some conversation in there?

20 A Yes, sir.

21 Q And did someone say, "Jack, why did you shoot him" in
22 the elevator?

23 A I don't know, sir.

24 Q Did Jack say anything in the elevator?

25 A He was making some statements. I don't know what they

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1 were. There was conversation in the elevator.

2 Q And you can't remember or separate these conversations
3 out, but these other conversations that you have given us
4 here, you do separate those out and remember those?

5 A What I testified to I remember, yes, sir.

6 Q How long were you in the elevator with the other offi-
7 cers?

8 A Long enough for it to go from the basement up to the
9 fifth floor.

10 Q That takes about a minute?

11 A I don't know how long it takes, sir.

12 Q And there were how many officers in the elevator?

13 A I don't know, sir.

14 Q Was Jack answering in a calm, quiet voice?

15 A Well, the conversation was pretty -- or seemed average
16 and normal to me.

17 Q And you can remember a pretty average conversation, the
18 tone of voice and everything else, but you can't remember one
19 word of what was said in that conversation in the elevator, or
20 you won't. Is that right?

21 A It's not that I won't, sir. I don't remember it, so I
22 can't say that I do.

23 Q Can you tell us what the subject matter was?

24 A I'm sure it possibly had something to do with the shoot-
25 ing, or some of the events. I don't recall what it was about.

COMMISSION EXHIBIT No. 2409--Continued

1 Q You say "probably" has something to do with that?

2 A Probably did, yes, sir.

3 Q All right. Could we handcuffed at that time?

4 A Yes, sir, he was.

5 Q And did you have -- were you facing him? Did you have

6 an opportunity to look at him?

7 A Part of the time.

8 Q And when you looked at him part of the time, you were

9 out of breath, and you were panting, weren't you?

10 A I was breathing kind of hard, yes, sir.

11 Q Was Jack just calm, and not breathing hard?

12 A He wasn't breathing any harder than I was.

13 Q Well, was he breathing hard then?

14 A I don't recall.

15 Q What was the appearance of his face at that time? Was

16 it flushed, or was it like it appears here?

17 A Parts of his face -- when I say face, I mean including

18 the forehead -- was red.

19 Q Parts of the face were red?

20 A Yes, sir.

21 Q Well, there's only so many parts to a face, as could

22 you tell us which parts were red?

23 A Yes, sir. He had an abrasion on one part, I believe.

24 On the forehead. And that part was redder than the rest of

25 the face, sir.

1 Q Do you know how he got the abrasion on the forehead?

2 A I didn't see it happen. Probably during the scuffle.

3 Q Was that the time that he was down on the ground, and

4 he was saying, "I'm Jack Ruby, I'm Jack Ruby. Let me up."

5 A I don't know, sir. I didn't see him get injured. I

6 say it was probably during that time, but I didn't see any-

7 body get --

8 Q You didn't see him get injured?

9 A No, sir.

10 Q But yet you say that you saw him with the gun, and you

11 saw him down on the ground and you heard him say, what?

12 A What is the question, sir?

13 Q What did you hear him say when he was down on the

14 ground, when he was getting injured?

15 A I don't know at what point he got injured, sir. I

16 don't even know at what point I got injured.

17 Q Wasn't he injured when he was on the ground?

18 A I don't know, sir.

19 Q You saw him all the time he was on the ground?

20 A I had hold of him all the time he was on the ground.

21 Q That's not my question. You saw him all the time he

22 was on the ground?

23 A Possibly glanced away some, trying to get a better hold.

24 Q Probably what?

25 A Probably turned away, trying to see the gun or something,

- 1 If I'm being asked was I staring him face to face all the time,
 2 I wasn't, sir.
- 3 Q I didn't ask you that. Did he say that which you said
 4 he said before you looked away or afterwards?
- 5 A I don't know at what point that was, sir.
- 6 Q And when you looked away, how long did you look away
 7 getting a better hold?
- 8 A I don't know that, sir.
- 9 Q And you don't know if that's the time someone had their
 10 knee on his head?
- 11 A No, sir.
- 12 Q And you don't know if that was the time that he said,
 13 "I'm Jack Ruby, I'm Jack Ruby?"
- 14 A At what point are you talking about, sir?
- 15 Q At the time he was injured. "Let me up, I'm Jack Ruby."
- 16 A I don't know when he was injured, sir.
- 17 Q All right. Now, after that you then took him in the
 18 jail and laid him face down on the floor, is that right?
- 19 A Yes, sir. We put him face down on the floor.
- 20 Q What did he say when he was face down on the floor?
- 21 A During part of that time, he said again, "I hope I
 22 killed the son of a bitch."
- 23 Q While he was lying face down on the floor?
- 24 A Yes, sir.
- 25 Q And how long was he lying face down on the floor?

- 1 A I don't know how long. Just a very short while.
- 2 Q And before he said, "I hope I killed the son of a
 3 bitch," you heard a number of people yelling out there,
 4 "Oswald is shot, Oswald is shot, Oswald is shot" didn't you?
- 5 A I heard someone yell from the outside, yes, sir.
- 6 Q The answer to my question is "yes" so there will be no
 7 question?
- 8 A Yes, sir.
- 9 Q And you also heard people yelling, "Jack Ruby did it,
 10 Jack Ruby did it" didn't you?
- 11 A No, sir.
- 12 Q Didn't you hear someone say, "Jack, you scum, why did
 13 you do it?"
- 14 A During part of the time he was in my custody I heard
 15 him referred to as that.
- 16 Q No, no, I didn't ask you that. Didn't you say that you
 17 heard someone say to Jack, "Jack, you scum --" Let me get your
 18 exact words here. And I think it was Captain King, "all the
 19 low life scum things, why did you do it". Didn't you hear
 20 Captain King say that?
- 21 A I heard Captain King use those words in talking to him.
- 22 Q Where? In the elevator?
- 23 A Sir, I have already told you, I don't know at what
 24 point I heard Captain King ask him that.
- 25 Q Did you hear Captain King say that, put that question

1 to him before Jack said, "Hope the s.e.b. dies?"

2 A I didn't get that.

3 Q What's the sequence of events, the sequence, the hap-

4 pening of the event? When was it that Captain King said that

5 "All the low life some things, why did you do it"? When he

6 was on the ground?

7 A No, sir. He didn't ask him that while he was on the

8 ground.

9 Q Then he must have asked him while he was in the eleva-

10 tor, is that right?

11 A I don't know whether he asked him that in the elevator,

12 on the way up in the elevator, or as we were putting him on

13 the elevator, or not sir. I don't know at what point Captain

14 King asked him that.

15 Q That could have happened while he was on the elevator?

16 A I don't know when it happened, sir.

17 Q What did Jack answer to that? "Why did you do it?"

18 A "You guys couldn't do it. Somebody had to do it."

19 Q And that was in the elevator. Right?

20 A Sir, I don't know at what point Captain King asked him

21 that.

22 Q Well it certainly didn't happen when he was lying on

23 the ground outside, did it?

24 A No, sir.

25 Q And it certainly didn't happen when he was lying on his

1 face on the deck inside the jail, did it?

2 A I don't know at what point from there, after we got him

3 in the jail, I don't know at what point it happened, sir.

4 Q You don't know when that happened, and you don't know

5 when that happened in the sequence of events of people yelling

6 out there, "Carnold is shot, Carnold is shot"? Is that right?

7 A What was the question, sir?

8 Q You don't know at what time this happened? Captain

9 King -- this is the one thing that isn't just memorized by

10 you, isn't it, sir?

11 MR. WARD: We object to that, Your Honor.

12 THE COURT: Sustain the objection.

13 Q (By Mr. Balli) It's the one thing, you say, that's not

14 in your report, is that right?

15 A Sir, I don't know at what point Captain King asked him

16 that.

17 Q Do you understand my question?

18 A No, sir, I don't believe I do.

19 Q * This is the one thing you say is not in your report,

20 is that right?

21 A It wasn't in the report.

22 Q This is in your report?

23 A No, sir. It's not in the report.

24 Q Do you know why you meticulously put in this language

25 of these other sayings in your report, and left this out?

1 A I don't understand the question, sir.

2 Q Do you know why you left this out of your report, if it

3 happened, "all the low life seen things, why did you do it?"

4 Answer: "Someone had to do it, and I knew you guys couldn't

5 do it." Why did you leave that out of your report, if it hap-

6 pened?

7 A It's one of the things that I didn't recall. There's

8 some more things that I didn't recall too, so I'm sure they

9 must have happened, but I didn't see them or didn't hear them

10 or didn't know about them.

11 Q And this you say you recalled on your second visit to

12 Mr. Alexander, is that right?

13 A I don't know what visit it was. It might have been the

14 second one, but on one visit.

15 Q All right. Now, you've told us the time that the other

16 things occurred. Could you try and remember when Captain King

17 said this to Mr. Ruby?

18 MR. ALEXANDER: That's repetitions, Your Honor.

19 MR. BELLI: We haven't had an answer yet.

20 MR. ALEXANDER: He's asked it at least five times

21 and the man told him he couldn't tell him at what point.

22 MR. BELLI: We can't get an answer then?

23 MR. ALEXANDER: Get on to something else.

24 MR. BELLI: I'll take my orders from Your Honor

25 as to getting on to something else.

1 THE COURT: Will you sustain the objection. I think

2 it's repetitious.

3 MR. BELLI: Now we have it then in the record,

4 Your Honor, that he can't tell us when that happened,

5 if it did happen in the jail elevator. Is that right?

6 MR. TOSMARILL: Exception.

7 MR. BELLI: He's already answered the question,

8 Your Honor. It's repetitious.

9 Q (By Mr. Belli) Now you left the room that Jack was in

10 upstairs about what time? Do you recall?

11 A Which time, sir?

12 Q Well after you heard Jack say -- let me get you cor-

13 rectly here so I won't misquote you -- "I meant to shoot him

14 three times, but you all moved too fast and prevented me from

15 getting the other two shots off." And after that you walked

16 away, is that right?

17 MR. ALEXANDER: Now, Your Honor, we object to

18 that. That is not the statement in evidence. Counsel

19 is misquoting.

20 MR. BELLI: Withdraw.

21 Q (By Mr. Belli) Will you tell us what you said, or what

22 he told to you?

23 A At a point after we arrived on the fifth floor, sir, I

24 returned from handling some other details regarding the case.

25 As I returned, I heard Archer ask him --

1 Q Go ahead.

2 A Asked him there --

3 Q Well, tell us what Becker said and what he said, so

4 I'll have it right.

5 A Well, I heard Becker tell him, "Jack, I believe you've

6 killed him."

7 Q And Jack said?

8 A He said he meant to shoot the man three times.

9 Q Go ahead.

10 A But that we moved a little too fast for him, that he

11 only got off one shot.

12 Q Then what did you do after that?

13 A I was still standing by, still guarding the man, still

14 keeping him under surveillance, going about handling some of

15 the other details.

16 Q Did you see Jack at all after that?

17 A Well yes, sir.

18 Q That evening?

19 A Yes, sir.

20 Q And did he appear about the same that evening when you

21 saw him later?

22 A The last time I saw him he appeared about the same as

23 when I first saw him that day, and kind of like, maybe like

24 now.

25 Q Was the red mark still on his face?

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1 A From the injury?

2 Q Well, I don't know what it was from. You said it was

3 from the injury.

4 A Yes, sir. This abrasion was still showing.

5 Q Now, we have all this period of time, from the time that

6 you first saw Ruby until the last time you saw him that even-

7 ing, that he appeared to be cool, calm, collected, not agitated

8 or excited, or emotional. That's correct, isn't it?

9 MR. ALEXANDER: That's a multifarious question.

10 THE COURT: Break it down, counsel.

11 Q (By Mr. Belli) All right. The last time you saw him

12 he was calm, not agitated, not emotional. Right?

13 A I don't know if he was agitated, or what he was. He

14 appeared about --

15 Q The same as before?

16 A Yes, sir.

17 Q And about the same as when he was lying on the floor

18 covering outside of the door and about the same as when he was

19 lying on the ground inside the door. Right?

20 A No, sir, he didn't appear --

21 Q. It may be funny to you, Officer. It's not as funny to

22 me.

23 A It's not funny to me at all.

24 Q It's difficult for me to cross examine you, I assure

25 you. If I had your statement I could do a much better job.

1 If you want to smile, that's your privilege. Do you have the
2 question?

3 MR. WARD: He object to him referring to the
4 statement.

5 THE COURT: Let's leave the statement alone, be-
6 cause it's not in evidence.

7 MR. BELLI: I knew it isn't, Your Honor.

8 Q (By Mr. Belli) Now, did he seem to be the same as far
9 as his facial expression went, from the time that he was lying
10 on the floor outside of the door, to the time he was lying on
11 the floor inside the door, and you seeing him in the elevator?
12 No change?

13 A I can't answer that with a yes or no, sir.

14 Q Well, tell us. Answer it any way. Just give us the
15 truth.

16 A During the time he was lying face down in the jail
17 office floor, and during the time -- during all the time we
18 were in this scuffle, I couldn't see what his facial expres-
19 sions were all the time, so I don't know if they were the same
20 as when we -- as when I last saw him or not, sir.

21 Q But you could hear him very plainly, couldn't you?
22 Above all of the din and all of the tumult and all of the
23 noise, you could hear him very plainly enunciate these words
24 that you've told us, couldn't you?

25 A What I testified here I did hear, yes, sir.

1 Q And that was a normal tone of voice, wasn't it?

2 A I don't know if it was normal or not, sir.

3 Q Well, was he shouting?

4 A It was loud enough to hear.

5 Q Was he shouting when he said this upstairs, "I meant to
6 shoot him three times"?

7 A No, sir, he wasn't shouting then. Just conversation.

8 Q Was that the same conversational tone he used down-
9 stairs when he said, "You rat s.o.b."?

10 A No, sir, it wasn't.

11 Q Then he did shout when he said that, is that right?

12 A Well, by tone I thought you meant volume. It was a
13 little louder downstairs there than it was upstairs.

14 Q Now, did you face him in the elevator, or did you have
15 your back to him?

16 A I don't recall what position I had. I saw him some.

17 Q Did you see him in the elevator?

18 A Yes, sir.

19 Q All right. Tell the ladies and gentlemen of the jury
20 whether he seemed to be agitated in the elevator?

21 A I don't know if he was agitated or not, sir.

22 Q Did you see his face in the elevator?

23 A I saw him some.

24 Q Was there perspiration on his face?

25 A I don't recall if there was or not, sir.

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- 1 Q Did you notice whether he was breathing hard?
- 2 A I don't recall that. I believe that he was, but I'm
- 3 not sure. I think that he was. I know that I was.
- 4 Q Were the other officers breathing hard, panting too?
- 5 A I don't know, sir.
- 6 Q Wouldn't you say when you saw him in the elevator, that
- 7 Ruby was the calmest of the lot there, that he was not perspir-
- 8 ing, his face was not flushed, he was not breathing hard, and
- 9 he was standing very quiet?
- 10 A No, sir. I couldn't answer that by saying yes to all
- 11 of that question.
- 12 Q You couldn't answer it by saying no?
- 13 A Not to all that question. Parts of it's true, parts of
- 14 it's not true.
- 15 Q What part is untrue?
- 16 A Well, you just asked me -- I would say he was about as
- 17 calm as any of the rest of us. His face, part of it's going
- 18 to be red, it's got this abrasion on it. Things like that.
- 19 Q Did he make any effort to get away, or cause you any
- 20 trouble as you went in there?
- 21 A At what point, sir?
- 22 Q At any point?
- 23 A No, sir. Just scuffling there. I didn't know whether
- 24 he was trying to get away there or what.
- 25 Q Was he trying to get away there?

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- 1 A Well, I don't know, sir.
- 2 Q All right. Did he say anything about the dog in the
- 3 car?
- 4 A Later on in the day that came out.
- 5 Q All right. Tell us what he said? That he had left his
- 6 dog in the car across the street?
- 7 A Yes, sir.
- 8 Q What did he say with reference to that?
- 9 A Well, I don't recall all that conversation, sir, but he
- 10 did tell us that he had a dog parked over in the parking lot
- 11 somewhere, in the car. The dog and the car was parked over
- 12 across the street.
- 13 Q How did he refer to the dog?
- 14 A I believe he called that dog by name, but I don't re-
- 15 call the name.
- 16 Q Sheba?
- 17 A I don't recall the name, sir.
- 18 Q Well, whatever the dog's name, he said that he had left
- 19 the dog in the car, to go over and send the wire, didn't he?
- 20 A I can't recall all that conversation. He told us he
- 21 had the dog in there, and there was some conversation about the
- 22 wire. Now word for word, the exact conversation, I don't re-
- 23 call all that, sir.
- 24 Q You don't recall it exactly like you do the other con-
- 25 versation, is that right?

1 A I don't recall all this conversation here that you're
2 talking about.

3 Q What did he say in general about the wire?

4 A Part of the details of that, I believe he said that he
5 had sent the wire to someone in St. North.

6 Q Someone they needed it for the rent, one of the girls
7 that worked for him?

8 A They needed it for something, I believe.

9 Q And did he also tell you that she had called him about
10 five minutes after ten that morning and asked him to send that
11 money, some downtown and send it to her?

12 A At some point. Now, the exact time that he mentioned
13 I don't know. He did mention sending this wire. Now, the
14 exact conversation, word for word, I don't know it, sir.

15 Q Indeed, he told you that she phoned him at the exact
16 time that you had announced over the radio the night before,
17 that Oswald was to have been seven, at ten o'clock. Is that
18 right?

19 A I don't know. I don't remember the time, sir.

20 Q Just this one area then we'll try to run through this
21 as fast as we can. He was from the press went up in the eleva-
22 tor with you, did they?

23 A Not that I know of, sir.

24 Q Well, there's no doubt in your mind about that, is there
25 just so we can note that down?

1 A I didn't see anyone get off and I don't recall any
2 being on there.

3 Q Now, if Ruby had said "You guys couldn't do it, someone
4 had to do it" what was the answer to that?

5 A I don't know. I don't recall what answer there was.
6 I didn't know exactly how he had worded the thing. Like I
7 told you a while ago.

8 Q May I suggest to you that if that did happen, you left
9 that out of your report because you thought it would embarrass
10 the police department?

11 A Sir?

12 Q You didn't leave that out of your report, if it did
13 happen, because it would embarrass the police department, did
14 you?

15 A I left it out of the report because I didn't recall it.

16 Q And you wrote this report how long after the event?

17 A I started writing this one report, probably around four
18 or four-thirty that afternoon.

19 Q And the other report, when?

20 A That is the only one that I wrote. I gave a statement
21 a time or two after that.

22 Q A time or two?

23 A Yes, sir.

24 Q To whom did you give these statements?

25 A One was departmental investigation of the incident, and

1 then I talked to one team, and that would be two F.B.I. agents.
2 And then later on I talked to another team. That would be two
3 more F.B.I. agents.

4 Q And there was a departmental secretary taking down what
5 you were saying? Right?

6 A No, sir.

7 Q And even though you had made one report, talked to two
8 departmental investigations and the F.B.I., it wasn't until
9 the second talk with Mr. Alexander that you remembered this
10 conversation that you say, "All the low life sons things, why
11 did you do it", and Ruby answered, "Someone had to do it, you
12 guys couldn't". Fair enough?

13 A I still don't understand the question.

14 Q I'll make it clear to you. You tell us that wasn't in
15 your original report, this statement, "All the low life sons
16 things, why did you do it" and Ruby answered, "Somebody had to
17 do it, you guys couldn't do it." That wasn't in your original
18 report, right?

19 A That's correct.

20 Q Now after that you had two departmental investigations,
21 right?

22 A Yes, sir.

23 Q And you went through all this alleged statement, is that
24 correct?

25 A No, sir. We had one departmental investigation that I

1 attended.

2 Q Are that you attended?

3 A Yes, sir.

4 Q But you made two other statements, didn't you, that you
5 told us?

6 A I talked to the F.B.I. on the deal, twice.

7 Q And you talked with the F.B.I. twice, right?

8 A Yes, sir.

9 Q All right. In none of those, until you come to the
10 second conversation with Mr. Alexander, did you mention the
11 subject of all the low life sons. Fair enough?

12 A No, sir, that's not the way it happened.

13 Q Tell us the way it happened.

14 A At the departmental investigation that point was in-
15 cluded on the report.

16 Q Oh, that was on the report then before you talked to
17 Mr. Alexander, right?

18 A At the departmental investigation, sir.

19 Q So it wasn't true that you told us this morning that
20 the first time you mentioned that was on the second conversa-
21 tion with Mr. Alexander, right?

22 A I didn't testify to that this morning, sir. If I did
23 I misunderstood you.

24 Q All right. Is that what you discussed during the ten
25 minutes during the noon hour with the District Attorney?

171 1 A He discussed that point now.

2 Q You discussed that point now? Is that what you said?

3 A Yes, sir.

4 Q And, what did you say about it?

5 A I don't recall how the conversation went, sir.

6 Q Well, would you try and recollect back now about an

7 hour and a half, and see if you can't give us the substance of

8 that conversation? Three District Attorneys and you. Were

9 you in the room with the three of them with the door closed?

10 A Parts of the time.

11 Q Part of the time? Well, let's take the part of the

12 time that you were in the room with them first, with the door

13 closed. What did you discuss now about this statement, "All

14 the low life scum," "Someone had to do it". What did you dis-

15 cuss about that?

16 A It was just mentioned. It wasn't any big issue. It

17 was just mentioned.

18 Q By whom?

19 A I don't recall which one of the three of them mentioned

20 it.

21 Q Did you say then that you didn't remember it until the

22 second time you had the conversation with Mr. Alexander?

23 A Did I say what, sir?

24 Q Do you tell us now that in your departmental investiga-

25 tion you did mention this?

172 1 A That he had stated that he meant to shoot the man three

2 times?

3 Q No. No. That wasn't said at the same time that you

4 say that Captain King said, "All the low life scum things, why

5 did you do it", to which Ruby answered, "Someone had to do it,

6 you people couldn't". Now, did you mention that in the depart-

7 mental investigation?

8 A Sir, I don't understand.

9 Q What is the answer, yes or no?

10 A Well, I don't understand the question. There's been

11 about four or five different deals here. I've discussed the

12 case with them --

13 Q Well, I don't have any deals with the District Attorney,

14 so I wouldn't know.

15 A I don't understand what you mean sir, at which point

16 you mean, sir.

17 Q I'll make it perfectly clear. Do you understand that

18 you testified this morning, that Captain King had told Mr.

19 Ruby, or put the question to him, "All the low life scum

20 things, why did you do it" and Mr. Ruby answered, "I know that

21 you fellows couldn't do it, some guy had to do it for you."

22 Now you say that that was said on that morning, or that day,

23 is that right?

24 A On what day, sir?

25 Q The day of the shooting.

1 A Captain King made the statement, or asked Ruby that the
2 day of the shooting.

3 Q And you didn't know when he asked him that?

4 A At what point I don't recall.

5 Q You don't recall whether it was upstairs, downstairs,
6 at any time, is that right?

7 A I don't recall at what point. I don't know where we
8 were when Captain King made the statement, where we were at
9 the time, whether we were on the elevator or what.

10 Q Now I asked you if that was in your original report,
11 and you said "No". So far we're together, right?

12 A Yes, sir. That's not in the original report.

13 Q Then you had a departmental investigation in which you
14 gave a statement, is that right?

15 A Yes, sir.

16 Q And was that given to the departmental investigators?

17 A It was covered in that, sir.

18 Q Was it given to him in those words?

19 A Wait a minute, sir. I don't understand what you mean.

20 Q I'll withdraw and make it clear. In the departmental
21 investigation did you say what you have told us here, that
22 Captain King said to Ruby, and what Ruby said back to him?
23 Did you tell that to the departmental investigation?

24 A No, sir.

25 Q When was the first time you told anybody that this

1 happened, or that you heard that. Is that clear to you?

2 A No, sir.

3 Q All right. You told us that Captain King said something
4 to Ruby this morning, and Ruby answered, with reference to
5 hours and if you people couldn't do it he had to do it. Have
6 you got the subject of the conversation?

7 A Yes, sir.

8 Q All right. Now, when was the first time that you told
9 anybody about that, that you had heard that, allegedly, or had
10 heard it? The first time that you ever told anybody was the
11 second conversation with Mr. Alexander?

12 A No, sir. That's not the first time.

13 Q When was the first time?

14 A I don't know when the first time was. I discussed the
15 case some with the officers that were in the jail with me that
16 day.

17 Q I didn't get the last.

18 MR. BELLI: Would you read his answer, please?

19 (Whereupon the last answer is read back by the
20 court reporter)

21 Q (By Mr. Belli) All right. Did you discuss that with
22 them in jail that day?

23 A I don't recall if I did or not. I discussed --

24 Q Were you getting together on any story in jail at that
25 time?

1 A No, sir.

2 Q Well, if you had this testimony in your memory, could
3 you tell us why this four or five conversations with the
4 District Attorney's office? What were you doing? Were you
5 telling them the same thing repeatedly?

6 A Sir, there was preparation for the bond hearing, and
7 preparation for the trial. As to what facts I could testify
8 to.

9 Q But it was the same thing every time, is that right?

10 A I went over the same facts I could testify to, what I
11 saw and heard.

12 Q Did you have any notes that you have made at any time,
13 other than the statements?

14 A No, sir.

15 Q Do you keep a notebook for notes on criminal activities
16 that you reduce to reports later on?

17 A No, sir.

18 Q Did you, right after that event, make some rough notes,
19 like a rough log, to later on reduce them to a smooth log?

20 A No, sir. I wrote that statement.

21 Q Were the other officers with you at the time that you
22 wrote the statement?

23 A Some of them were.

24 Q Were you all writing out about the same statement?

25 A I assume they were writing what they had seen and heard.

1 Captain Nichols instructed us to write a report of what every-
2 body had seen and what they knew about the incident, and he
3 instructed us not to talk to each other about the deal.

4 Q But you had been talking to each other, hadn't you,
5 right then about these events?

6 A I had discussed it with Clerdy, Archer, some of the
7 jail personnel probably that was on duty at the time.

8 Q Did you discuss this silent elevator ride?

9 A Sir?

10 Q Did you discuss the silent elevator ride?

11 A Well sir, the elevator ride wasn't silent.

12 Q I don't think it was silent. Tell us what was said
13 during the elevator ride?

14 A Sir?

15 MR. WADE: Your Honor, we object to that. It's
16 repetitions. He's been over that a dozen times.

17 THE COURT: Sustain the objection.

18 Q (By Mr. Bell) Just one further subject of inquiry.

19 Who did Jack say, "You guys couldn't do it and someone had to
20 do it for you"? To whom did he say that?

21 A I'm assuming that he was answering Captain King's ques-
22 tion.

23 Q And Captain King didn't answer, and no one else answered.
24 Right?

25 A There was some conversation on the elevator, but what

1 answer or other conversation there was, I don't know, sir.

2 Q In the departmental investigation, in the daily press
3 and the F.B.I., they all wanted to know if there was any con-
4 nection between Ruby and the Police Department, didn't they?

5 A Yes, sir.

6 Q And if that is true, didn't you think that this was
7 important, if it did happen, that Ruby said, "You guys
8 couldn't do it, I did it for you." Didn't you think that would
9 be sort of a solution to that when they asked you that ques-
10 tion, particularly the F.B.I.?

11 A Regarding this what, sir?

12 Q The subject of inquiry was by the F.B.I. and by the
13 police investigation, as to whether there was any collusion
14 allowing Jack to get into the jail so he could shoot Oswald,
15 is that right?

16 A I don't understand the question, sir.

17 Q Withdraw. We'll ask it again. There was considerable
18 discussion in the newspaper and considerable discussion in the
19 department, that perhaps this shooting was the result of the
20 police making it easy for someone to get in there and shoot
21 Oswald. Do you recall that discussion?

22 A Yes, sir.

23 Q All right. And that was put to you as a question, wasn't
24 it, if you knew anything about that?

25 A Had I seen him around down in there?

1 Q No. Wasn't the question put to you, do you know any-
2 thing about whether it was made easy for Ruby or anyone else
3 to get in there?

4 A Well sir, there was an investigation conducted, and that
5 question wasn't asked to me during this investigation word for
6 word like you've asked it.

7 Q Not word for word, but generally that question was put
8 to you, wasn't it?

9 A During the investigation I assume that they tried to
10 determine if I had knowledge of how he had gotten down in
11 there.

12 Q And as to whether the police had been lax?

13 A I assume that was part of it too.

14 Q If you assumed all of that, then if you really knew, and
15 Ruby had said that, wouldn't you have thought that it would
16 have been extremely important to say that he said, "If you
17 guys couldn't do it, someone had to do it for you"?

18 A I didn't remember it at the time.

19 MR. BELLE: That's all.

20 MR. WARD: We want to introduce these two state-
21 ments into evidence for the State at this time. This
22 is State's Exhibit 14. The statement is dated
23 November 30, 1963, Lt. Wallace and McAgghren. One dated
24 the 28th of November, 1963, addressed to Chief of Police
25 J. E. Curry. State's Exhibit 15. We introduce them in

evidence.

MR. BELL: We ask for a new trial at this time, Your Honor. And very sincerely and very urgently, we would like to argue this motion for a mistrial, and particularly on the grounds we were refused the privilege and the right to examine this man and the other man on any statements. We offer to Your Honor that there is a Civil Service rule that defense counsel cannot get a statement from a policeman. We have not seen this statement, I don't know what is in it, I'm not bound by the statement because it will be self serving.

Now, if I were to stand up and say, after asking to see the statement, that I don't want it into evidence the jury, being unlettered in the law, might think that I am not sincere. But we know as lawyers, Your Honor, that I don't have to offer this into evidence, because I have this for the purpose of impeaching this witness. I want to see the statement and have this marked for identification, and on the basis I have urged, we ask for a mistrial.

THE COURT: All right. I overrule your motion.

MR. WARD: We offer it in evidence, Your Honor.

MR. BELL: May I see it, Your Honor? And then may it be marked for identification? May we call now

too, Your Honor, for the other statement that we have subpoenaed?

THE COURT: No, sir.

MR. BELL: Well, Judge, do I understand when they feel that they have something here that is self serving, after a luncheon conference we're handed something that they can introduce, and we cannot see the other statement?

THE COURT: They want to introduce it in evidence. Do you object to it?

MR. BELL: I haven't read it. I haven't seen it. We're not entitled to see these things until we call for them in court. I would like to read it now, and we ask likewise that we have the other statement to compare with it, because the other officer was there with him at the time and he said they talked them over together.

THE COURT: The Court's not going to let you have it, Mr. Bell. I wouldn't let you have this one, except the State tendered it.

MR. BELL: So that I'll have the record clear, let us see this.

Q (By Mr. Bell) There was a statement made by you on, what date was it? Was it Sunday the 24th?

A Yes, sir. I wrote one of those reports on the 24th.

Q I beg your pardon?

1 A I wrote one of them on Sunday, following the shooting.
 2 THE COURT: We'll take a fifteen minute recess.
 3 (Whereupon the court was in recess until 3:15 P.M.,
 4 at which time the following proceedings were had.)
 5 MR. BRILL: I understand this instrument, consist-
 6 ing of --
 7 MR. WADE: I haven't examined him. I think you
 8 passed him back.
 9 MR. BRILL: Let us get this into the record. This
 10 instrument, consisting of seven pages, has been admitted
 11 into evidence?
 12 THE COURT: No, sir, it hasn't. It's only been
 13 tendered, as I understand it.
 14 MR. WADE: We offer it into evidence.
 15 THE COURT: All right.
 16 MR. BRILL: We object to it being offered into
 17 evidence, but we do want to examine this officer on it,
 18 Your Honor, first.
 19 THE COURT: The Court will sustain the objection.
 20 You may return it to the State.
 21 MR. BRILL: I want to use it, Your Honor.
 22 THE COURT: You can't use it unless you put it in
 23 evidence.
 24 MR. WADE: We have no objection to him using it,
 25 Your Honor. We're not through examining the witness

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1 yet. I have another matter here. Here is a statement
 2 of D. R. Archer. We have obtained copies of these now,
 3 Your Honor.
 4 (Whereupon the exhibit is marked State's Exhibit 13
 5 by the court reporter)
 6 MR. WADE: We offer it in evidence, Your Honor.
 7 MR. BRILL: We haven't seen this, and we cite that
 8 as misconduct and ask for a mistrial, in the presence of
 9 the jury offering the statement in evidence, or calling
 10 for a stipulation that we may want to object to for
 11 legal grounds. And I think Your Honor would instruct
 12 the jury now that we do have the right to make legal
 13 objections, to object to the offering of any evidence,
 14 and that should not prejudice in anywise, may it please
 15 Your Honor.
 16 THE COURT: Yes. I think the jury understands
 17 that, counsel, that you have a right to make objections.
 18 MR. BRILL: In this context, I understand here has
 19 been an instrument that was offered after the recess
 20 into evidence. We have not seen it, we do not know what
 21 is in this statement here. I'm going to object to this
 22 presently. I may read it, I may feel that it is self
 23 serving, and I may feel that at that time I may object
 24 to it, and if I object to it in the presence of the jury,
 25 the jury that may feel that I am holding probative

1 evidence out. So that's the reason that I say that is
2 misconduct for the District Attorney to do that, say it
3 please Your Honor. Now, the jury can't separate legal
4 objections from substance. It's difficult enough to
5 even have lawyers do that.

6 MR. WADE: Judge, we can argue the case later, if
7 he wants to argue it.

8 MR. BELLI: I just want to be sure, and I hope we
9 don't have to argue it later in any other court. That's
10 the reason I'm so careful here. All right. This has
11 been offered, Your Honor. We had a recess, we have not
12 had the opportunity to look at this, and I would like
13 to --

14 THE COURT: All right. You keep it, Mr. Belli,
15 and at the proper time --

16 MR. TOMAHILL: Your Honor, this is the same state-
17 ment that Mr. Alexander took from Mr. Nichols and re-
18 fused to permit us to see this morning, and that we
19 ordered here by subpoena duces tecum.

20 MR. WADE: There were no such statements made,
21 and the record won't reflect any. This is a misstatement.
22 This was the statement that was given --

23 MR. TOMAHILL: Well, Mr. Nichols can come here and
24 make this statement he just made, a pure, one hundred
25 percent falsehood, Judge.

1 MR. WADE: He did not make a written statement
2 to Mr. Alexander. The record so reflects.

3 MR. TOMAHILL: Mr. Alexander took the statement
4 away from Mr. Nichols that we ordered here by subpoena
5 duces tecum, and wouldn't permit us to see it, and now
6 we want to know if that is one and the same statement,
7 Your Honor.

8 MR. WADE: I think that's a copy of it.

9 MR. TOMAHILL: This is the one you all wouldn't
10 permit us to see.

11 MR. WADE: No, that isn't the one. We discussed
12 those.

13 MR. TOMAHILL: We want the one you wouldn't let us
14 see this morning.

15 MR. WADE: There's a copy of it, right there.

16 THE COURT: All right, Mr. Tomahill, take your
17 seat.

18 DIRECT EXAMINATION

19 BY MR. WADE:

20 Q You are Officer McMillan, is that right?

21 MR. BELLI: I haven't finished my cross examina-
22 tion.

23 THE COURT: You've already passed him back.

24 MR. BELLI: No I haven't, Your Honor.

25 THE COURT: What does the record show, Mrs.

Stinebaugh?

MR. BELLI: If the record does show that, I have no knowledge of making any statement that I'm finished with the cross examination.

MR. WARD: He asked a question, Your Honor, when I offered the statement, but I have some questions I want to ask him, then they'll have a chance to question him.

THE COURT: All right.

MR. BELLI: I would like to continue the cross examination. Now I've offered the statements --

THE COURT: Well, the State has his.

MR. ALEXANDER: Let's see what the record shows.

THE COURT: All right. What was the last question?

(Whereupon the last question and answer were read back by the reporter.)

MR. WARD: That was voir dire. Go back further than that, just before I introduced the statements.

MR. BELLI: To be sure, Your Honor, so we'll have our record here, the statement was then proffered into evidence, and I was not permitted to cross examine on the statement during the examination. Now I ask leave to cross examine on the statement for inconsistencies.

THE COURT: You'll have a chance, but you have passed him.

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MR. BELLI: I'll still cross examining him.

THE COURT: No, you passed the witness back to the State.

MR. BELLI: Well, it's probably my unfamiliarity with Texas law.

THE COURT: You'll not be deprived of an opportunity, Mr. BELLI.

MR. BELLI: I'd like to do it in sequence, Your Honor.

Q (By Mr. Wade) Mr. McMillan --

MR. BELLI: Excuse me just a minute. For the record, could we have the original of these instruments rather than photostats? These are photostats, and I object to the use of photostats. We ask for the best evidence. We say this is hearsay, there's been no foundation and we would like to see the originals, Your Honor. And there's a statement here 24 November, and then there's something attached to it of November 30th that I haven't heard of before, and I would like to see the originals.

THE COURT: You can ask him when you get him on recross examination, Mr. Belli.

MR. BELLI: Well, I've been handed these to look at, Judge. If these are proffered as the statements I object to them. I want the originals. Can we have them?

THE COURT: Yes, sir.

MR. BELL: These are hearsay and secondary evidence, and there's been no foundation. We don't know if they have been done on the Cash and Carry Printing Press, the D.A.'s printing press, or whose. We're certainly entitled to see the originals, are we not?

THE COURT: Mr. Bell, they're worth exactly what they are, whatever they're worth to you, sir.

MR. ALEXANDER: May it please the Court, the State of Texas is not in possession of the originals of these. We phoned the Police Department and they were kind enough to make a Xerox copy for us, and this is the best we can do.

MR. BELL: We produced the originals, and the originals were here and sent back.

THE COURT: I have released the originals, and will do so again, Mr. Bell. Now the State has preferred you these. Now take them for whatever they're worth.

MR. BELL: Judge, these may be as valid as a Chinese laundry ticket. As far as I know. I have no way of knowing whether these are authentic. There's interlaminations here. I can cross-examine to show that these were put in later on.

MR. BELL: Then do it.

MR. BELL: Why should I have to? Are we back in the Middle Ages, Judge, that we can't see the original of a document?

THE COURT: Yes, sir.

Q (By Mr. Wade) Mr. McMillen, directing your attention back to the lunch hour and that ten minute conversation, what are the facts with reference to whether or not we asked you about the conversation that followed after you got on the fifth floor?

MR. BELL: That's leading and suggestive.

MR. TOMARILL: Hearsay.

THE COURT: Overrule your objection.

MR. TOMARILL: Exception.

Q (By Mr. Wade) What are the facts with reference to whether we asked you if you heard the conversation between Officer Dean and Ruby?

MR. TOMARILL: Leading and hearsay.

THE COURT: Overrule your objection.

MR. TOMARILL: Exception.

Q (By Mr. Wade) You did recall part of that conversation, didn't you?

A Yes, sir, I did.

MR. BELL: Leading and suggestive.

THE COURT: Overrule the objection.

A Yes, sir.

1 Q (By Mr. Wade) Now let us ask you a second question.
2 On cross examination by Mr. Balli, he's asked you about if
3 Ruby told you he had a dog in the car, I believe. Is that
4 right?

5 A Yes, sir.

6 Q He also asked you if Ruby told you about going to
7 Western Union and sending a telegram. Was that conversation
8 even following the Dean conversation up in the jail?

9 A Yes, sir, it occurred later on, up in the jail on the
10 fifth floor.

11 MR. TOMAHILL: We object to anything with refer-
12 ence to any conversation with Dean up on the fifth
13 floor. The defendant was under arrest.

14 MR. WADE: That's the conversation they went
15 into.

16 THE COURT: Overrule the objection.

17 MR. TOMAHILL: Exception.

18 Q (By Mr. Wade) Now, as a matter of fact, did you and
19 other officers stay with Ruby until you took him to Homicide
20 later that afternoon?

21 A There was some detective with him at all times. I was
22 not present with Mr. Ruby at all times. I was in and out.

23 Q You were up there on the fifth floor though?

24 A Yes, sir, I was.

25 Q Until about what time that afternoon?

1 A I believe it was after three. Three or three-thirty,
2 something like that.

3 Q What did you do with Ruby at that time?

4 A We assisted some Homicide detectives in taking the man
5 to Captain Fritz' office.

6 Q Now, after the conversation that defense counsel asked
7 about the Western Union, going to the Western Union, did the
8 defendant, Jack Ruby, at that time, tell you how he got into
9 the basement of the City Jail?

10 MR. TOMAHILL: We object to that, Your Honor, as
11 being a statement made while the defendant was under
12 arrest.

13 MR. WADE: That's the same conversation.

14 MR. TOMAHILL: It's in violation of the statutory
15 and Constitutional rights, and violation of Article 727
16 of the Code of Criminal Procedure.

17 THE COURT: Overrule your objection.

18 MR. TOMAHILL: Exception.

19 Q (By Mr. Wade) Let us ask you again, following the --

20 MR. TOMAHILL: Same objection. Same ruling?

21 THE COURT: Yes, sir.

22 Q (By Mr. Wade) In the same conversation that the defen-
23 dant, Jack Ruby, told you about sending a telegram, did he
24 also -- in the conversation inquired about by defense counsel
25 Balli, did he tell you how he got into the basement of the

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1 City Jail?

2 MR. BELL: Leading and suggestive.

3 THE COURT: Overrule the objection.

4 Q (By Mr. Wade) On the day of the killing of Lee Harvey
5 Oswald?

6 A Yes, sir, he did.

7 Q Tell the jury how he told you he got in?

8 MR. BELL: Same objection, same exception.

9 After custody, after arrest, after jail, after held in
10 confinement.

11 MR. TONAHILL: Prejudicial as well.

12 THE COURT: Overrule your exception.

13 MR. TONAHILL: Exception to the Court's ruling.

14 Q (By Mr. Wade) Go ahead and tell us.

15 A I was present when Mr. Ruby stated how he had gotten
16 into the basement.

17 MR. BELL: I can't hear you.

18 A I was present when Mr. Ruby made a statement about how
19 he got into the basement of the City Hall. He stated that as
20 Lt. Rio Sam Pierce was pulling out of the basement in the
21 squad car, or in a car, --

22 Q (By Mr. Wade) On what street? --

23 A Main Street side, sir. That he just walked right by
24 this officer that was there, between the wall and the car.

25 Q Did he say an officer called him?

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1 A He said someone belliered at him, but --

2 Q Did he say he kept on walking?

3 A Yes, sir.

4 Q On down into the -- Did he mention that the officer on
5 guard there was assisting Rio Pierce in getting out into
6 traffic, or out onto Main Street?

7 A If he did I don't recall that, sir.

8 Q Now, is that an entrance rather than an exit on Main
9 Street?

10 A Yes, sir. It's an entrance.

11 Q This was a car going the wrong way coming out of the
12 basement?

13 A Yes, sir, that's right.

14 Q It was a police car?

15 A Yes, sir, it was.

16 Q He said some officer or someone called to him and he
17 just kept on walking fast?

18 A Yes, sir.

19 Q Do you remember anything else in that conversation deal-
20 ing with why he killed Lee Harvey Oswald?

21 MR. BELL: Same objection, same exception.

22 THE COURT: All right.

23 MR. TONAHILL: Under arrest and prejudicial.

24 THE COURT: Overruled.

25 MR. TONAHILL: Note our exception.

1 A Yes, sir. There was quite a bit of conversation as to
2 why he had — why he had killed him, later on during the day.

3 Q (By Mr. Wade) Did he mention seeing him Friday night
4 there in the assembly room?

5 MR. BELLI: May the answer go out pending the
6 objection? No proper foundation, persons present, time
7 and place. We are entitled to that, Your Honor.

8 THE COURT: All right. Sustain the objection.

9 Q (By Mr. Wade) Is this the same conversation in which
10 he told you about the Western Union telegram, and also the
11 information about the dog that defense counsel asked you
12 about?

13 MR. BELLI: Leading and suggestive.

14 Q (By Mr. Wade) What are the facts with reference to
15 whether or not this took place in the same conversation that
16 defense counsel asked you about concerning the dog and the
17 Western Union telegram?

18 MR. TONCHILL: We object to that, Your Honor.
19 He's trying to get him to change his answer. He's
20 already said it took place later on in the day. It's
21 an entirely different conversation.

22 THE COURT: Go ahead and answer the question.

23 A I don't recall what point of the day all this conversa-
24 tion took place. He did tell us about being down there Friday
25 night. And at what point of the day this was while he was in

1 our custody, I don't recall.

2 MR. BELLI: I just want to protect our record.
3 We object and ask that the answer go out. It could not
4 be part of the res gestae, Your Honor.

5 THE COURT: Overrule your objection.

6 MR. WADE: Pass the witness.

REOPEN EXAMINATION

7 BY MR. BELLI:

8 Q At some time later in the day, Ruby told you when you
9 had told him that he had shot Mr. Oswald, "you all won't believe
10 this, but I didn't have this planned. I couldn't have planned
11 it so perfect." He said he had just got there and Oswald hap-
12 pened to be coming out and it was a coincidence. Did he say
13 that?

14 A I believe that's not my statement, sir.

15 Q What?

16 A I don't think that's my statement.

17 Q I'm not asking whether this is your statement. We're
18 going to come to that.

19 A What was your question?

20 Q Didn't he say that?

21 MR. WADE: Judge, we think counsel can sit at the
22 table to question the witness.

23 MR. BOYLE: He's cross examining him off of
24 another witness's statement.
25

1 THE COURT: Come on over here, Mr. Belli. Let's
2 take one thing at a time.

3 MR. BELL: All right.

4 Q (By Mr. Belli) Let's take this very slowly now, sir,
5 so we can understand. On 19 November, 1963, you wrote out a
6 statement. Is that right?

7 A Yes, sir. I wrote a statement on that day.

8 Q And the subject of that statement was "assignment for
9 security of Lee Harvey Oswald." Right?

10 A Yes, sir.

11 Q All right. Now, you told us this morning and this
12 afternoon, that we would find in that statement where someone
13 called him rat scum, and he said that he had to do it because
14 someone else did it. That's right?

15 A What was that, sir?

16 Q Do you recall what Captain King said?

17 MR. ALKANDER: I didn't understand what he said.

18 Did or did not?

19 Q (By Mr. Belli) Well, do you recall that you said that
20 Captain King told him that you are a rat scum or something
21 like that? Why did you do it? And he said, that he had to
22 do it because you people couldn't do it?

23 A I told you this morning, sir, that I didn't recall
24 exactly how Captain King worded it. But he did ask him why
25 he did it.

1 Q You also told us you wouldn't find that in this state-
2 ment, didn't you?

3 A If I did I don't recall it, sir.

4 Q Is that in this statement?

5 A No, sir. Not that I recall.

6 Q It's not in that statement?

7 A Not that I know of.

8 Q Well you know it's not in there, don't you?

9 A I don't recall it being in there, sir.

10 Q Let me interrogate you on the other thing now, sir.
11 You recall telling us this morning and this afternoon --

12 THE COURT: Take your seat, Mr. Belli.

13 MR. BELL: Do I have to?

14 THE COURT: Yes, sir.

15 Q (By Mr. Belli) Do you recall telling us this morning
16 or this afternoon, probably one of the most damaging things
17 that you've said about Ruby, if he said this, and that is,
18 to-wit: "I shot him three times, and I tried to get off another
19 bullet. I tried to shoot him three times, but you fellows
20 were too fast and I couldn't get off the other bullet." Right?

21 A I don't --

22 Q Let me get it exactly for you, sir. "I meant to shoot
23 him three times, but you all moved too fast and prevented me
24 from doing so. I could only get off one shot." Right?

25 A Yes, sir. I told you that.

1 Q And you told the ladies and gentlemen of the jury this
2 morning under oath, and this afternoon, that also was in this
3 statement, didn't you?

4 A I said that I had that in a statement, yes, sir.

5 Q And it's not in there, is it?

6 A It's in a statement.

7 Q It is in there?

8 MR. WADSWORTH: Look down at the bottom on the other
9 statement.

10 MR. BELMONT: The other statement?

11 MR. McMAHILL: Is Mr. Wade going to testify now,
12 Judge?

13 MR. WADSWORTH: He wants to know -- Let him look at it.

14 MR. TONABILL: Let him get up in the witness
15 chair with the witness if he's going to do some testi-
16 fying, Judge.

17 THE COURT: Take your seat, Mr. Tonabill.

18 Q (By Mr. Belmont) Did you not tell us this morning that
19 that was in the written statement that you made?

20 A Which time, sir?

21 Q Are you in doubt now about I'm asking you about?

22 A I'm asking you which statement, sir.

23 Q Did you make more than one written statement?

24 A I wrote one myself. I gave a statement on the depart-
25 mental investigation.

1 Q Do you know that the word "written statement" means?

2 A Yes, sir, I do.

3 Q How many written statements did you make?

4 A Several.

5 Q You made several written statements? That you signed?

6 A Yes, sir.

7 Q You told us this morning that you only made one written
8 statement, didn't you?

9 A No, sir. I told you that I wrote one myself, and that
10 is my writing on my copy of the statement.

11 Q All right. I'll show you here what purports to be a
12 photostat, 24 November, 1953, and at the end of it it has,
13 "Respectfully submitted, T. D. McMahon." Is that your signa-
14 ture there?

15 A Yes, sir. That's my signature.

16 Q All right. That is a written statement by you, is that
17 right?

18 A That's right.

19 Q Will you tell the ladies and gentlemen of the jury if
20 you made another written statement?

21 A I gave a statement to Lt. Wallace and Lt. McLaughlin, I
22 believe was conducting that investigation.

23 Q Would you answer my question now?

24 MR. ALEXANDER: I think he did answer it, Your
25 Honor.

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1 Q (By Mr. Belli) You gave another written statement to
 2 them?
 3 A Yes, sir.
 4 MR. BELL: Now we have that other written state-
 5 ment?
 6 Q (By Mr. Belli) What is the other written statement?
 7 A I don't know, sir. I thought you had it.
 8 MR. WARD: That's one you've got right there.
 9 Q (By Mr. Belli) You tell us now, sir, that you made
 10 more than one written statement, is that right?
 11 A I told you that before. I did, sir.
 12 Q You did tell us that before?
 13 A Yes, sir.
 14 Q All right. We'll check the record. How many written
 15 statements did you make? I know this is facetious to you, but
 16 it isn't to me.
 17 MR. WARD: We object to that statement, Your
 18 Honor.
 19 THE COURT: All right. Let's get on with this.
 20 Q (By Mr. Belli) Trying to get back and forth on the
 21 question now, if you'll direct your attention to this we'll be
 22 through and go on to something else. How many written,
 23 W-R-I-T-T-E-N statements did you make?
 24 A Sir, I wrote this statement myself. On the Saturday,
 25 I gave this statement right here to Lt. Wallace and Lt.

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1 McAguren. These are two separate statements. You have both
 2 of the statements that I'm talking about right here, sir.
 3 Q One was oral, was it not?
 4 A I signed one. The one that I wrote, the original, the
 5 first one here.
 6 Q The first one that you signed was November the 24th, is
 7 that right?
 8 A I wrote that myself, yes, sir.
 9 Q All right. After that then you gave an oral statement
 10 to Lt. Wallace. Right?
 11 A Yes, sir. I gave a statement.
 12 Q And that is not in your handwriting, it is typewritten.
 13 Is that correct?
 14 A Yes, sir.
 15 Q And that is not signed by you, but it is signed by
 16 Wallace and McAguren. Right?
 17 A Yes, sir.
 18 Q So the only written statement which you've ever made
 19 which you signed, was 24 November, 1932. Is that right?
 20 A I wrote that one myself, yes, sir.
 21 Q All right. And after you wrote that statement, you
 22 read it, did you not?
 23 A Yes, sir.
 24 Q And you went back and added some corrections, did you
 25 not?

1 A Yes, sir.

2 Q And you were very careful that everything in there re-

3 ported everything that happened that you could remember on

4 that afternoon, is that right?

5 A That report that I wrote at that time, sir, is the

6 truth as best that I remembered it then.

7 Q All right. And in that report, you don't say anything

8 about what Captain KING is supposed to have said to Ruby, do

9 you?

10 A I don't believe I do in the original report, sir.

11 Q Well, you know you don't. Is that right?

12 A Yes, sir.

13 Q All right. But secondly, you don't say anything that

14 happened upstairs about Ruby saying that he intended to shoot

15 him three times either, do you?

16 A I didn't remember that when I wrote my first one.

17 Q And if you told us this morning that would be in the

18 written report, written report, if we could get it, you over-

19 spoke yourself. Is that right?

20 MR. ALEXANDER: No object to that, Your Honor.

21 Both of them are written there. One typed and one in

22 the officer's own hand.

23 THE COURT: Sustain the objection.

24 Q (By Mr. Belli) Now, on the front of this, what you

25 call your report, is something dated November 30, 1963, J. E.

1 Curry, Chief of Police, re shooting of Lee Harvey Oswald,

2 signed by Lt. of Juvenile and Lt. of Burglary. Right?

3 A I believe Lt. Wallace and Lt. Marghan are --

4 Q Did you see this after they wrote it?

5 A Yes, sir.

6 Q When did you see this?

7 A Four or five days later, I believe, sir.

8 Q Did you initial it?

9 A I don't recall if I did or not, sir.

10 THE COURT: Take your seat, counsel.

11 Q (By Mr. Belli) Now, in that report, that's the one in

12 which you say, or which Lt. Wallace says, reporting about you,

13 that you had said, that Ruby had said -- you're following me,

14 aren't you?

15 A No, sir.

16 Q Well it's difficult for me too, but this is the way I

17 have to do it.

18 A All right.

19 Q Here is a report that is supposed to be submitted by

20 two other policemen, without your signature on it, without

21 your identification on it, to the Chief of Police. It's at-

22 tached to this report of the 30th and this is dated the 30th,

23 in which you say that Ruby had told you that he had come from

24 the Western Union office, where he wired the girl in Ft. Worth

25 some money. Right?

1 A I believe that report shows there that I heard him say
2 that he had been to Western Union.

3 Q All right. And did he tell you that he saw Rio Pierce
4 standing out in the basement?

5 A I heard him make that statement.

6 Q And did he say he walked past the policeman standing
7 there?

8 A The last question you just asked, he didn't tell me he
9 saw him standing out there. He told me he passed him. He was
10 guiding the car.

11 Q Well, did you notice this error on this when you read
12 it over as you've told us?

13 A What error, sir? I don't understand what error you're
14 talking about.

15 Q Ruby said that he walked past the policeman standing
16 there.

17 A Did I notice the error when? That error in the way you
18 asked me that question a while ago?

19 Q Which question do you want me to put to you, sir?

20 A You said that Mr. Ruby saw Mr. Pierce standing in the
21 basement.

22 Q Here's a report by Wallace to the Chief of Police, say-
23 ing that he had talked to you over and above your report, and
24 he says that you told him, "Mr. Ruby, walked past the police-
25 man standing there." Is that right or wrong?

1 A I heard Mr. Ruby make a statement that he walked down
2 the ramp past Lt. Rio San Pedro.

3 Q Who was standing there?

4 A No, sir. He was driving out in the car.

5 Q Well then, this statement is wrong. Did you say it was
6 wrong, if you ever really and honestly read it before. Did
7 you read it before?

8 A Well certainly I read it before.

9 Q Well didn't you notice that it said he walked past the
10 policeman standing there?

11 A That's not Lt. Pierce you're talking about standing
12 there, sir.

13 Q What?

14 A That's not Lt. Pierce he's talking about standing there.

15 Q He said he saw a policeman who hollered at him. Is
16 that right?

17 A He said he saw a policeman standing there.

18 Q And he said he saw a policeman and hollered at him.
19 Is that right? Is that what Ruby told you?

20 A No, sir. He said he saw a policeman standing there and
21 someone yelled or hollered at him. He didn't know if it was
22 a policeman or who it was, but as he was going down the ramp
23 somebody yelled or hollered at him.

24 Q You say he didn't know if it was a policeman or who it
25 was?

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- 1 A No, sir.
- 2 Q I put it to you that this report says that you said
3 that Ruby said, he Ruby, said a policeman hollered at him, but
4 he ducked his head and kept going. Is that right or wrong?
- 5 A He said someone hollered at him, he didn't know if it
6 was a policeman or not.
- 7 Q Then this is an error here where he said it was a
8 policeman. Right? Do you follow me?
- 9 A No, sir, I don't.
- 10 Q Well, I'm having a little trouble today. This report
11 says, that was written by Wallace to the Chief November 30th,
12 that you told him, Wallace, Ruby told you that when he went
13 down the ramp he saw a policeman and hollered at him. Wrong
14 or right? That's a simple question.
- 15 A What is the question, sir? I don't understand what the
16 question is.
- 17 Q Is this a correct statement of what Ruby told you?
18 That he, Ruby, told you that as he went down the ramp a
19 policeman hollered at him?
- 20 A Mr. Ruby told me that as he went down the ramp someone
21 hollered at him. He didn't know if it was a policeman or not,
22 but he just kept on going.
- 23 Q All right. So if this says that Ruby told you that a
24 policeman hollered at him, that's in error. Right?
- 25 A Yes, sir.

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- 1 Q All right. And he ducked his head and kept going. Is
2 that correct?
- 3 A Mr. Ruby told me he just ducked his head and kept going.
- 4 Q And he said he knew he could always act like a reporter?
- 5 A Yes, sir.
- 6 Q All right. Then he said "Yell --" Y-A-L-L "Yell won't
7 believe this, but I didn't have this planned." Is that, right?
- 8 A Yes, sir.
- 9 Q "I couldn't have planned it so perfect." Right?
- 10 A Right.
- 11 Q And by that he meant that he was over at Western Union
12 at eleven-seventeen, and the shooting happened about eleven --
13 what? Twenty-one at the very latest, wasn't it?
- 14 A I'm not sure at all of the time on that.
- 15 Q All right. He said he just got there and Oswald hap-
16 pened to be coming out at the time, isn't that correct?
- 17 A Yes, sir.
- 18 Q That's what he told you? Right?
- 19 A I heard him make those statements.
- 20 Q He also told you he had no premeditation to kill
21 Oswald or anything else, didn't he?
- 22 A No, sir. He didn't tell me that.
- 23 Q He didn't tell you that?
- 24 A No, sir, he sure didn't.
- 25 Q What did he mean when he said he just got there and

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1 Oswald was coming out?

2 A I don't know what he meant. I guess he meant they were
3 getting ready to transfer him from City to County.

4 Q He also told you that he always carried a gun in the
5 car because he always had some money. Right?

6 A Yes, he said he usually had large sums of money on him.

7 Q All right. And you overheard, you overheard Ruby say
8 that after coming out of the Western Union office, he saw the
9 armored car there and came out to see what was going on?

10 A Would you repeat that, sir?

11 Q Yes, sir, I sure will. Will you listen?

12 A I'm trying, sir.

13 Q Here is a statement written by Lt. Wallace to the Chief
14 of Police. And in that statement he is supposed to be quoting
15 you. Some of these things you say are right, some of them you
16 say are wrong. He says that you told him, "I overheard Ruby
17 say that after coming out of the Western Union office, I saw
18 the armored car there and came to see what was going on."

19 A I don't recall that part of the conversation at all.

20 Q Well, where did Wallace get that from? Do you know?

21 A If it's in that report, I'm sure that I told him that.
22 I don't recall that at this time though, sir.

23 Q Then the next sentence is the first time that anything
24 is ever mentioned. "Ruby said he figured he could get off at
25 least three shots before he would be caught." Now, you don't

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1 say anything about that in this original, detailed report, do
2 you? In your own handwriting, which you read over, which your
3 chief told you to give in full and in detail, right? And which
4 you corrected.

5 A I don't understand what the question is.

6 Q For the first time that you say anything about Ruby
7 saying he could get off at least three shots before he would
8 get caught, appears as hearsay in this report from Wallace
9 purporting to talk to you orally. That is not in your original,
10 detailed, written and signed report in your handwriting, which
11 you read before you signed, and which you corrected, and which
12 you dated, pursuant to the request of your superior to put
13 anything down that happened according to this event. Right?

14 A I don't know if it's in that report or not, sir.

15 Q I can assure you it isn't, and can you explain to me
16 why it isn't, if it happened?

17 A I can't remember every little detail on one report, sir.

18 Q It's not a little detail. That's the most damning
19 thing that you've said to date.

20 MR. ALEXANDER: That was labeled "Investigation
21 of Breach of Security" and counsel well knows that that
22 report was made for a different purpose, investigating
23 a security breach.

24 MR. TCHABILL: Counsel doesn't know anything of
25 the kind, Your Honor.

1 MR. BOWEN: It's in the record, Your Honor. It's
2 the title of the report, and was put in this record.

3 MR. MCNEILL: It has eighteen corrections in it.
4 Q (By Mr. Belli) There are both on security breach,
5 aren't they?

6 A I would assume that second one you have, the top page
7 that you have, probably is, but it's departmental investiga-
8 tion.

9 Q They're both departmental investigation, aren't they?

10 A The first one is what we call a special report that's
11 written on major incidents involving police personnel. I
12 wrote it because I was instructed to do so. What it might be
13 used for, I didn't ask. They told me to write, I wrote it.

14 Q You checked this out and you made some eighteen correc-
15 tions in it, didn't you, according to this Xerox?

16 A Before it was typed.

17 Q It was typed up then after that, and submitted?

18 A I assume that it was. I intended for it to be typed
19 when I turned it in.

20 Q And you intended this to be your official report on
21 everything that transpired then, didn't you?

22 A That was to be the one that was to be typed from.

23 Q Which did you think was the most important, to say that
24 Jack was searched, and Jack was clad in his B.V.D.'s, or if it
25 happened, that he said that he wanted to get away three shots

1 before he was caught, but you fellows are too fast for me?
2 Did you think the latter was just a detail, if it happened?
3 It slipped your mind?

4 A Well, of course, I wasn't thinking about which was im-
5 portant and which wasn't, when I wrote that report. I wrote
6 a report that covered everything I could remember, the best I
7 could remember, at the time it happened.

8 Q But you left out the two main things that you tell us
9 about today; one, "all the low life scum things, why did you
10 do it?" "I did it because you guys couldn't." And the other
11 one, "I tried to get away three shots and I couldn't. You
12 guys were too fast for me." Those minor details you left out
13 of your original report, that you did for your supervisor.
14 Subject: Assignment for the Security of Lee Harvey Oswald.
15 Right?

16 A MR. WADE: Judge, that's all repetitious. He's
17 been through that five or six times.

18 Q (By Mr. Belli) Let me go into something now that we
19 haven't gone into. In your report you say that before he got
20 upstairs, you took him to property, didn't you?

21 A Took him where?

22 Q Do you know what property means? I'm using the jargon
23 as I thought the police department did. Don't you call it
24 property? Don't you call it property department in your police
25 department?

211 1 A No, sir. He has a property room.
 2 Q OK, property room. I said Department. It should be
 3 property room. Can you take him to the property room?
 4 A No, sir.
 5 Q You didn't. When did he go to the property room, if
 6 ever?
 7 A I don't know that he ever went.
 8 Q All right. He would have to go there before he was
 9 clad in his B.V.D.'s, wouldn't he?
 10 A No, sir.
 11 Q I know it's funny.
 12 A No, sir, it's not funny.
 13 Q Well, you didn't tell us about him being searched. You
 14 put your hands off on this man, and Detective Clardy, Porter, Cap
 15 King and I took the man directly to the fifth floor, man's
 16 jail, after a preliminary search. So, when was the prelimi-
 17 nary search done, and where?
 18 A I believe I testified this morning that the record will
 19 reflect it, that I stated before we placed him on the elevator
 20 he was given a preliminary search.
 21 Q Where?
 22 A Just as we had taken him up, lifted him up from the
 23 floor and stood him on his feet, right there in the jail
 24 office. We gave him a real brief one for other weapons, and
 25 so on.

1 Q For other weapons. Did you find some eighteen hundred
 2 dollars on him at that time?
 3 A I didn't. He had some money on him. I don't know how
 4 much.
 5 Q In that preliminary search, did you take that money
 6 from him?
 7 A No, sir.
 8 Q Who took that money from him?
 9 A It wasn't done in the preliminary search, sir.
 10 Q What?
 11 A It wasn't done during this preliminary search.
 12 Q Who took the money from him on looking?
 13 A I don't know.
 14 Q "Looking", is that word strange to you?
 15 A Yes, sir. Part of it. The procedure there.
 16 Q All right. You preliminarily searched him, is that right?
 17 A Yes, sir.
 18 Q Then you took him upstairs? Right?
 19 A Yes, sir.
 20 Q And the searching wasn't done in that jail office, was
 21 it?
 22 A No, sir.
 23 Q But you say in your statement you did a preliminary
 24 search in the jail office. Now which is correct?
 25 A Are you talking about the searching, the actual searching?

THE

1 I'm talking about the --

2 MR. WHEAT: We object to that. He's answered
3 every question.

4 MR. COUNT: May I approach the witness, Your
5 Honor?

6 THE COURT: If you want to use the statement,
7 yes, sir.

8 Q (By Mr. Bell): You state here, "I took the man to,
9 directly to the Fifth Street men's jail, after a preliminary
10 search in the jail office." Now, where is the jail office?

11 A Right on the floor where he was laying, where we hand-
12 cuffed him.

13 Q Well, isn't that inside that foyer? This isn't the
14 jail office here, is it? Let me put it up here so you can see
15 it. This isn't the jail office here, is it? Out here, is
16 this the jail office?

17 A I can't tell from that picture there whether that's
18 the jail office or not.

19 Q You can't tell by these pictures. You've got your "M"
20 over here. You don't know where you were standing?

21 A There's more to that.

22 Q Where is the elevator here? Could you tell us where
23 the elevator is?

24 A As you go in through --

25 Q -- on this end, so we won't have to extrapolate. I mean

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1 so we won't have to orient ourselves on something else.

2 A If this is the jail office, the elevator door would be
3 at an angle back over here where the bars are.

4 Q All right. The jail office is a different room from
5 the elevator, isn't it, of course?

6 A Yes, sir.

7 Q And the jail office is an office that's off to the side
8 of this door here in this picture, isn't that correct? If you
9 look through here?

10 A That's similar to it.

11 Q When you say here, that you did a preliminary search in
12 the jail office, that wasn't inside of the elevator, was it?

13 A It possibly could have been, sir. They're in the
14 same -- the jail office has an entrance to the elevator on it.

15 Q Is the jail office separate from the entrance to the
16 elevator? Is there a door and partition between the jail
17 office and the hallway to the elevator?

18 A Sir, in the jail office there's a section that's parti-
19 tioned off.

20 Q Partitioned off. Right?

21 A Stands up, say, about this high.

22 Q And it was behind these partitions that there was a
23 preliminary search made? Right?

24 A No, sir, there was not.

25 Q Then when you said here, "After a preliminary search in

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1 the jail office" that's not correct. Right?

2 A It is correct, sir.

3 Q Then on the fifth floor, was Ruby searched and stripped?

4 A With the exception of his shorts.

5 Q Now, will you tell the ladies and gentlemen of the jury
6 if this was before he said, "I wanted to shoot him three times,"
7 or did he say that while they were taking his pants off?

8 A I don't recall at what point that was. It was when I
9 was returning.

10 Q Try and see if you can help us a little bit on that,
11 would you?

12 A I tried this morning, Mr. Belli. I don't know at what
13 point it was that I came back. It was at the point that I was
14 coming back that I heard him tell Detective Archer this.

15 Q Well let's see if we can go a little slower on that.
16 He comes up to the fifth floor, and as soon as he got up on
17 the fifth floor, you instructed the jailers to search this man
18 and strip him. Now, did you have a conversation with him be-
19 fore that was done?

20 A There was probably some words spoken. I don't recall
21 them.

22 Q When were these words spoken, if they were spoken,
23 about the shooting three times, but you fellows were too fast
24 for me?

25 A As I was returning from taking care of some other

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1 details.

2 Q So you do remember now that it was after he had his
3 pants off, is that right, sir?

4 A No, sir, I don't know whether he had his pants off or
5 on, or what.

6 Q Well, you would know certainly, if the man was clad
7 just in his shorts, wouldn't you, when he said this, that you
8 don't have in your report?

9 A As I was returning from taking care of these other de-
10 tails, like I told you, sir, he was telling Detective Archer
11 that. Detective Archer had asked him that, and this conversa-
12 tion was going on.

13 Q You think that it was after he was stripped and searched,
14 right?

15 A I don't know, sir.

16 Q All right. Let's get the sequence of events. As soon
17 as you got to the fifth floor you instructed the jailers to
18 search this man and strip him, leaving him clad only in his
19 shorts, right?

20 A Yes.

21 Q And you also instructed the jail doctor to come and
22 examine him, right?

23 A No, sir, I didn't personally instruct the jail doctor
24 to examine him.

25 Q Someone has added this into the statement then, if you

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1 didn't do that. Do you want to look at this part?

2 A It's in there. We instructed them to go for the --

3 Q When did you look at this last, that you remembered it

4 was in there? At noon time?

5 A No, sir.

6 Q When did you last look at that?

7 A A while ago when you handed it to me.

8 Q Well, I didn't show you that page.

9 A I don't know whether you did or didn't, sir.

10 Q Well I do. What I showed you was the other page.

11 A Could have been. That's the last time I saw the report

12 was when you handed it to me a while ago, sir.

13 Q Let's go on. You told the jail doctor to come and

14 examine him immediately, right?

15 A I didn't personally tell the jail doctor.

16 Q Well, someone told him while you were there, is that

17 right?

18 A We left instructions for the jail personnel to send up

19 the doctor, to examine the man.

20 Q How long was it before the jail doctor got there?

21 A It was later on in the afternoon, sir.

22 Q About what time?

23 A Well, I don't know, sir.

24 Q And then you said, "I stayed with this prisoner from

25 eleven-twenty-five A.M. until relieved by homicide detectives

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1 at three-twenty-five in the afternoon."

2 MR. WADE: Judge, I believe you instructed counsel

3 to sit down. He can ask all these questions from over

4 there.

5 MR. BELL: It's hard to break a habit of some

6 thirty years, Judge, but I'll try.

7 THE COURT: I'll help you, Mr. Bell.

8 MR. BELL: I know Your Honor will, and that's

9 the reason I did it before Your Honor helped me.

10 Q (By Mr. Bell) Now, you stayed with him from eleven-

11 twenty-five A.M., you didn't -- when you changed the front of

12 the statement at approximately eleven-twenty-five A.M. where

13 did you get that information that the shooting was eleven

14 twenty-five A.M., rather than eleven twenty-one?

15 A I'm just -- at that time, I was just trying to think

16 back how long I had been down there. I know about what time

17 I got to the basement. I was trying to figure about how long

18 I had been there before it happened.

19 Q When did you say you had fixed it at eleven twenty-five?

20 You know now it's eleven twenty, twenty-one, don't you?

21 A I don't know what time it was, sir.

22 Q All right. But you changed it back over here on the

23 first page of the statement, or the second page. Right?

24 A Well, I don't know. If it's changed -- let's see if

25 it's my writing.

1 Q I'd be interested in that too.
 2 A What part are you talking about?
 3 Q Right here. "Approximately eleven twenty-five."
 4 A No, sir, I didn't change that. That's just the begin-
 5 ning of the sentence that I added onto it.
 6 Q It's something that you added onto it?
 7 A Yes, sir. That's the way I wanted to start the sen-
 8 tence.
 9 Q You put eleven twenty-five in the body over here on
 10 page -- let's see what this is here -- page five, and then you
 11 come back and interlineate on the second page. Had you been
 12 discussing this with any of your brother officers at that time?
 13 A Captain Nichols -- No, sir, I hadn't. Captain Nichols
 14 told us to write the thing, and there was several officers in
 15 the room there, that had some part in the security detail,
 16 and everybody was writing their own. He instructed us to do
 17 it that way.
 18 Q You were all in one room writing your report, is that
 19 right?
 20 A I say we were all there. I don't know if all the offi-
 21 cers out of our Auto Theft Bureau were in this one room.
 22 Part of them may have been in the Lieutenant's office, or the
 23 Captain's office, but a bunch of us was in this one room.
 24 Q Let me ask you the direct question. Who was in the one
 25 room writing reports?

1 A Myself and several other detectives.
 2 Q Who? Who?
 3 A Detective Clardy was there, Detective Archer, Detective
 4 Dawson was there, and I don't know who else.
 5 Q Did you discuss your reports with the other officers?
 6 A No, sir. Captain Nichols told us to write them our-
 7 selves.
 8 Q Did you discuss the report with the other officers be-
 9 fore you wrote them?
 10 A Did I -- Sir?
 11 Q Did you talk about the reports you were going to write
 12 before you started writing them?
 13 A We didn't know we were going to have to write them.
 14 Q Did you discuss the events with the other officers be-
 15 fore you were told to write a report?
 16 A Yes, sir.
 17 Q About what time was that?
 18 A Oh, I don't know at what point. It was during this
 19 four hours that we were in and out of the jail up there.
 20 Q Did you tell us what time the doctor showed up?
 21 A I told you sir, that I didn't know what time the doctor
 22 showed up. It was later in the day.
 23 Q When did you take your handcuffs off of Ruby?
 24 A After we had arrived on the fifth floor.
 25 Q And when you took your handcuffs off of him, he was

1 clothed in his civilian clothes, right?

2 A Yes, sir, he was.

3 Q And the next thing that was done was that he was

4 searched and stripped, is that right?

5 A I don't know exactly -- if that was exactly the next

6 detail or not, but shortly thereafter he was searched and

7 stripped.

8 Q And that's your regular procedure? You take him up-

9 stairs and search and strip him immediately, isn't it?

10 A No, sir, it is not.

11 Q But your recollection in this case, is that what you

12 did?

13 A Yes, sir, we did take him upstairs.

14 Q And who was the man into whose custody you gave him to

15 search and strip him?

16 A I don't recall for sure what jailer or jail guard that

17 was, sir. One of the men that was on duty that day, sir.

18 Q Was Archer standing there next to you then?

19 A Archer and Clardy and I were there during this. I was

20 in and out some.

21 Q And where did they search and strip him, in that room

22 or in another room?

23 A Next to the telephone booth that the prisoners use in

24 the jail.

25 Q All right. But you didn't go into the room where they

P23

1 were searching and stripping him?

2 A It wasn't a room. It was more or less the hallway, sir.

3 Q All right. Well, was he within your sight all that

4 time?

5 A No, sir.

6 Q So what he said during that time, or what was said to

7 him, you don't know?

8 A No, sir.

9 Q And you didn't see him again then for how long, about

10 ten or fifteen minutes?

11 A No, sir. I wasn't gone that long. I was maybe around

12 to check on if his hat was sent up, to check on that, to see

13 if it was his or if it was mine, and around on some other de-

14 tails like that, sir.

15 Q Mr. Sorrels from the secret service came up to see him,

16 and Mr. Hull of the F.B.I. What time did they get there?

17 A Mr. Sorrels came in with Sgt. Dean. Sgt. Dean brought

18 him up there. And that was about -- after we had been on the

19 fifth floor -- that was about five minutes after we had gotten

20 there.

21 Q After you submitted this report, how long did you say

22 it took you to write this report of November 24?

23 A Probably forty-five minutes on that, sir.

24 Q And after you submitted that report, then you next

25 heard from Lt. Wallace, didn't you?

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1 A Well, we were advised to be at this departmental investigation, and learned that Lt. Wallace and Lt. McAgahan were
2 doing part of the investigation, sir.
3 Q Then at that time, had you thought about your report in
4 the meantime?
5 A Yes, I suppose I had, not especially though, sir.
6 Q What?
7 A I suppose that I had.
8 Q Now, Did Wallace interrogate you, or did you make
9 voluntary statements to Wallace in this report that he sent on
10 to Chief Curry?
11 A It was sort of a question and answer interview.
12 Q Did he make suggestions, or did you furnish all the
13 information?
14 A He asked me some questions. I answered them the best I
15 could. I told the man the truth.
16 Q You told him that you had been interviewed by the
17 Federal Bureau of Investigation?
18 A Yes, sir, I did.
19 Q And when did you tell him that the Federal Bureau of
20 Investigation had interviewed you?
21 A I don't know if I told him that or not, sir.
22 Q I want you to listen carefully, if you will, to these
23 next few questions. We have on the 24th of November, the re-
24 port of six pages that you signed, right?
25

COMMISSION EXHIBIT No. 2409--Continued

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1 A I don't know how many pages is in it. I wrote a report
2 on the 24th.
3 Q I have what purports to be a Xerox copy of something
4 here. There was something that was attached to this too. Do
5 you know what was attached to this? It shows the clips on
6 there, but there is nothing attached to this now.
7 A Probably where they unstapled it when they typed it.
8 Q There's no staples over here. You don't know what was
9 attached to it?
10 A No.
11 Q All right. That's on 24 November, then on 30 Novem-
12 ber --
13 MR. ALEXANDER: I believe you pulled that up,
14 because I stapled that myself in full view of the
15 Court a while ago.
16 MR. BULLI: I'm referring to these staples over
17 here, on the side.
18 MR. BOWIE: It's not in evidence.
19 MR. TOMAHILL: Everything there is in evidence.
20 MR. WADE: Tomahill says it's all in evidence,
21 so let's let it --
22 MR. BULLI: Mr. Bulli doesn't say that though.
23 MR. BOWIE: We have no objection.
24 MR. BULLI: I knew you don't, but I'm not putting
25 in a self serving statement by a man that I can't cross

COMMISSION EXHIBIT No. 2409--Continued

1 examine; to-wit, Wallace and McAgghran.
 2 Q (By Mr. Belli) Now, between the 24th of November and
 3 the 30th of November, did you tell the F.B.I. these two things:
 4 one, what King is reported to have said to Ruby, and two, what
 5 Ruby is reported by you to have said upstairs about trying to
 6 fire three times? You didn't tell that to the F.B.I., did
 7 you? If it were true.
 8 A Well, it is true, sir. And I did tell them about him
 9 going to fire three times, and I don't remember if I told them
 10 about this other, or not. But I don't believe I did.
 11 Q You don't believe you told them that? Are you positive
 12 you told about Ruby saying that he wanted to get three bullets
 13 off?
 14 A Yes, sir.
 15 Q When did you remember that then, after 24 November?
 16 A When did I remember what, sir?
 17 Q Well, you don't have it in this report. You don't have
 18 either of those things in this detailed report. You now say
 19 between 24 November and November 30th you remembered one of
 20 them. You told one to the F.B.I.?
 21 A I guess I remembered it all the time. I just failed to
 22 put it in the report. I didn't remember it then. I probably
 23 knew it.
 24 Q Is it your best recollection that you told that to the
 25 F.B.I.?

1 A I told the F.B.I. everything that I could recall about
 2 the case, as best I could at the time.
 3 Q What is the answer to my question? Did you tell the
 4 F.B.I. these two subjects; one, the King statement, "You rat
 5 why did you shoot him? I had to because you wouldn't." And
 6 two, the statement in the jail, if it happened, "I tried to
 7 get off three shots, but you were too fast and I couldn't."
 8 What did you tell the F.B.I.?
 9 MR. ALEXANDER: Judge, we object to it. The
 10 question has been asked and a definite answer has been
 11 had. It's repetitions.
 12 THE COURT: Sustain the objection. Let's move on.
 13 MR. BELL: We had one this morning, and it's at
 14 variance with this one.
 15 MR. TOWHILL: I haven't heard any definite answer
 16 out of this man yet, Judge. I've seen a lot of evading.
 17 MR. BOWIE: We object, Your Honor. This is no
 18 call for such a statement.
 19 MR. TOWHILL: There shouldn't be any call for it.
 20 Q (By Mr. Belli) Now, where was Jack interviewed by the
 21 F.B.I.? In which room?
 22 A Part of this interview took place in one of the halls,
 23 back near the jail cells.
 24 Q Where is it?
 25 A In a little hallway, in one of the cell blocks, near

1 the jail cells.

2 Q Was anyone present from the Dallas Police when the
3 F.B.I. interviewed him?

4 A I was present part of the time. Clardy was present
5 some of the time, Archer was present some of the time.

6 Q Did the F.B.I. take notes of what was said?

7 A The man was making some notes. I'm assuming that's
8 what he was taking.

9 Q All right. And did not Jack Ruby tell the F.B.I. that
10 he didn't know about shooting Oswald? What did he tell the
11 F.B.I. about whether he had shot Oswald or not?

12 A I didn't hear that part, sir.

13 Q You mean to say the F.B.I. was talking to him there
14 about Oswald being dead, and you were there and you didn't
15 hear Ruby say anything about whether he intended to shoot
16 Oswald or did shoot Oswald?

17 A I wasn't present all the time. I didn't hear them ask
18 him that statement, and I didn't hear Mr. Ruby answer that
19 statement to the F.B.I. agent.

20 Q You didn't hear that statement asked by the F.B.I.?

21 A No, sir. There was quite a bit of conversation as I
22 recall. I didn't hear that question asked by the F.B.I.

23 Q There was a quite a bit of conversation about what
24 subject? The shooting of Oswald?

25 A One thing that I remember that this F.B.I. agent

1 seemed to be getting into, he was trying to get a lot of back-
2 ground history on Mr. Ruby. Exactly how that conversation
3 went, word for word, I don't remember, but that seemed to be
4 the point or the purpose.

5 Q Didn't you tell the F.B.I. "Ruby just told us he wanted
6 to shoot him three times"?

7 A Yes, but that's not what you asked me.

8 Q Well, I ask you now, did you tell that to the F.B.I.
9 at that time?

10 A I don't know at what point I told it to him.

11 Q Did you tell the F.B.I. at that time, that afternoon,
12 when Ruby was talking with the F.B.I., "Why, Ruby told us he
13 wanted to shoot Oswald three times"?

14 A I told the F.B.I. that in my statement. I didn't in-
15 terfere with the man while he was talking to Mr. Ruby.

16 Q You didn't do what?

17 A I didn't interfere with the F.B.I. agent while he was
18 talking to him.

19 Q And all the time the F.B.I. and Ruby were talking, at
20 no time did he say anything about intending to shoot Oswald,
21 or shooting Oswald, or anything else in that line, did he?

22 A I didn't hear that question asked to him, or I didn't
23 hear an answer, not to this agent.

24 Q Not to the agent. How long was that agent there?

25 A I don't know, sir. He was there quite a while.

1 Q About an hour and a half?

2 A Probably so.

3 MR. BELLI: That's all I have.

4 REDIRECT EXAMINATION

5 BY MR. WADE:

6 Q Now, let me see this statement here, Mr. McMillen.
7 With reference to this statement Archer made to Ruby on the
8 fifth floor of the Dallas County Jail, is it your testimony
9 that between the 24th of November and the 30th, you related
10 that to the F.B.I.?

11 MR. BELLI: Wait a minute. There's nothing in
12 that report whatsoever of any statement Archer made in
13 the jail, in either the so-called original report, or
14 the report by Wallace.

15 MR. TOMAHILL: It would be hearsay to the defend-
16 ant.

17 THE COURT: Read that question back, will you
18 Mrs. Stinobaugh?

19 (Whereupon the last question was read by the
20 court reporter)

21 MR. BELLI: Now, are you referring to a state-
22 ment made in here, or --

23 MR. WADE: I'm referring to the statement made
24 by Jack Ruby on the fifth floor, where he said in sub-
25 stance, "I thought I could get off three shots before

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1 I was stopped." Roughly to that effect.

2 Q (By Mr. Wade) Did you relate that to the F.B.I. be-
3 tween the 24th of November and the 30th of November?

4 A Yes, sir, I did.

5 Q Now, I'll direct your attention to the 30th of
6 November, when you were interviewed by Lt. Wallace and P. C.
7 McAgbran, did you inform them at that time that the defendant,
8 Jack Ruby, on the fifth floor of the jail, as you have testi-
9 fied, said he meant to shoot three times, but he was stopped
10 before he could?

11 A Yes, sir.

12 MR. WADE: That's all.

13 MR. BELLI: I have no further questions.
14 May we have the statement for identification?

15 MR. WADE: We'll leave it with the court reporter
16 here, for the record. It's marked for identification.

17 THE COURT: We'll stand in recess until 9:00
18 o'clock tomorrow morning.
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