

Detention and Death of Oswald

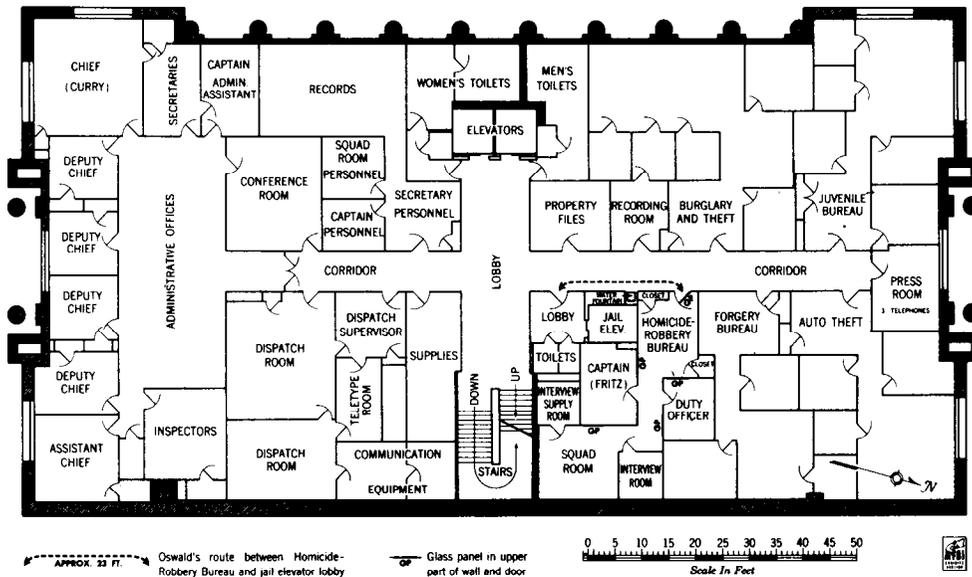
LEE HARVEY OSWALD spent almost all of the last 48 hours of his life in the Police and Courts Building, a gray stone structure in downtown Dallas that housed the headquarters of the Dallas Police Department and the city jail. Following his arrest early Friday afternoon, Oswald was brought immediately to this building and remained there until Sunday morning, November 24, when he was scheduled to be transferred to the county jail. At 11:21 that morning, in full view of millions of people watching on television, Oswald was fatally wounded by Jack Ruby, who emerged suddenly from the crowd of newsmen and policemen witnessing the transfer and fired a single shot at Oswald.

Whether the killing of Oswald was part of a conspiracy involving the assassination of President Kennedy is considered in chapter VI. Aside from that question, the occurrences within the Police and Courts Building between November 22 and 24 raise other important issues concerning the conduct of law enforcement officials, the responsibilities of the press, the rights of accused persons, and the administration of criminal justice in the United States. The Commission has therefore deemed it necessary to determine the facts concerning Oswald's detention and death and to evaluate the actions and responsibilities of the police and press involved in these events.

TREATMENT OF OSWALD IN CUSTODY

The focal center of the Police and Courts Building during Oswald's detention was the third floor, which housed the main offices of the Dallas Police Department. The public elevators on this floor opened into a lobby midpoint of a corridor that extended along the length of the floor for about 140 feet. At one end of this 7-foot-wide corridor were the offices occupied by Chief of Police Jesse E. Curry and his immediate subordinates; at the other end was a small pressroom that could accommodate only a handful of reporters. Along this corridor were other police offices, including those of the major detective bureaus. Between the pressroom and the lobby was the complex of offices

THIRD FLOOR PLAN DALLAS POLICE DEPARTMENT DALLAS, TEXAS



COMMISSION EXHIBIT No. 2175

belonging to the homicide and robbery bureau, headed by Capt. J. Will Fritz.¹ (See Commission Exhibit No. 2175, p. 197.)

Chronology

The policemen who seized Oswald at the Texas Theatre arrived with him at the police department building at about 2 p.m. and brought him immediately to the third floor offices of the homicide and robbery bureau to await the arrival of Captain Fritz from the Texas School Book Depository. After about 15 or 20 minutes Oswald was ushered into the office of Captain Fritz for the first of several interrogation sessions.² At 4:05 p.m. he was taken to the basement assembly room for his first lineup.³ While waiting outside the lineup room, Oswald was searched, and five cartridges and other items were removed from his pockets.⁴ After the lineup, at about 4:20, Oswald was returned to Captain Fritz' office for further questioning.⁵ Two hours later, at 6:20 p.m., Oswald was taken downstairs for a second lineup and returned to Captain Fritz' office within 15 minutes for additional interrogation.⁶ Shortly after 7 p.m., Captain Fritz signed a complaint charging Oswald with the murder of Patrolman Tippit. Oswald was formally arraigned, i.e., advised of the charges, at 7:10 p.m., before Justice of the Peace David L. Johnston, who came to Captain Fritz' office for the occasion.⁷

After a third lineup at about 7:40 p.m., Oswald was returned to Fritz' office.⁸ About an hour later, after further questioning, Oswald's fingerprints and palmprints were taken and a paraffin test (see app. XI) administered in Fritz' office, after which the questioning resumed.⁹ At 11:26 p.m. Fritz signed the complaint charging Oswald with the murder of President Kennedy.¹⁰ Shortly after midnight, detectives took Oswald to the basement assembly room for an appearance of several minutes before members of the press.¹¹ At about 12:20 a.m. Oswald was delivered to the jailer who placed him in a maximum security cell on the fifth floor.¹² His cell was the center one in a block of three cells that were separated from the remainder of the jail area. The cells on either side of Oswald were empty and a guard was nearby whenever Oswald was present.¹³ Shortly after 1:30 a.m. Oswald was brought to the identification bureau on the fourth floor and arraigned before Justice of the Peace Johnston, this time for the murder of President Kennedy.¹⁴

Questioning resumed in Fritz' office on Saturday morning at about 10:25 a.m., and the session lasted nearly an hour and 10 minutes.¹⁵ Oswald was then returned to his cell for an hour, and at 12:35 p.m. he was brought back to Fritz' office for an additional half-hour of questioning.¹⁶ From 1:10 to 1:30 p.m., Oswald's wife and mother visited him in the fourth floor visiting area;¹⁷ at 1:40 p.m. he attempted to call an attorney in New York.¹⁸ He appeared in another lineup at 2:15 p.m.¹⁹ At 2:45 p.m., with Oswald's consent, a member of the identification bureau obtained fingernail scrapings and specimens of hair from him.²⁰ He returned to the fourth floor at 3:30

p.m. for a 10-minute visit with his brother, Robert.²¹ Between 4 and 4:30 p.m., Oswald made two telephone calls to Mrs. Ruth Paine²² at her home in Irving; at about 5:30 p.m. he was visited by the president of the Dallas Bar Association²³ with whom he spoke for about 5 minutes. From 6 to 7:15 p.m. Oswald was interrogated once again in Captain Fritz' office and then returned to his cell.²⁴ At 8 p.m. he called the Paine residence again and asked to speak to his wife, but Mrs. Paine told him that his wife was no longer there.²⁵

Oswald was signed out of jail at 9:30 a.m. on Sunday, November 24, and taken to Captain Fritz' office for a final round of questioning.²⁶ The transfer party left Fritz' office at about 11:15 a.m.;²⁷ at 11:21 a.m. Oswald was shot.²⁸ He was declared dead at Parkland Hospital at 1:07 p.m.²⁹

Interrogation Sessions

During the period between 2:30 p.m. on Friday afternoon and 11:15 a.m. Sunday morning, Oswald was interrogated for a total of approximately 12 hours.³⁰ Though subject to intermittent questioning for more than 7 hours on Friday, Oswald was given 8 to 9 hours to rest that night. On Saturday he was questioned for a total of only 3 hours during three interrogation sessions, and on Sunday he was questioned for less than 2 hours.³¹ (These interrogations are discussed in ch. IV.)

Captain Fritz' office, within which the interrogations took place, was a small room, 14 feet by 9½ feet in size.³² In addition to the policemen guarding the prisoner, those present usually included Dallas detectives, investigators from the FBI and the Secret Service, and occasionally other officials, particularly a post office inspector and the U.S. marshal. (See statements in app. XI.) As many as seven or eight people crowded into the small office.³³ In all, more than 25 different persons participated in or were present at some time during interrogations. Captain Fritz, who conducted most of the interrogations, was frequently called from the room. He said, "I don't believe there was any time when I went through a very long period without having to step to the door, or step outside, to get a report from some pair of officers, or to give them additional assignments."³⁴ In his absence, others present would occasionally question Oswald.³⁵

The interrogators differ on whether the confusion prevailing in the main third floor corridor penetrated Fritz' office and affected the atmosphere within.³⁶ Oswald's processions through the third floor corridor, described more fully below, tended, in Fritz' opinion, to keep Oswald upset, and the remarks and questions of newsmen sometimes caused him to become annoyed. Despite the confusion that frequently prevailed, Oswald remained calm most of the time during the interrogations.³⁷ According to Captain Fritz:

You know I didn't have trouble with him. If we would just talk to him quietly like we are talking right now, we talked all right until I asked him a question that meant something, every

time I asked him a question that meant something, that would produce evidence he immediately told me he wouldn't tell me about it and he seemed to anticipate what I was going to ask.³⁸

Special Agent James W. Bookhout, who represented the FBI at most of the interrogations, stated, "I think generally you might say any time that you asked a question that would be pertinent to the investigation, that would be the type of question he would refuse to discuss."³⁹

The number of people in the interrogation room and the tumultuous atmosphere throughout the third floor made it difficult for the interrogators to gain Oswald's confidence and to encourage him to be truthful. As Chief Curry has recognized in his testimony, "we were violating every principle of interrogation * * * it was just against all principles of good interrogation practice."⁴⁰

Oswald's Legal Rights

All available evidence indicates that Oswald was not subjected to any physical hardship during the interrogation sessions or at any other time while he was in custody. He was fed and allowed to rest. When he protested on Friday against being handcuffed from behind, the cuffs were removed and he was handcuffed in front.⁴¹ Although he made remarks to newsmen about desiring a shower and demanding his "civil rights," Oswald did not complain about his treatment to any of the numerous police officers and other persons who had much to do with him during the 2 days of his detention.⁴² As described in chapter IV, Oswald received a slight cut over his right eye and a bruise under his left eye during the scuffle in the Texas Theatre with the arresting officers, three of whom were injured and required medical treatment. These marks were visible to all who saw him during the 2 days of his detention and to millions of television viewers.⁴³

Before the first questioning session on Friday afternoon, Fritz warned Oswald that he was not compelled to make any statement and that statements he did make could be used against him.⁴⁴ About 5 hours later, he was arraigned for the Tippit murder and within an additional 6½ hours he was arraigned for the murder of President Kennedy. On each occasion the justice of the peace advised Oswald of his right to obtain counsel and the right to remain silent.⁴⁵

Throughout the period of detention, however, Oswald was not represented by counsel. At the Friday midnight press conference in the basement assembly room, he made the following remarks:

OSWALD. Well, I was questioned by Judge ——— [Johnston]. However, I protested at that time that I was not allowed legal representation during that very short and sweet hearing. I really don't know what the situation is about. Nobody has told me anything except that I am accused of, of, murdering a police-

man. I know nothing more than that and I do request someone to come forward to give me legal assistance.

Q. Did you kill the President?

A. No. I have not been charged with that. In fact nobody has said that to me yet. The first thing I heard about it was when the newspaper reporters in the hall asked me that question.

* * * * *

Q. Mr. Oswald, how did you hurt your eye?

A. A policeman hit me.⁴⁶

At this time Oswald had been arraigned only for the murder of Patrolman Tippit, but questioning by Captain Fritz and others had been substantially concerned with Oswald's connection with the assassination.⁴⁷

On Friday evening, representatives of the American Civil Liberties Union visited the police department to determine whether Oswald was being deprived of counsel. They were assured by police officials and Justice of the Peace Johnston that Oswald had been informed of his rights and was being allowed to seek a lawyer.⁴⁸ On Saturday Oswald attempted several times to reach John Abt, a New York lawyer, by telephone, but with no success.⁴⁹ In the afternoon, he called Ruth Paine and asked her to try to reach Abt for him, but she too failed.⁵⁰ Later in the afternoon, H. Louis Nichols, president of the Dallas Bar Association, visited Oswald in his cell and asked him whether he wanted the association to obtain a lawyer for him. Oswald declined the offer, stating a first preference for Abt and a second preference for a lawyer from the American Civil Liberties Union.⁵¹ As late as Sunday morning, according to Postal Inspector Harry D. Holmes, Oswald said that he preferred to get his own lawyer.⁵²

ACTIVITY OF NEWSMEN

Within an hour of Oswald's arrival at the police department on November 22, it became known to newsmen that he was a possible suspect in the slaying of President Kennedy as well as in the murder of Patrolman Tippit. At least as early as 3:26 p.m. a television report carried this information. Reporters and cameramen flooded into the building and congregated in the corridor of the third floor, joining those few who had been present when Oswald first arrived.⁵³

On the Third Floor

Felix McKnight, editor of the Dallas Times-Herald, who handled press arrangements for the President's visit, estimated that within 24 hours of the assassination more than 300 representatives of news media were in Dallas, including correspondents from foreign newspapers and press associations.⁵⁴ District Attorney Henry M. Wade

thought that the crowd in the third floor hallway itself may have numbered as many as 300.⁵⁵ Most estimates, including those based on examination of video tapes, place upwards of 100 newsmen and cameramen in the third floor corridor of the police department by the evening of November 22.⁵⁶ (See Commission Exhibit No. 2633, p. 203.)

In the words of an FBI agent who was present, the conditions at the police station were "not too much unlike Grand Central Station at rush hour, maybe like the Yankee Stadium during the World Series games. * * *" ⁵⁷ In the lobby of the third floor, television cameramen set up two large cameras and floodlights in strategic positions that gave them a sweep of the corridor in either direction. Technicians stretched their television cables into and out of offices, running some of them out of the windows of a deputy chief's office and down the side of the building. Men with newsreel cameras, still cameras, and microphones, more mobile than the television cameramen, moved back and forth seeking information and opportunities for interviews. Newsmen wandered into the offices of other bureaus located on the third floor, sat on desks, and used police telephones; indeed, one reporter admits hiding a telephone behind a desk so that he would have exclusive access to it if something developed.⁵⁸

By the time Chief Curry returned to the building in the middle of the afternoon from Love Field where he had escorted President Johnson from Parkland Hospital, he found that "there was just pandemonium on the third floor."⁵⁹ The news representatives, he testified:

* * * were jammed into the north hall of the third floor, which are the offices of the criminal investigation division. The television trucks, there were several of them around the city hall. I went into my administrative offices, I saw cables coming through the administrative assistant office and through the deputy chief of traffic through his office, and running through the hall they had a live TV set up on the third floor, and it was a bedlam of confusion.⁶⁰

According to Special Agent Winston G. Lawson of the Secret Service:

At least by 6 or 7 o'clock * * * [the reporters and cameramen] were quite in evidence up and down the corridors, cameras on the tripods, the sound equipment, people with still cameras, motion picture-type hand cameras, all kinds of people with tape recorders, and they were trying to interview people, anybody that belonged in police headquarters that might know anything about Oswald * * * ⁶¹

The corridor became so jammed that policemen and newsmen had to push and shove if they wanted to get through, stepping over cables,



COMMISSION EXHIBIT No. 2633

Scene in third floor corridor.

wires, and tripods.⁶² The crowd in the hallway was so dense that District Attorney Wade found it a "strain to get the door open" to get into the homicide office.⁶³ According to Lawson, "You had to literally fight your way through the people to get up and down the corridor."⁶⁴ A witness who was escorted into the homicide offices on Saturday afternoon related that he

tried to get by the reporters, stepping over television cables and you couldn't hardly get by, they would grab you and wanted to know what you were doing down here, even with the detectives one in front and one behind you.⁶⁵

The television cameras continued to record the scene on the third floor as some of the newsmen kept vigil through the night.⁶⁶

Such police efforts as there were to control the newsmen were unavailing. Capt. Glen D. King, administrative assistant to Chief Curry, witnessed efforts to clear an aisle through the hallway, but related that "this was a constant battle because of the number of newsmen who were there. They would move back into the aisleway that had been cleared. They interfered with the movement of people who had to be there."⁶⁷ According to one detective, "they would be asked to stand back and stay back but it wouldn't do much good, and they would push forward and you had to hold them off physically." The detective recalled that on one occasion when he was escorting a witness through the corridor he "stopped * * * and looked down and there was a joker had a camera stuck between * * * [his] legs taking pictures. * * *"⁶⁸ Forrest V. Sorrels of the Secret Service had the impression that the "press and the television people just * * * took over."⁶⁹

Police control over the access of other than newsmen to the third floor was of limited but increasing effectiveness after Oswald's arrival at the police department. Initially no steps were taken to exclude unauthorized persons from the third floor corridor, but late Friday afternoon Assistant Chief Charles Batchelor stationed guards at the elevators and the stairway to prevent the admission of such persons. He also directed the records room in the basement to issue passes, after verification by the bureaus involved, to people who had legitimate business on the third floor.⁷⁰ Throughout the 3 days of Oswald's detention, the police were obliged to continue normal business in all five bureaus located along the third floor hallway. Thus many persons—relatives of prisoners, complainants, witnesses⁷¹—had occasion to visit police offices on the third floor on business unrelated to the investigation of the assassination.

Newsmen seeking admission to the third floor were required to identify themselves by their personal press cards; however, the department did not follow its usual procedure of checking the authenticity of press credentials.⁷² Captain King felt that this would have been impossible in light of "the atmosphere that existed over there, the tremendous pressures that existed, the fact that telephones were ringing constantly,



Commission Exhibit No. 2631

COMMISSION EXHIBIT No. 2631

Oswald being moved through third floor corridor.

that there were droves of people in there * * * the fact that the method by which you positively identify someone * * * it's not easy." 73

Police officers on the third floor testified that they carefully checked all persons for credentials, and most newsmen indicated that after Batchelor imposed security they were required to identify themselves by their press cards.⁷⁴ Special Agent Sorrels of the Secret Service stated that he was requested to present credentials on some of his visits to the third floor.⁷⁵ However, other newsmen apparently went unchallenged during the entire period before Oswald was killed, although some of them were wearing press badges on their lapels and some may have been known to the police officers.⁷⁶

According to some reporters and policemen, people who appeared to be unauthorized were present on the third floor after security procedures were instituted, and video tapes seem to confirm their observations.⁷⁷ Jack Ruby was present on the third floor on Friday night.⁷⁸ Assistant Chief of Police N. T. Fisher testified that even on Saturday "anybody could come up with a plausible reason for going to one of the third floor bureaus and was able to get in."⁷⁹

Oswald and the Press

When the police car bringing Oswald from the Texas Theatre drove into the basement of police headquarters at about 2 p.m. on Friday, some reporters and cameramen, principally from local papers and stations, were already on hand. The policemen formed a wedge around Oswald and conducted him to the elevator, but several newsmen crowded into the elevator with Oswald and the police. When the elevator stopped at the third floor, the cameramen ran ahead down the corridor, and then turned around and backed up, taking pictures of Oswald as he was escorted toward the homicide and robbery bureau office. According to one escorting officer, some six or seven reporters followed the police into the bureau office.⁸⁰

From Friday afternoon, when Oswald arrived in the building, until Sunday, newspaper reporters and television cameras focused their attention on the homicide office. In full view and within arm's length of the assembled newsmen, Oswald traversed the 20 feet of corridor between the homicide office and the locked door leading to the jail elevator at least 15 times after his initial arrival. The jail elevator, sealed off from public use, took him to his fifth floor cell and to the assembly room in the basement for lineups and the Friday night news conference.⁸¹

On most occasions, Oswald's escort of three to six detectives and policemen had to push their way through the newsmen who sought to surround them. (See Commission Exhibit No. 2631, p. 205.) Although the Dallas press normally did not take pictures of a prisoner without first obtaining permission of the police, who generally asked the prisoner, this practice was not followed by any of the newsmen with Oswald.⁸² Generally when Oswald appeared the newsmen turned their cameras on him, thrust microphones at his face, and shouted



**OSWALD AT PRESS CONFERENCE IN
ASSEMBLY ROOM, FRIDAY NIGHT**

(COMMISSION EXHIBIT 2965)

questions at him. Sometimes he answered. Reporters in the forefront of the throng would repeat his answers for the benefit of those behind them who could not hear. On Saturday, however in response to police admonitions, the reporters exercised more restraint and shouted fewer questions at Oswald when he passed through the corridor.⁸³

Oswald's most prolonged exposure occurred at the midnight press conference on Friday night. In response to demands of newsmen, District Attorney Wade, after consulting with Chief Curry and Captain Fritz, had announced shortly before midnight that Oswald would appear at a press conference in the basement assembly room.⁸⁴ An estimated 70 to 100 people, including Jack Ruby, and other unauthorized persons, crowded into the small downstairs room. No identification was required.⁸⁵ The room was so packed that Deputy Chief M. W. Stevenson and Captain Fritz who came down to the basement after the crowd had assembled could not get in and were forced to remain in the doorway.⁸⁶

Oswald was brought into the room shortly after midnight.⁸⁷ Curry had instructed policemen not to permit newsmen to touch Oswald or get close to him, but no steps were taken to shield Oswald from the crowd.⁸⁸ Captain Fritz had asked that Oswald be placed on the platform used for lineups so that he could be more easily removed "if anything happened."⁸⁹ Chief Curry, however, insisted that Oswald stand on the floor in front of the stage, where he was also in front of the one-way nylon-cloth screen customarily used to prevent a suspect from seeing those present in the room. This was done because cameramen had told Curry that their cameras would not photograph well through the screen.⁹⁰

Curry had instructed the reporters that they were not to "ask any questions and try to interview * * * [Oswald] in any way," but when he was brought into the room, "immediately they began to shoot questions at him and shove microphones into his face."⁹¹ It was difficult to hear Oswald's answers above the uproar. Cameramen stood on the tables to take pictures and others pushed forward to get close-ups. (See Commission Exhibit No. 2965, p. 207.) The noise and confusion mounted as reporters shouted at each other to get out of the way and cameramen made frantic efforts to get into position for pictures.⁹² After Oswald had been in the room only a few minutes, Chief Curry intervened and directed that Oswald be taken back to the jail because, he testified, the newsmen "tried to overrun him."⁹³

THE ABORTIVE TRANSFER

In Dallas, after a person is charged with a felony, the county sheriff ordinarily takes custody of the prisoner and assumes responsibility for his safekeeping. Normally, the Dallas Police Department notifies the sheriff when a prisoner has been charged with a felony and the sheriff dispatches his deputies to transport the accused to the county jail. This is usually done within a few hours after the com-

plaint has been filed. In cases of unusual importance, however, the Dallas city police sometimes transport the prisoners to the county jail.⁹⁴

The decision to move Oswald to the county jail on Sunday morning was reached by Chief Curry the preceding evening. Sometime after 7:30 Saturday evening, according to Assistant Chief Batchelor, two reporters told him that they wanted to go out to dinner but that "they didn't want to miss anything if we were going to move the prisoner." Curry came upon them at that point and told the two newsmen that if they returned by 10 o'clock in the morning, they wouldn't "miss anything."⁹⁵ A little later, after checking with Captain Fritz, Curry made a similar announcement to the assembled reporters. Curry reported the making of his decision to move Oswald as follows:

Then, I talked to Fritz about when he thought he would transfer the prisoner, and he didn't think it was a good idea to transfer him at night because of the fact you couldn't see, and if anybody tried to cause them any trouble, they needed to see who they were and where it was coming from and so forth, and he suggested that we wait until daylight, so this was normal procedure, I mean, for Fritz to determine when he is going to transfer his prisoners, so I told him "Okay." I asked him, I said, "What time do you think you will be ready tomorrow?" And he didn't know exactly and I said, "Do you think about 10 o'clock," and he said, "I believe so," and then is when I went out and told the newspaper people * * * "I believe if you are back here by 10 o'clock you will be back in time to observe anything you care to observe."⁹⁶

During the night, between 2:30 and 3 a.m., the local office of the FBI and the sheriff's office received telephone calls from an unidentified man who warned that a committee had decided "to kill the man that killed the President."⁹⁷ Shortly after, an FBI agent notified the Dallas police of the anonymous threat. The police department and ultimately Chief Curry were informed of both threats.⁹⁸

Immediately after his arrival at the building on Sunday morning between 8:30 and 8:45 a.m., Curry spoke by telephone with Sheriff J. E. Decker about the transfer. When Decker indicated that he would leave to Curry the decision on whether the sheriff's office or the police would move Oswald, Curry decided that the police would handle it because "we had so much involved here, we were the ones that were investigating the case and we had the officers set up downstairs to handle it."⁹⁹

After talking with Decker, Curry began to discuss plans for the transfer. With the threats against Oswald in mind, Curry suggested to Batchelor and Deputy Chief Stevenson that Oswald be transported to the county jail in an armored truck, to which they agreed. While Batchelor made arrangements to have an armored truck brought to the building, Curry and Stevenson tentatively agreed on the route the armored truck would follow from the building to the county jail.¹⁰⁰

Curry decided that Oswald would leave the building via the basement. He stated later that he reached this decision shortly after his arrival at the police building Sunday morning, when members of the press had already begun to gather in the basement. There is no evidence that anyone opposed this decision.¹⁰¹ Two members of the Dallas police did suggest to Captain Fritz that Oswald be taken from the building by another exit, leaving the press "waiting in the basement and on Commerce Street, and we could be to the county jail before anyone knew what was taking place."¹⁰² However, Fritz said that he did not think Curry would agree to such a plan because he had promised that Oswald would be transferred at a time when newsmen could take pictures.¹⁰³ Forrest Sorrels also suggested to Fritz that Oswald be moved at an unannounced time when no one was around, but Fritz again responded that Curry "wanted to go along with the press and not try to put anything over on them."¹⁰⁴

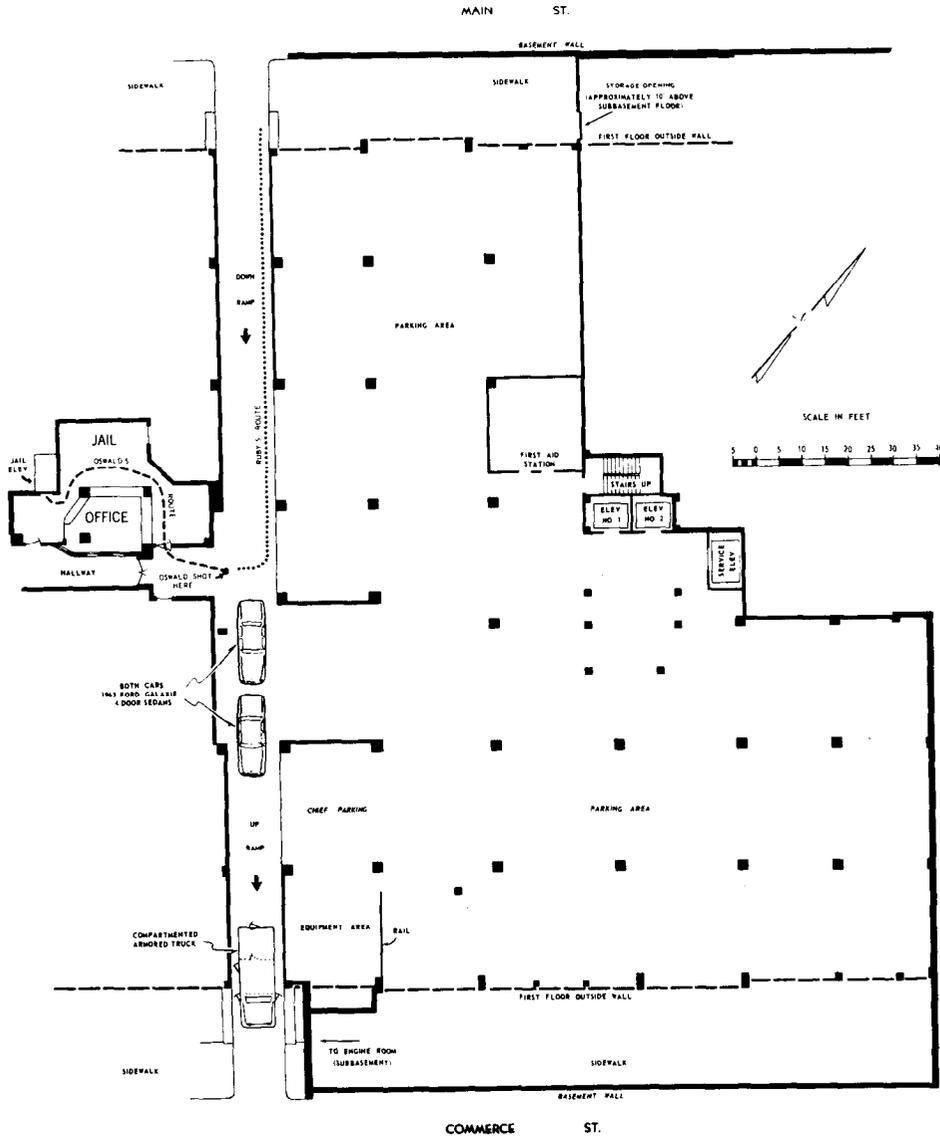
Preliminary arrangements to obtain additional personnel to assist with the transfer were begun Saturday evening. On Saturday night, the police reserves were requested to provide 8 to 10 men on Sunday, and additional reservists were sought in the morning.¹⁰⁵ Capt. C. E. Talbert, who was in charge of the patrol division for the city of Dallas on the morning of November 24, retained a small number of policemen in the building when he took charge that morning and later ordered other patrolmen from several districts to report to the basement.¹⁰⁶ At about 9 a.m. Deputy Chief Stevenson instructed all detectives within the building to remain for the transfer.¹⁰⁷ Sheriff Decker testified that his men were ready to receive Oswald at the county jail from the early hours of Sunday morning.¹⁰⁸

With the patrolmen and reserve policemen available to him, Captain Talbert, on his own initiative, undertook to secure the basement of the police department building. He placed policemen outside the building at the top of the Commerce Street ramp to keep all spectators on the opposite side of Commerce Street. Later, Talbert directed that patrolmen be assigned to all street intersections the transfer vehicle would cross along the route to the county jail.¹⁰⁹ His most significant security precautions, however, were steps designed to exclude unauthorized persons from the basement area.

The spacious basement of the Police and Courts Building contains, among other things, the jail office and the police garage. (See Commission Exhibit No. 2179, p. 211.) The jail office, into which the jail elevator opens, is situated on the west side of an auto ramp cutting across the length of the basement from Main Street, on the north side of the building, to Commerce Street, on the south side. From the foot of this ramp, on the east side, midway through the basement, a decline runs down a short distance to the L-shaped police garage. In addition to the auto ramp, five doors to the garage provide access to the basement from the Police and Courts Building on the west side of the garage and the attached Municipal Building on the east. Three of these five doors provide access to three elevators opening into the garage, two for passengers near the central part of the garage and

BASEMENT

DALLAS POLICE DEPARTMENT, DALLAS, TEXAS



COMMISSION EXHIBIT No. 2179

one for service at the east end of the garage. A fourth door near the passenger elevator opens into the municipal building; the fifth door, at the Commerce Street side of the garage, opens into a sub-basement that is connected with both buildings.¹¹⁰

Shortly after 9 o'clock Sunday morning, policemen cleared the basement of all but police personnel. Guards were stationed at the top of the Main and Commerce Streets auto ramps leading down into the basement, at each of the five doorways into the garage, and at the double doors leading to the public hallway adjacent to the jail office. Then, Sgt. Patrick T. Dean, acting under instructions from Talbert, directed 14 men in a search of the garage. Maintenance workers were directed to leave the area. The searchers examined the rafters, tops of air conditioning ducts, and every closet and room opening off the garage. They searched the interior and trunk compartment of automobiles parked in the garage. The two passenger elevators in the central part of the garage were not in service and the doors were shut and locked; the service elevator was moved to the first floor, and the operator was instructed not to return it to the basement.¹¹¹

Despite the thoroughness with which the search was conducted, there still existed one and perhaps two weak points in controlling access to the garage. Testimony did not resolve positively whether or not the stairway door near the public elevators was locked both from the inside and outside as was necessary to secure it effectively.¹¹² And although guards were stationed near the double doors, the hallway near the jail office was accessible to people from inside the Police and Courts Building without the necessity of presenting identification. Until seconds before Oswald was shot, newsmen hurrying to photograph Oswald were able to run without challenge through those doors into the basement.¹¹³

After the search had been completed, the police allowed news representatives to reenter the basement area and gather along the entrance to the garage on the east side of the ramp. Later, the police permitted the newsmen to stand in front of the railing on the east side of the ramp leading to Main Street. The policemen deployed by Talbert and Dean had instructions to allow no one but identified news media representatives into the basement. As before, the police accepted any credentials that appeared authentic, though some officers did make special efforts to check for pictures and other forms of corroborating identification. Many newsmen reported that they were checked on more than one occasion while they waited in the basement. A small number did not recall that their credentials were ever checked.¹¹⁴

Shortly after his arrival on Sunday morning, Chief Curry issued instructions to keep reporters and cameramen out of the jail office and to keep television equipment behind the railing separating the basement auto ramp from the garage. Curry observed that in other respects Captain Talbert appeared to have security measures in hand and allowed him to proceed on his own initiative. Batchelor and

Stevenson checked progress in the basement during the course of the morning, and the officials were generally satisfied with the steps Talbert had taken.¹¹⁵

At about 11 a.m., Deputy Chief Stevenson requested that Capt. O. A. Jones of the forgery bureau bring all available detectives from the third floor offices to the basement. Jones instructed the detectives who accompanied him to the basement to line the walls on either side of the passageway cleared for the transfer party.¹¹⁶ According to Detective T. D. McMillon,

* * * Captain Jones explained to us that, when they brought the prisoner out, that he wanted two lines formed and we were to keep these two lines formed, you know, a barrier on either side of them, kind of an aisle * * * for them to walk through, and when they came down this aisle, we were to keep this line intact and move along with them until the man was placed in the car.¹¹⁷

With Assistant Chief Batchelor's permission, Jones removed photographers who had gathered once again in the basement jail office. Jones recalled that he instructed all newsmen along the Main Street ramp to remain behind an imaginary line extending from the southeast corner of the jail office to the railing on the east side of the ramp; other officers recalled that Jones directed the newsmen to move away from the foot of the Main Street ramp and to line up against the east railing. In any event, newsmen were allowed to congregate along the foot of the ramp after Batchelor observed that there was insufficient room along the east of the ramp to permit all the news representatives to see Oswald as he was brought out.¹¹⁸

By the time Oswald reached the basement, 40 to 50 newsmen and 70 to 75 police officers were assembled there. Three television cameras stood along the railing and most of the newsmen were congregated in that area and at the top of the adjacent decline leading into the garage. A group of newsmen and police officers, best estimated at about 20, stood strung across the bottom of the Main Street ramp. Along the south wall of the passageway outside the jail office door were about eight detectives, and three detectives lined the north wall. Two officers stood in front of the double doors leading into the passageway from the corridor next to the jail office.¹¹⁹ (See Commission Exhibit No. 2634, p. 214.)

Beginning Saturday night, the public had been kept informed of the approximate time of the transfer. At approximately 10:20 a.m. Curry told a press conference that Oswald would be moved in an armored truck and gave a general description of other security precautions.¹²⁰ Apparently no newsmen were informed of the transfer route, however, and the route was not disclosed to the driver of the armored truck until the truck arrived at the Commerce Street exit at about 11:07 a.m.¹²¹ When they learned of its arrival, many of the remaining newsmen who had waited on the third floor descended to the basement. Shortly after, newsmen may have had another indication



COMMISSION EXHIBIT No. 2634

Scene in areaway outside jail office immediately before shooting
(Sunday, November 24).

that the transfer was imminent if they caught a glimpse through the glass windows of Oswald putting on a sweater in Captain Fritz' office.¹²²

Because the driver feared that the truck might stall if it had to start from the bottom of the ramp and because the overhead clearance appeared to be inadequate, Assistant Chief Batchelor had it backed only into the entranceway at the top of the ramp. Batchelor and others then inspected the inside of the truck.¹²³

When Chief Curry learned that the truck had arrived, he informed Captain Fritz that security controls were in effect and inquired how long the questioning of Oswald would continue. At this point, Fritz learned for the first time of the plan to convey Oswald by armored truck and immediately expressed his disapproval. He urged the use of an unmarked police car driven by a police officer, pointing out that this would be better from the standpoint of both speed and maneuverability. Curry agreed to Fritz' plan; the armored truck would be used as a decoy. They decided that the armored truck would leave the ramp first, followed by a car which would contain only security officers. A police car bearing Oswald would follow. After proceeding one block, the car with Oswald would turn off and proceed directly to the county jail; the armored truck would follow a lead car to the jail along the previously agreed upon and more circuitous route.¹²⁴

Captain Fritz instructed Detectives C. W. Brown and C. N. Dhority and a third detective to proceed to the garage and move the followup car and the transfer car into place on the auto ramp. He told Lt. Rio S. Pierce to obtain another automobile from the basement and take up a lead position on Commerce Street.¹²⁵ Deputy Chief Stevenson went back to the basement to inform Batchelor and Jones of the change in plans.¹²⁶ Oswald was given his sweater, and then his right hand was handcuffed to the left hand of Detective J. R. Leavelle.¹²⁷ Detective T. L. Baker called the jail office to check on security precautions in the basement and notify officials that the prisoner was being brought down.¹²⁸

On arriving in the basement, Pierce asked Sgts. James A. Putnam and Billy Joe Maxey to accompany him in the lead car. Since the armored truck was blocking the Commerce Street ramp, it would be necessary to drive out the Main Street ramp and circle the block to Commerce Street. Maxey sat on the back seat of Pierce's car, and Putnam helped clear a path through reporters on the ramp so that Pierce could drive up toward Main Street. When the car passed by the reporters at about 11:20 a.m., Putnam entered the car on the right front side. Pierce drove to the top of the Main Street ramp and slowed momentarily as Patrolman Roy E. Vaughn stepped from his position at the top of the ramp toward the street to watch for traffic.¹²⁹ After Pierce's car left the garage area, Brown drove another police car out of the garage, moved part way up the Commerce Street ramp, and began to back down into position to receive Oswald. Dhority also proceeded to drive the followup car into position ahead of Brown.¹³⁰

As Pierce's car started up the ramp at about 11:20 a.m., Oswald, accompanied by Captain Fritz and four detectives, arrived at the jail office. Cameramen in the hallway of the basement took pictures of Oswald through the interior glass windows of the jail office as he was led through the office to the exit.¹³¹ Some of these cameramen then ran through the double doors near the jail office and squeezed into the line which had formed across the Main Street ramp.¹³² Still others remained just inside the double doors or proceeded through the double doors after Oswald and his escort emerged from the jail office.¹³³ (See Commission Exhibit No. 2177, p. 217.)

When Fritz came to the jail office door, he asked if everything was ready, and a detective standing in the passageway answered yes.¹³⁴ Someone shouted, "Here he comes!"; additional spotlights were turned on in the basement, and the din increased. A detective stepped from the jail office and proceeded toward the transfer car. Seconds later Fritz and then Oswald, with Detective Leavelle at his right, Detective L. C. Graves at his left, and Detective L. D. Montgomery at his rear, came through the door. Fritz walked to Brown's car, which had not yet backed fully into position; Oswald followed a few feet behind. Newsmen near the double door moved forward after him.¹³⁵ Though movie films and video tapes indicate that the front line of newsmen along the Main Street ramp remained fairly stationary, it was the impression of many who were close to the scene that with Oswald's appearance the crowd surged forward. According to Detective Montgomery, who was walking directly behind Oswald, "as soon as we came out this door * * * this bunch here just moved in on us."¹³⁶ To Detective B. H. Combest, standing on the Commerce Street side of the passageway from the jail office door, it appeared that

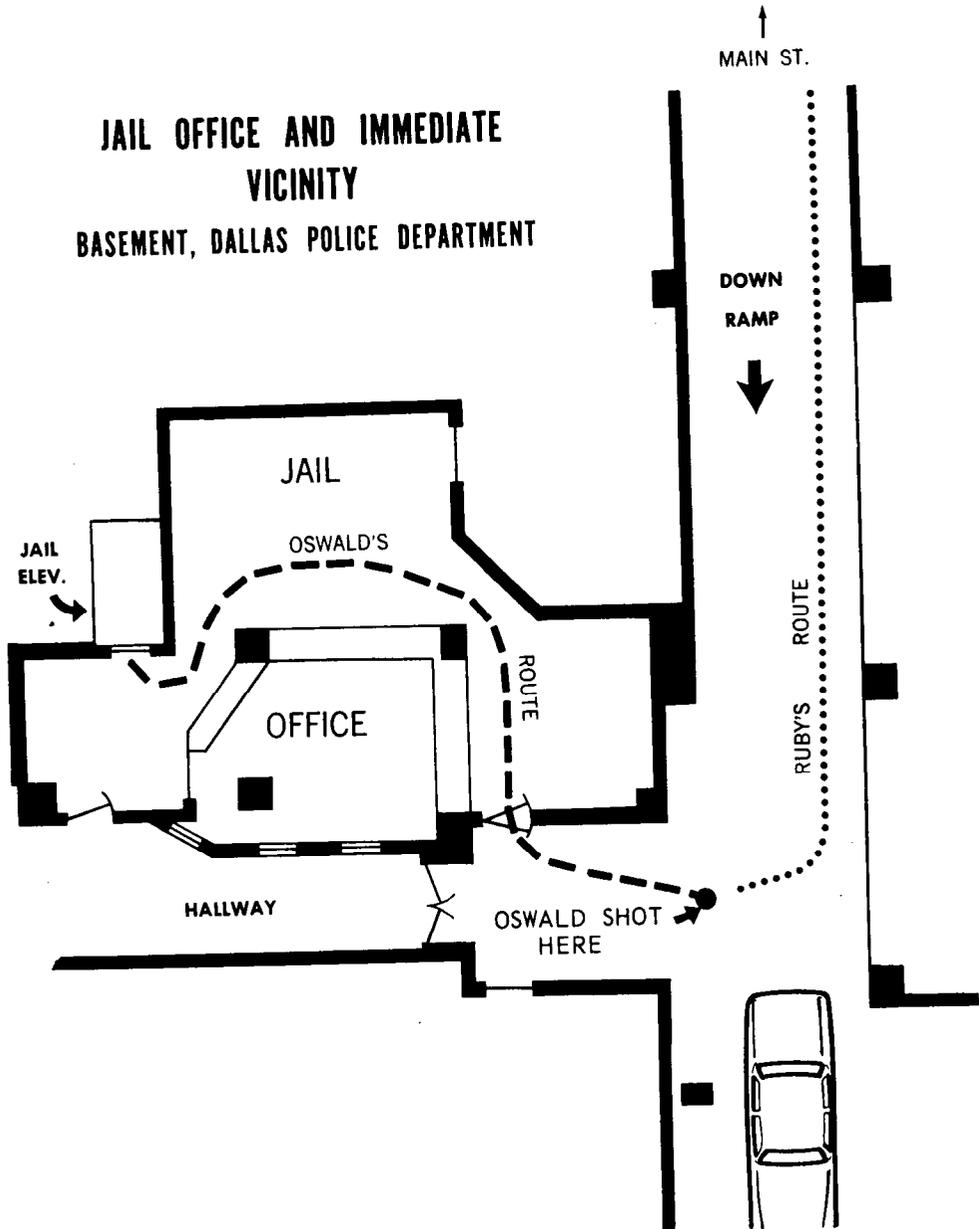
Almost the whole line of people pushed forward when Oswald started to leave the jail office, the door, the hall—all the newsmen were poking their sound mikes across to him and asking questions, and they were everyone sticking their flashbulbs up and around and over him and in his face.¹³⁷

After Oswald had moved about 10 feet from the door of the jail office, Jack Ruby passed between a newsman and a detective at the edge of the straining crowd on the Main Street ramp. With his right hand extended and holding a .38 caliber revolver, Ruby stepped quickly forward and fired a single fatal bullet into Oswald's abdomen.¹³⁸ (See Commission Exhibit No. 2636, p. 218.)

POSSIBLE ASSISTANCE TO JACK RUBY IN ENTERING THE BASEMENT

The killing of Lee Harvey Oswald in the basement of police headquarters in the midst of more than 70 police officers gave rise to im-

JAIL OFFICE AND IMMEDIATE VICINITY
BASEMENT, DALLAS POLICE DEPARTMENT



COMMISSION EXHIBIT No. 2177



COMMISSION EXHIBIT No. 2636

Ruby shooting Oswald (Sunday, November 24).

mediate speculation that one or more members of the police department provided Jack Ruby assistance which had enabled him to enter the basement and approach within a few feet of the accused Presidential assassin. In chapter VI, the Commission has considered whether there is any evidence linking Jack Ruby with a conspiracy to kill the President. At this point, however, it is appropriate to consider whether there is evidence that Jack Ruby received assistance from Dallas policemen or others in gaining access to the basement on the morning of November 24. An affirmative answer would require that the evidence be evaluated for possible connection with the assassination itself. While the Commission has found no evidence that Ruby received assistance from any person in entering the basement, his means of entry is significant in evaluating the adequacy of the precautions taken to protect Oswald.

Although more than a hundred policemen and newsmen were present in the basement of police headquarters during the 10 minutes before the shooting of Oswald, none has been found who definitely observed Jack Ruby's entry into the basement. After considering all the evidence, the Commission has concluded that Ruby entered the basement unaided, probably via the Main Street ramp, and no more than 3 minutes before the shooting of Oswald.

Ruby's account of how he entered the basement by the Main Street ramp merits consideration in determining his means of entry. Three Dallas policemen testified that approximately 30 minutes after his arrest, Ruby told them that he had walked to the top of the Main Street ramp from the nearby Western Union office and that he walked down the ramp at the time the police car driven by Lieutenant Pierce emerged into Main Street.¹³⁹ This information did not come to light immediately because the policemen did not report it to their superiors until some days later.¹⁴⁰ Ruby refused to discuss his means of entry in interrogations with other investigators later on the day of his arrest.¹⁴¹ Thereafter, in a lengthy interview on December 21 and in a sworn deposition taken after his trial, Ruby gave the same explanation he had given to the three policemen.¹⁴²

The Commission has been able to establish with precision the time of certain events leading up to the shooting. Minutes before Oswald appeared in the basement, Ruby was in the Western Union office located on the same block of Main Street some 350 feet from the top of the Main Street ramp. The time stamp on a money order which he sent and on the receipt found in his pocket establish that the order was accepted for transmission at almost exactly 11:17 a.m. Ruby was then observed to depart the office walking in the direction of the police building.¹⁴³ Video tapes taken without interruption before the shooting establish that Lieutenant Pierce's car cleared the crowd at the foot of the ramp 55 seconds before the shooting. They also show Ruby standing at the foot of the ramp on the Main Street side before the shooting.¹⁴⁴ (See Commission Exhibit No. 2635, p. 220.) The shooting occurred very close to 11:21 a.m. This time has been established by observing the time on a clock appearing in motion pictures



Commission Exhibit No. 2635

COMMISSION EXHIBIT No. 2635

Ruby in basement (extreme right) immediately before shooting (Sunday, November 24).

of Oswald in the basement jail office, and by records giving the time of Oswald's departure from the city jail and the time at which an ambulance was summoned for Oswald.¹⁴⁵

The Main Street ramp provided the most direct route to the basement from the Western Union office. At normal stride, it requires approximately 1 minute to walk from that office to the top of the Main Street ramp and about 20-25 seconds to descend the ramp.¹⁴⁶ It is certain, therefore, that Ruby entered the basement no more than 2-3 minutes before the shooting. This timetable indicates that a little more than 2 of the 4 minutes between Ruby's departure from the Western Union office and the time of the shooting are unaccounted for. Ruby could have consumed this time in loitering along the way, at the top of the ramp, or inside the basement. However, if Ruby is correct that he passed Pierce's car at the top of the ramp, he could have been in the basement no more than 30 seconds before the shooting.¹⁴⁷

The testimony of two witnesses partially corroborates Ruby's claim that he entered by the Main Street ramp. James Turner, an employee of WBAP-TV Fort Worth, testified that while he was standing near the railing on the east side of the Main Street ramp, perhaps 30 seconds before the shooting, he observed a man he is confident was Jack Ruby moving slowly down the Main Street ramp about 10 feet from the bottom.¹⁴⁸ Two other witnesses testified that they thought they had seen Ruby on the Main Street side of the ramp before the shooting.¹⁴⁹

One other witness has testified regarding the purported movements of a man on the Main Street ramp, but his testimony merits little credence. A former police officer, N. J. Daniels, who was standing at the top of the ramp with the single patrolman guarding this entrance, R. E. Vaughn, testified that "3 or 4 minutes, I guess" ¹⁵⁰ before the shooting, a man walked down the Main Street ramp in full view of Vaughn but was not stopped or questioned by the officer. Daniels did not identify the man as Ruby. Moreover, he gave a description which differed in important respects from Ruby's appearance on November 24, and he has testified that he doesn't think the man was Ruby.¹⁵¹ On November 24, Vaughn telephoned Daniels to ask him if he had seen anybody walk past him on the morning of the 24th and was told that he had not; it was not until November 29 that Daniels came forward with the statement that he had seen a man enter.¹⁵²

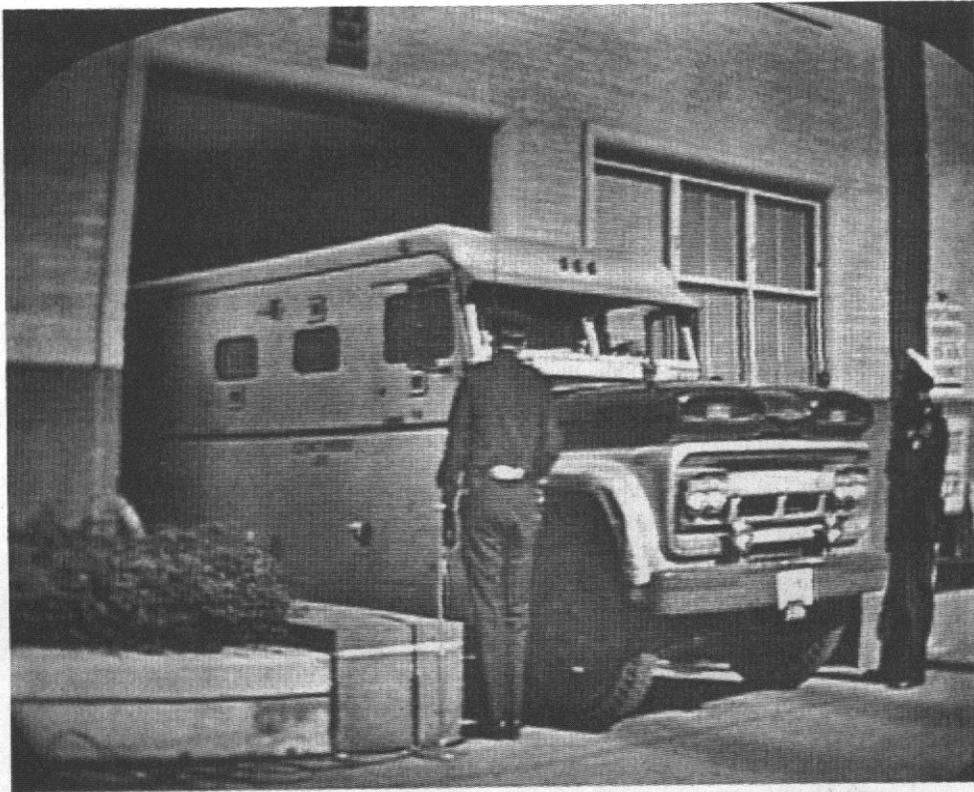
Although the sum of this evidence tends to support Ruby's claim that he entered by the Main Street ramp, there is other evidence not fully consistent with Ruby's story. Patrolman Vaughn stated that he checked the credentials of all unknown persons seeking to enter the basement, and his testimony was supported by several persons.¹⁵³ Vaughn denied that the emergence of Lieutenant Pierce's car from the building distracted him long enough to allow Ruby to enter the ramp unnoticed, and neither he nor any of the three officers in Lieutenant Pierce's car saw Ruby enter.¹⁵⁴

Despite Vaughn's denial the Commission has found no credible evidence to support any other entry route. Two Dallas detectives believed they observed three men pushing a WBAP-TV camera into the basement minutes before the shooting, while only two were with the camera after Oswald had been shot.¹⁵⁵ However, films taken in the basement show the WBAP-TV camera being pushed past the detectives by only two men.¹⁵⁶ The suspicion of the detectives is probably explained by testimony that a third WBAP-TV employee ran to help steady the incoming camera as it entered the basement, probably just before the camera became visible on the films.¹⁵⁷ Moreover, since the camera entered the basement close to 4 minutes before the shooting,¹⁵⁸ it is virtually impossible that Ruby could have been in the basement at that time.

The possibility that Ruby entered the basement by some other route has been investigated, but the Commission has found no evidence to support it. Ruby could have walked from the Western Union office to the Commerce Street ramp on the other side of the building in about 2½ minutes.¹⁵⁹ However, during the minutes preceding the shooting video tapes show the armored truck in the entranceway to this ramp with only narrow clearance on either side. (See Commission Exhibit No. 2710, p. 223.) Several policemen were standing near the truck and a large crowd of spectators was gathered across the street.¹⁶⁰ It is improbable that Ruby could have squeezed past the truck without having been observed. If Ruby entered by any other means, he would have had to pass first through the Police and Courts Building or the attached Municipal Building, and then secondly through one of the five doors into the basement, all of which, according to the testimony of police officers, were secured. The testimony was not completely positive about one of the doors.¹⁶¹

There is no evidence to support the speculations that Ruby used a press badge to gain entry to the basement or that he concealed himself in a police car. Police found no form of press card on Ruby's person after his apprehension, nor any discarded badges within the basement.¹⁶² There is no evidence that any police officer admitted Ruby on the pretense that he was a member of the press or any other pretense.¹⁶³

Police vehicles in the basement were inspected during the course of the search supervised by Sergeant Dean.¹⁶⁴ According to Patrolman Vaughn, the only vehicles that entered the basement while he was at the top of the Main Street ramp were two patrol cars, one of which entered twice, and a patrol wagon which was searched by another policeman after it entered the basement. All entered on official police business and considerably more than 4 minutes before Oswald was shot.¹⁶⁵ None of the witnesses at the top of the Main Street ramp recalled any police car entering the basement in the 4-minute period after Ruby left the Western Union office and preceding the shooting.¹⁶⁶ The possibility that Ruby could have entered the basement in a car may therefore be completely discounted.



COMMISSION EXHIBIT No. 2710

The Dallas Police Department, concerned at the failure of its security measures, conducted an extensive investigation that revealed no information indicating complicity between any police officer and Jack Ruby.¹⁶⁷ Ruby denied to the Commission that he received any form of assistance.¹⁶⁸ The FBI interviewed every member of the police department who was on duty in the basement on November 24, and Commission staff members took sworn depositions from many. With few exceptions, newsmen who were present in the basement at the time also gave statements and/or depositions. As the record before the Commission indicated, Ruby had had rather free access to the Dallas police quarters during the period subsequent to the assassination, but there was no evidence that implicated the police or newsmen in Ruby's actions on that day.¹⁶⁹

Ruby was known to have a wide acquaintanceship with Dallas policemen and to seek their favor. According to testimony from many sources, he gave free coffee at his clubs to many policemen while they were on duty and free admittance and discounts on beverages when they were off duty.¹⁷⁰ Although Chief Curry's estimate that approximately 25 to 50 of the 1,175 men in the Dallas Police Department knew Ruby¹⁷¹ may be too conservative, the Commission found no evidence of any suspicious relationships between Ruby and any police officer.

The Commission found no substantial evidence that any member of the Dallas Police Department recognized Jack Ruby as an unauthorized person in the basement prior to the time Sgt. P. T. Dean, according to his testimony, saw Ruby dart forward toward Oswald. But Dean was then part way up the Commerce Street ramp, too far removed to act.¹⁷² Patrolman W. J. Harrison, Capt. Glen King, and reserve officers Capt. C. O. Arnett and Patrolman W. M. Croy were among those in front of Ruby at the time Dean saw him. They all faced away from Ruby, toward the jail office.¹⁷³ Video tapes show that Harrison turned in the direction of the ramp at the time Lieutenant Pierce's car passed, and once again 25 seconds later, but there is no indication that he observed or recognized Ruby.¹⁷⁴ The policemen standing on the south side of the passageway from the jail office, who might have been looking in Ruby's direction, had the glare of television and photographer's lights in their eyes.¹⁷⁵

The Commission also considered the possibility that a member of the police department called Ruby at his apartment and informed him, either intentionally or unintentionally, of the time of the planned transfer. From at least 10:19 a.m., until close to 11 a.m., on Sunday, Ruby was at his apartment,¹⁷⁶ where he could have received a call that the transfer was imminent. He apparently left his apartment between 10:45 and 11 a.m.¹⁷⁷ However, the drive from Ruby's apartment to the Western Union office takes approximately 15 minutes.¹⁷⁸ Since the time of the contemplated transfer could not have been known to anyone until a few minutes before 11:15 a.m., a precise time could not have been conveyed to Ruby while he was at his apartment. Moreover, the television and radio publicized

the transfer plans throughout the morning, obviating the need for Ruby to obtain information surreptitiously.

ADEQUACY OF SECURITY PRECAUTIONS

The shooting of Lee Harvey Oswald obviously resulted from the failure of the security precautions which the Dallas Police Department had taken to protect their prisoner. In assessing the causes of the security failure, the Commission has not overlooked the extraordinary circumstances which prevailed during the days that the attention of the world was turned on Dallas. Confronted with a unique situation, the Dallas police took special security measures to insure Oswald's safety. Unfortunately these did not include adequate control of the great crowd of newsmen that inundated the police department building.

The Dallas police had in custody a man whose alleged act had brought upon him immediate and universal opprobrium. There were many possible reasons why people might have attempted to kill him if given the opportunity. Concerned that there might be an attempt on Oswald's life, FBI Director J. Edgar Hoover sent a message to Chief Curry on November 22 through Special Agent Manning C. Clements of the FBI's Dallas office, urging that Oswald be afforded the utmost security. Curry does not recall receiving the message.¹⁷⁹

Although the presence of a great mass of press representatives created an extraordinary security problem in the building, the police department pursued its normal policy of admitting the press. That policy, set forth in General Order No. 81 of the Dallas Police Department, provided—

* * * that members of this Department render every assistance, except such as obviously may seriously hinder or delay the proper functioning of the Department, to the accredited members of the official news-gathering agencies and this includes newspaper, television cameramen and news-reel photographers.¹⁸⁰

In a letter to all members of the police department, dated February 7, 1963, Chief Curry explained the general order, in part, as follows:

The General Order covering this subject is not merely permissive. It does not state that the Officer may, if he so chooses, assist the press. It rather places on him a responsibility to lend active assistance.

* * * * *

* * * as a Department we deal with public affairs. It is the right of the public to know about these affairs, and one of the most accurate and useful avenues we have of supplying this information is through the newspapers and radio and television stations.

Implied in the General Order is a prohibition for the Officer to improperly attempt to interfere with the news media representa-

tive, who is functioning in his capacity as such. Such activity on the part of any Police Officer is regarded by the press as an infringement of rights, and the Department shares this view.¹⁸¹

Under this policy, news representatives ordinarily had access to the Police and Courts Building. The first newsmen to arrive on Friday afternoon were admitted in accordance with the policy; others who came later simply followed behind them. Shortly after Oswald arrived, Captain King granted permission to bring television cameras to the third floor.¹⁸² By the time the unwieldy proportions of the crowd of newsmen became apparent, it had already become well entrenched on the third floor. No one suggested reversing the department's policy expressed in General Order No. 81. Chief Curry testified that at no time did he consider clearing the crowd from the building; he "saw no particular harm in allowing the media to observe the prisoner."¹⁸³ Captain King later stated candidly that he simply became "accustomed to the idea of them being out there."¹⁸⁴

The general policy of the Dallas police recognized that the rule of full cooperation did not apply when it might jeopardize an investigation.¹⁸⁵ In retrospect, most members of the department believed that the general rule allowing admittance of the press to the police quarters should not have been followed after the assassination. Few, if any, thought this at the time.¹⁸⁶ By failing to exclude the press from the building on Friday and Saturday, the Dallas police made it possible for the uncontrolled crowd to nearly surround Oswald on the frequent occasions that he moved through the third floor corridor. The decision to allow newsmen to observe the transfer on Sunday followed naturally the policy established during these first 2 days of Oswald's detention.

The reporters and cameramen descended upon the third floor of the Police and Courts Building in such numbers that the pressroom on the third floor proved wholly inadequate. Rather than the "two or three or maybe a half dozen reporters" who normally appeared to cover local police stories,¹⁸⁷ the police were faced with upward of 100. Bringing with them cameras, microphones, cables, and spotlights, the newsmen inevitably spilled over into areas where they interfered with the transaction of police business and the maintenance of security.¹⁸⁸

Aside from numbers, the gathering of reporters presented a problem because most of them were representatives of the national and foreign press, rather than the local press.¹⁸⁹ These newsmen carried individual press cards rather than identification cards issued by the Dallas police. Therefore, it was impossible for the police to verify quickly the identity of this great number of unfamiliar people who appeared almost simultaneously.¹⁹⁰ Because of the close physical proximity of the milling mass of insistent newsmen to the prisoner, the failure to authenticate press credentials subjected the prisoner to a serious security risk.

Although steps were taken on Friday afternoon to insure that persons seeking entry to the third floor were there for a legitimate pur-

pose, reasons could be fabricated. Moreover, because of the large crowd, it was easier for unauthorized persons to slip by those guarding the entrances. Jack Ruby, for one, was able to gain entry to the third-floor corridor on Friday night.¹⁹¹

The third-floor corridor provided the only passageway between the homicide and robbery bureau and the jail elevator. No thought seems to have been given, however, to the possibility of questioning Oswald on some other floor.¹⁹² Moreover, Oswald's most extended exposure to the press, at the Friday evening press conference, was unrelated to any phase of the investigation and was motivated primarily by the desire to satisfy the demands of the news media to see the prisoner.¹⁹³ The risks attendant upon this appearance were emphasized by the presence of unauthorized persons, including Jack Ruby, at the press conference in the basement assembly room.¹⁹⁴

Although Oswald was repeatedly exposed to possible assaults on Friday and Saturday, he met his death on Sunday, when police took the most extensive security precautions. The assembly of more than 70 police officers, some of them armed with tear gas, and the contemplated use of an armored truck, appear to have been designed primarily to repel an attempt of a mob to seize the prisoner.¹⁹⁵ Chief Curry's own testimony indicated that such a focus resulted not from any appraisal of the varied risks to Oswald's life but came about in response to the telephone threat Sunday morning that a hundred men were going to attack Oswald.¹⁹⁶

A more balanced appraisal would have given thought to protection against any attack. For example, the acceptance of inadequate press credentials posed a clear avenue for a one-man assault. The likelihood of an unauthorized person obtaining entry by such means is confirmed not alone by the fact that Jack Ruby managed to get by a guard at one entrance. Several newsmen related that their credentials were not checked as they entered the basement Sunday morning. Seconds before Oswald was shot, the double doors from the hallway next to the jail office afforded a means of entry to the basement without presentation of credentials earlier demanded of newsmen.¹⁹⁷

The swarm of newspeople in the basement also substantially limited the ability of the police to detect an unauthorized person once he had entered the basement. While Jack Ruby might have been easily spotted if only police officers had been in the basement,¹⁹⁸ he remained apparently unnoticed in the crowd of newsmen until he lunged forward toward Oswald. The near-blinding television and motion picture lights which were allowed to shine upon the escort party further increased the difficulty of observing unusual movements in the basement.

Moreover, by making public the plans for the transfer, the police attracted to the city jail many persons who otherwise might not have learned of the move until it had been completed. This group included the onlookers gathered on Commerce Street and a few people on Main Street. Also, continuous television and radio coverage of

the activities in the basement might have resulted in compromise of the transfer operation.

These risks to Oswald's safety, growing in part out of adherence to the general policy of the police department, were also accepted for other reasons. Many members of the police department believed that the extraordinary public attention aroused by the tragic death of President Kennedy obliged them to make special efforts to accommodate the press. Captain King carefully articulated one reason why the newsmen were permitted

* * * to remain in the hallways, * * * to view the investigation and to keep in constant touch with progress of the investigation.

* * * * *

We realized that if we arrested a suspect, that if we brought him into the police station and then conducted all of our investigations behind closed doors, that if we gave no reports on the progress of our investigation and did not permit the newsmen to see the suspect—if we excluded them from it—we would leave ourselves open not only to criticisms that we were fabricating a suspect and were attempting to pin something on someone, but even more importantly, we would cause people to lose faith in our fairness and, through losing faith in our fairness, to lose faith to a certain extent in the processes of law.

We felt it was mandatory that as many people knew about it as possible. We knew, too, that if we did exclude the newsmen, we would be leaving ourselves open to a charge that we were using improper action, duress, physical abuse, all of these things.¹⁹⁹

While Oswald was in custody, the Dallas police kept the press informed about the treatment Oswald was receiving. The public could have been assured that the prisoner was not mistreated and that his rights were fully respected by the police, without each one of hundreds of cameramen and reporters being permitted to satisfy himself that the police had not abused the prisoner. This result could have been accomplished by obtaining reports from members of the family who visited him, or by a committee of the bar or other substantial citizens of the community. When it became known on Saturday that Oswald did not have an attorney, the president of the Dallas Bar Association visited him to inquire whether he wished assistance in obtaining counsel.²⁰⁰

Moreover, the right of the public to know does not give the press license to interfere with the efficient operation of law-enforcement agencies. Permitting the press to remain on the third floor of the building served no valid purpose that could not have been met if the press had been excluded from the third floor, as it was from the fourth and fifth floors, and informed of developments either through press releases or at press conferences elsewhere in the building.

Having failed to exclude the mass of the press from the basement during the transfer of Oswald, the police department's security meas-

ures could not be completely effective. Despite the pressures that prevailed, planning and coordination of security arrangements could have been more thorough and precise. No single member of the Dallas Police Department ever assumed full responsibility for the details of Oswald's transfer.²⁰¹ Chief Curry participated in some of the planning, but he felt that primary authority for the transfer should be Fritz', since Fritz had charge of the investigation. According to Chief Curry—

Fritz and I, I think, discussed this briefly, the possibility of getting that prisoner out of the city hall during the night hours and by another route and slipping him to the jail, but actually Fritz was not too much in favor of this and I more or less left this up to Fritz as to when and how this transfer would be made, because he has in the past transferred many of his prisoners to the county jail and I felt that since it was his responsibility, the prisoner was, to let him decide when and how he wanted to transfer this prisoner.²⁰²

Fritz, on the other hand, felt that Curry was directing the transfer arrangements: "I was transferring him like the chief told me to transfer him."²⁰³ When Capt. W. B. Frazier notified Fritz by telephone early Sunday morning about the threats to Oswald's life, Fritz replied that Curry should be notified, since he was handling the transfer.²⁰⁴ When urged to modify the transfer plans to avoid the press, as he later testified he would have preferred to do, Fritz declined on the ground that Curry had already decided to the contrary.²⁰⁵ Hence, if the recollection of both officials is accurate, the basic decision to move Oswald at an announced time and in the presence of the news media was never carefully thought through by either man. Curry and Fritz had agreed Saturday evening that Oswald should not be moved at night, but their discussion apparently went little further.²⁰⁶

Perhaps the members of the Dallas Police Department were, as many testified, accustomed to working together so that formal instructions were sometimes unnecessary. On the other hand, it is clear, at least in retrospect, that this particular occasion demanded more than the usual informal unspoken understandings. The evidence indicates that no member of the department at any time considered fully the implications of moving Oswald through the basement. Nor did any single official or group of officials coordinate and direct where the transfer vehicle would be stationed to accept Oswald, where the press would stand, and the number and positioning of police officers in the basement. Captain Jones indicated that there were to be two solid lines of policemen from the jail office door to the transfer vehicle,²⁰⁷ but lines were formed only along the walls of the areaway between the jail office door and the ramp. The newsmen were not kept east of the auto ramp where a railing would have separated

them from Oswald. No strong ranks of policemen were ever placed in front of the newsmen once they were allowed to gather in the area of the Main Street ramp.²⁰⁸ Many policemen in the basement did not know the function they were supposed to perform. No instructions were given that certain policemen should watch the crowd rather than Oswald.²⁰⁹ Apparently no one gave any thought to the blinding effect of television and other camera lights upon the escort party.

Largely on his own initiative, Captain Talbert undertook to secure the basement, with only minimal coordination with those responsible for and familiar with the route Oswald would take through the basement. Several officials recalled that Lt. Woodrow Wiggins was directed to clear the basement jail office, but Wiggins testified that he received no such assignment.²¹⁰ In any event, less than 20 minutes before the transfer, Captain Jones observed newsmen in the jail office and had them removed. But no official removed news personnel from the corridor beside the jail office; indeed, cameramen took pictures through the glass windows of the jail office as Oswald walked through it toward the basement, and then approached to within 20 feet of Oswald from the rear at the same time that Jack Ruby moved toward Oswald from the front.²¹¹

A clear example of the inadequacy of coordination was the last-minute change in plans to transfer Oswald in an unmarked police car rather than by armored truck.²¹² The plan to use an armored vehicle was adopted without informing Fritz. When Fritz was told of the arrangement shortly after 11 o'clock, he objected, and hurried steps were taken to modify the arrangements. Fritz was then prematurely informed that the basement arrangements were complete. When Oswald and the escorting detectives entered the basement, the transfer car had not yet been backed into position, nor had the policemen been arranged to block the newsmen's access to Oswald's path.²¹³ If the transfer car had been carefully positioned between the press and Oswald, Ruby might have been kept several yards from his victim and possibly without a clear view of him. Detective Leavelle, who accompanied Oswald into the basement, testified:

* * * I was surprised when I walked to the door and the car was not in the spot it should have been, but I could see it was in back, and backing into position, but had it been in position where we were told it would be, that would have eliminated a lot of the area in which anyone would have access to him, because it would have been blocked by the car. In fact, if the car had been sitting where we were told it was going to be, see—it would have been sitting directly upon the spot where Ruby was standing when he fired the shot.²¹⁴

Captain Jones described the confusion with which Oswald's entry into the basement was in fact received:

Then the change—going to put two cars up there. There is no reason why that back car can't get all the way back to the jail office. The original plan would be that the line of officers would be from the jail door to the vehicle. Then they say, "Here he comes." * * * It is too late to get the people out of the way of the car and form the line. I am aware that Oswald is already coming because of the furor, so, I was trying to keep everybody out of the way and keep the way clear and I heard a shot.²¹⁵

Therefore, regardless of whether the press should have been allowed to witness the transfer, security measures in the basement for Oswald's protection could and should have been better organized and more thorough. These additional deficiencies were directly related to the decision to admit newsmen to the basement. The Commission concludes that the failure of the police to remove Oswald secretly or to control the crowd in the basement at the time of the transfer were the major causes of the security breakdown which led to Oswald's death.

NEWS COVERAGE AND POLICE POLICY

Consistent with its policy of allowing news representatives to remain within the working quarters of the Police and Courts Building, the police department made every effort to keep the press fully informed about the progress of the investigation. As a result, from Friday afternoon until after the killing of Oswald on Sunday, the press was able to publicize virtually all of the information about the case which had been gathered until that time. In the process, a great deal of misinformation was disseminated to a worldwide audience. (For some examples see app. XII.)

As administrative assistant to Chief Curry, Captain King also handled departmental press relations and issued press releases. According to King, it was "the responsibility of each member of the department to furnish to the press information on incidents in which they, themselves, were involved, except on matters which involved * * * personnel policies of the department, or * * * unless it would obviously interfere with an investigation underway."²¹⁶ In Oswald's case, Chief Curry released most of the information to the press. He and Assistant Chief Batchelor agreed on Friday that Curry would make all announcements to the press.²¹⁷ However, there is no evidence that this decision was ever communicated to the rest of the police force. The chief consequence appears to have been that Batchelor refrained from making statements to the news media during this period.

Most of the information was disclosed through informal oral statements or answers to questions at impromptu and clamorous press conferences in the third floor corridor. Written press releases were not employed. The ambulatory press conference became a familiar sight during these days. Whenever Curry or other officials appeared in the



COMMISSION EXHIBIT No. 2632

Press interview with Chief Curry in third floor corridor.

hallway, newsmen surrounded them, asking questions and requesting statements. Usually the officials complied. (See Commission Exhibit No. 2632, p. 232.)

Curry appeared in interviews on television and radio at least a dozen times during November 22-24. He did not attend any of the interrogations of Oswald in Captain Fritz' office except at the beginning and toward the end of Sunday morning's session; he received his information through Captain Fritz and other sources.²¹⁸ Nevertheless, in sessions with the newsmen on Friday and Saturday he gave detailed information on the progress of the case against Oswald. Recorded statements of television and radio interviews with Curry and other officials in Dallas during November 22-24 have been transcribed and included in the record compiled by the Commission.²¹⁹ An example of these interviews is the following transcript of remarks made by Curry to newsmen on Saturday:

Q. Chief Curry, I understand you have some new information in this case. Could you relate what that is?

A. Yes, we've just been informed by the Federal Bureau of Investigation, that they, the FBI, have the order letter from a mail order house, and the order was sent to their laboratory in Washington and the writing on this order was compared with known samples of our suspect, Oswald's handwriting and found to be the same.

Q. This order was for the rifle?

A. This order was for the rifle to a mail order house in Chicago. It was [inaudible]. The return address was to Dallas, Texas, to the post office box under the name of A. Hidell, H-I-D-E-double L. This is the post office box of our suspect. This gun was mailed parcel post March 20, 1963. I understand he left Dallas shortly after this and didn't come back until I think about two months ago.

Q. Do you know again on what date this rifle was ordered and are you able to link it definitely as the rifle which you confiscated at the School Book Depository?

A. That we have not done so far. If the FBI has been able to do it I have not been informed of it yet. We do know that this man ordered a rifle of the type that was used in the assassination of the President from this mail order house in Chicago and the FBI has definitely identified the writing as that of our suspect.

Q. On another subject—I understand you have photographs of the suspect, Oswald, with a rifle like that used. Could you describe that picture?

A. This is the picture of Oswald standing facing a camera with a rifle in his hand which is very similar to the rifle that we have in our possession. He also had a pistol strapped on his hip. He was holding two papers in his hand, with one of them seemed to be *The Worker* and the other says *Be Militant*—I don't know whether that was headlines or the name of the paper.

Q. How much did the gun cost from the mail order house?

A. I understand the gun was advertised for \$12.78, I believe.

Q. Have you received any results on the ballistics test conducted on the gun and on Oswald?

A. They're going to be favorable. I don't have a formal report yet.

Q. But you are sure at this time they will be favorable?

A. Yes.

Q. Do you feel now that you have the case completely wrapped up, or are you continuing?

A. We will continue as long as there is a shred of evidence to be gathered. We have a strong case at this time.

Q. I believe you said earlier this afternoon that you have a new development which does wrap up the case—the first time you said the case definitely is secure. Is that correct?

A. That was this morning. This additional evidence just makes a stronger case.

Q. But this is not the same evidence you were referring to then?

A. No, that's true.

Q. Would you be willing to say what that evidence was?

A. No, sir. I don't wish to reveal it. It might jeopardize our case.

Commentator: Thank you very much Chief Jesse Curry of the Dallas Police Department.²²⁰

Although Captain Fritz permitted himself to be interviewed by the news media less frequently than did Chief Curry, he nevertheless answered questions and ventured opinions about the progress of the investigation. On Saturday he told reporters that he was convinced beyond a doubt that Oswald had killed the President. He discussed some of the evidence in the case, especially the rifle, but his contribution to the knowledge of the reporters was small compared with that of Chief Curry.²²¹

Many other members of the police department, including high officials, detectives, and patrolmen, were also interviewed by news representatives during these days.²²² Some of these men had participated in specific aspects of the case, such as the capture of Oswald at the Texas Theatre and the search for evidence at the Texas School Book Depository Building. Few, if any, seemed reluctant to submit to questions and to being televised. It seemed to District Attorney Wade that the newsmen "just followed everybody everywhere they went * * * they interviewed some of your patrolmen * * * on the corner * * * they were interviewing anybody."²²³

Wade himself also made several statements to the press. He visited police headquarters twice on Friday, twice on Saturday, and twice on Sunday. On most of these occasions he was interviewed by the press and appeared on television.²²⁴ After Oswald had appeared before the press on Friday night, Wade held an im-

promptu conference with reporters in the overflowing assembly room.²²⁵ Wade told the press on Saturday that he would not reveal any evidence because it might prejudice the selection of a jury.²²⁶ On other occasions, however, he mentioned some items of evidence and expressed his opinions regarding Oswald's guilt. He told the press on Friday night that Oswald's wife had told the police that her husband had a rifle in the garage at the house in Irving and that it was missing the morning of the assassination. On one occasion he repeated the error that the murder rifle had been a Mauser. Another time, he stated his belief that Oswald had prepared for the assassination months in advance, including what he would tell the police. He also said that Oswald had practiced with the rifle to improve his marksmanship.²²⁷

The running commentary on the investigation by the police inevitably carried with it the disclosure of many details that proved to be erroneous. In their efforts to keep the public abreast of the investigation, the police reported hearsay items and unverified leads; further investigation proved many of these to be incorrect or inaccurate. For example, the rifle found on the sixth floor of the Texas School Book Depository Building was initially identified as a Mauser 7.65 rather than a Mannlicher-Carcano 6.5 because a deputy constable who was one of the first to see it thought it looked like a Mauser. He neither handled the weapon nor saw it at close range.²²⁸

Police sources were also responsible for the mistaken notion that the chicken bones found on the sixth floor were the remains of Oswald's lunch. They had in fact been left by another employee who ate his lunch there at least 15 minutes before the assassination.²²⁹ Curry repeated the erroneous report that a Negro had picked up Oswald near the scene of the assassination and driven him across town.²³⁰ It was also reported that the map found in Oswald's room contained a marked route of the Presidential motorcade when it actually contained markings of places where Oswald may have applied for jobs, including, of course, the Texas School Book Depository.²³¹

Concern about the effects of the unlimited disclosures was being voiced by Saturday morning. According to District Attorney Wade, he received calls from lawyers in Dallas and elsewhere expressing concern about providing an attorney for Oswald and about the amount of information being given to the press by the police and the district attorney.²³² Curry continued to answer questions on television and radio during the remainder of the day and Sunday morning.²³³

FBI Director J. Edgar Hoover became concerned because "almost as soon as * * * [FBI Laboratory reports] would reach the Dallas Police Department, the chief of police or one of the representatives of the department would go on TV or radio and relate findings of the FBI, giving information such as the identification of the gun and other items of physical evidence."²³⁴ On Sunday, after Oswald was shot, Hoover dispatched a personal message to Curry requesting him

“not to go on the air any more until this case * * * [is] resolved.” Hoover testified later that Curry agreed not to make any more statements.²³⁵

The shooting of Oswald shocked the Dallas police, and after the interviews that immediately followed the shooting they were disposed to remain silent. Chief Curry made only one more television appearance after the shooting. At 1:30 p.m., he descended to the assembly room where, tersely and grimly, he announced Oswald's death. He refused to answer any of the questions shouted at him by the persistent reporters, concluding the conference in less than a minute.²³⁶

District Attorney Wade also held one more press conference. Before doing so on Sunday evening, he returned once more to the police station and held a meeting with “all the brass” except Curry. Wade told them that “people are saying * * * you had the wrong man and you all were the one who killed him or let him out here to have him killed intentionally.” Wade told the police that “somebody ought to go out in television and lay out the evidence that you had on Oswald, and tell them everything.” He sat down and listed from memory items of evidence in the case against Oswald. According to Wade, Chief Curry refused to make any statements because he had told an FBI inspector that he would say no more. The police refused to furnish Wade with additional details of the case.²³⁷

Wade nonetheless proceeded to hold a lengthy formal press conference that evening, in which he attempted to list all of the evidence that had been accumulated at that point tending to establish Oswald as the assassin of President Kennedy. Unfortunately, at that time, as he subsequently testified, he lacked a thorough grasp of the evidence and made a number of errors.²³⁸ He stated that Oswald had told a woman on a bus that the President had been killed, an error apparently caused by the busdriver having confused Oswald with another passenger who was on the bus after Oswald had left. Wade also repeated the error about Oswald's having a map marked with the route of the motorcade. He told reporters that Oswald's description and name “went out by the police to look for him.”²³⁹ The police never mentioned Oswald's name in their broadcast descriptions before his arrest.²⁴⁰

Wade was innocent of one error imputed to him since November 24. The published transcript of part of the press conference furnished to newspapers by the Associated Press represented Wade as having identified the cabdriver who took Oswald to North Beckley Avenue after the shooting, as one named “Darryl Click.” The transcript as it appeared in the New York Times and the Washington Post of November 26, reads:

A. [Wade] a lady. He then—the bus, he asked the bus driver to stop, got off at a stop, caught a taxicab driver, Darryl Click. I don't have his exact place—and went to his home in Oak Cliff, changed his clothes hurriedly, and left.²⁴¹

The correct transcript of the press conference, taken from an audio tape supplied by station WBAP, Fort Worth, is as follows:

A. [Wade] A lady. He then—the bus, he asked the bus driver to stop, got off at a stop, caught a taxicab driver.

Q. Where?

A. In Oak Cliff. I don't have the exact place—and went to his home in Oak Cliff, changed his clothes hurriedly and left.²⁴²

In this manner, a section of Dallas, "Oak Cliff," became a non-existent taxicab driver, "Darryl Click." Wade did not mention the cabdriver by name at any time. In transcribing the conference from the sound tape, a stenographer apparently made an error that might have become permanently imbedded in the literature of the event but for the preservation and use of an original sound tape.

Though many of the inaccuracies were subsequently corrected by the police and are negated by findings of the Commission included elsewhere in this report, the publicizing of unchecked information provided much of the basis for the myths and rumors that came into being soon after the President's death. The erroneous disclosures became the basis for distorted reconstructions and interpretations of the assassination. The necessity for the Dallas authorities to correct themselves or to be corrected by other sources gave rise not only to criticism of the police department's competence but also to doubts regarding the veracity of the police. Skeptics sought to cast doubt on much of the correct evidence later developed and to find support for their own theories in these early police statements.

The immediate disclosure of information by the police created a further risk of injuring innocent citizens by unfavorable publicity. This was the unfortunate experience of Joe R. Molina, a Dallas-born Navy veteran who had been employed by the Texas School Book Depository since 1947 and on November 22, 1963, held the position of credit manager. Apparently because of Molina's employment at the Depository and his membership in a veterans' organization, the American G.I. Forum, that the Dallas police considered possibly subversive, Dallas policemen searched Molina's home with his permission, at about 1:30 a.m., Saturday, November 23. During the day Molina was intermittently interrogated at police headquarters for 6 or 7 hours, chiefly about his membership in the American G.I. Forum, and also about Oswald. He was never arrested, charged, or held in custody.²⁴³

While Molina was being questioned, officials of the police department made statements or answered questions²⁴⁴ that provided the basis for television reports about Molina during the day. These reports spoke of a "second suspect being picked up," insinuated that the Dallas police had reason to suspect another person who worked in the Texas School Book Depository, stated that the suspect had been arrested and his home searched, and mentioned that Molina may have

been identified by the U.S. Department of Justice as a possible subversive.²⁴⁵

No evidence was ever presented to link Molina with Oswald except as a fellow employee of the Texas School Book Depository. According to Molina, he had never spoken to Oswald.²⁴⁶ The FBI notified the Commission that Molina had never been the subject of an investigation by it and that it had never given any information about Molina to the Dallas police concerning any alleged subversive activities by him.²⁴⁷ The Dallas police explained in a statement to the FBI that they had never had a file on Molina, but that they did have one on the American G.I. Forum.²⁴⁸

Molina lost his job in December. He felt that he was being discharged because of the unfavorable publicity he had received, but officials of the Depository claimed that automation was the reason. Molina testified that he had difficulty in finding another position, until finally, with the help of a fellow church member, he secured a position at a lower salary than his previous one.²⁴⁹

If Oswald had been tried for his murders of November 22, the effects of the news policy pursued by the Dallas authorities would have proven harmful both to the prosecution and the defense. The misinformation reported after the shootings might have been used by the defense to cast doubt on the reliability of the State's entire case. Though each inaccuracy can be explained without great difficulty, the number and variety of misstatements issued by the police shortly after the assassination would have greatly assisted a skillful defense attorney attempting to influence the attitudes of jurors.

A fundamental objection to the news policy pursued by the Dallas police, however, is the extent to which it endangered Oswald's constitutional right to a trial by an impartial jury. Because of the nature of the crime, the widespread attention which it necessarily received, and the intense public feelings which it aroused, it would have been a most difficult task to select an unprejudiced jury, either in Dallas or elsewhere. But the difficulty was markedly increased by the divulgence of the specific items of evidence with which the police linked Oswald to the two killings. The disclosure of evidence encouraged the public, from which a jury would ultimately be impaneled, to prejudge the very questions that would be raised at trial.

Moreover, rules of law might have prevented the prosecution from presenting portions of this evidence to the jury. For example, though expressly recognizing that Oswald's wife could not be compelled to testify against him, District Attorney Wade revealed to the Nation that Marina Oswald had affirmed her husband's ownership of a rifle like that found on the sixth floor of the Texas School Book Depository.²⁵⁰ Curry stated that Oswald had refused to take a lie detector test, although such a statement would have been inadmissible in a trial.²⁵¹ The exclusion of such evidence, however, would have been meaningless if jurors were already familiar with the same facts from previous television or newspaper reports. Wade might have influenced prospective jurors by his mistaken statement that

the paraffin test showed that Oswald had fired a gun. The tests merely showed that he had nitrate traces on his hands, which did not necessarily mean that he had fired either a rifle or a pistol.²⁵²

The disclosure of evidence was seriously aggravated by the statements of numerous responsible officials that they were certain of Oswald's guilt. Captain Fritz said that the case against Oswald was "cinched." Curry reported on Saturday that "we are sure of our case."²⁵³ Curry announced that he considered Oswald sane, and Wade told the public that he would ask for the death penalty.²⁵⁴

The American Bar Association declared in December 1963 that "widespread publicizing of Oswald's alleged guilt, involving statements by officials and public disclosures of the details of 'evidence,' would have made it extremely difficult to impanel an unprejudiced jury and afford the accused a fair trial."²⁵⁵ Local bar associations expressed similar feelings.²⁵⁶ The Commission agrees that Lee Harvey Oswald's opportunity for a trial by 12 jurors free of preconception as to his guilt or innocence would have been seriously jeopardized by the premature disclosure and weighing of the evidence against him.

The problem of disclosure of information and its effect on trials is, of course, further complicated by the independent activities of the press in developing information on its own from sources other than law enforcement agencies. Had the police not released the specific items of evidence against Oswald, it is still possible that the other information presented on television and in the newspapers, chiefly of a biographical nature, would itself have had a prejudicial effect on the public.

In explanation of the news policy adopted by the Dallas authorities, Chief Curry observed that "it seemed like there was a great demand by the general public to know what was going on."²⁵⁷ In a prepared statement, Captain King wrote:

At that time we felt a necessity for permitting the newsmen as much latitude as possible. We realized the magnitude of the incident the newsmen were there to cover. We realized that not only the nation but the world would be greatly interested in what occurred in Dallas. We believed that we had an obligation to make as widely known as possible everything we could regarding the investigation of the assassination and the manner in which we undertook that investigation.²⁵⁸

The Commission recognizes that the people of the United States, and indeed the world, had a deep-felt interest in learning of the events surrounding the death of President Kennedy, including the development of the investigation in Dallas. An informed public provided the ultimate guarantee that adequate steps would be taken to apprehend those responsible for the assassination and that all necessary precautions would be taken to protect the national security. It was therefore proper and desirable that the public know which agencies

were participating in the investigation and the rate at which their work was progressing. The public was also entitled to know that Lee Harvey Oswald had been apprehended and that the State had gathered sufficient evidence to arraign him for the murders of the President and Patrolman Tippit, that he was being held pending action of the grand jury, that the investigation was continuing, and that the law enforcement agencies had discovered no evidence which tended to show that any other person was involved in either slaying.

However, neither the press nor the public had a right to be contemporaneously informed by the police or prosecuting authorities of the details of the evidence being accumulated against Oswald. Undoubtedly the public was interested in these disclosures, but its curiosity should not have been satisfied at the expense of the accused's right to a trial by an impartial jury. The courtroom, not the newspaper or television screen, is the appropriate forum in our system for the trial of a man accused of a crime.

If the evidence in the possession of the authorities had not been disclosed, it is true that the public would not have been in a position to assess the adequacy of the investigation or to apply pressures for further official undertakings. But a major consequence of the hasty and at times inaccurate divulgence of evidence after the assassination was simply to give rise to groundless rumors and public confusion. Moreover, without learning the details of the case, the public could have been informed by the responsible authority of the general scope of the investigation and the extent to which State and Federal agencies were assisting in the police work.

RESPONSIBILITY OF NEWS MEDIA

While appreciating the heavy and unique pressures with which the Dallas Police Department was confronted by reason of the assassination of President Kennedy, primary responsibility for having failed to control the press and to check the flow of undigested evidence to the public must be borne by the police department. It was the only agency that could have established orderly and sound operating procedures to control the multitude of newsmen gathered in the police building after the assassination.

The Commission believes, however, that a part of the responsibility for the unfortunate circumstances following the President's death must be borne by the news media. The crowd of newsmen generally failed to respond properly to the demands of the police. Frequently without permission, news representatives used police offices on the third floor, tying up facilities and interfering with normal police operations. Police efforts to preserve order and to clear passageways in the corridor were usually unsuccessful. On Friday night the reporters completely ignored Curry's injunction against asking Oswald questions in the assembly room and crowding in on him. On Sunday morning, the newsmen were instructed to direct no ques-

tions at Oswald; nevertheless, several reporters shouted questions at him when he appeared in the basement.²⁵⁹

Moreover, by constantly pursuing public officials, the news representatives placed an insistent pressure upon them to disclose information. And this pressure was not without effect, since the police attitude toward the press was affected by the desire to maintain satisfactory relations with the news representatives and to create a favorable image of themselves. Chief Curry frankly told the Commission that

I didn't order them out of the building, which if I had it to do over I would. In the past like I say, we had always maintained very good relations with our press, and they had always respected us. * * * 260

Curry refused Fritz' request to put Oswald behind the screen in the assembly room at the Friday night press conference because this might have hindered the taking of pictures.²⁶¹ Curry's subordinates had the impression that an unannounced transfer of Oswald to the county jail was unacceptable because Curry did not want to disappoint the newsmen; he had promised that they could witness the transfer.²⁶² It seemed clear enough that any attempt to exclude the press from the building or to place limits on the information disclosed to them would have been resented and disputed by the newsmen, who were constantly and aggressively demanding all possible information about anything related to the assassination.

Although the Commission has found no corroboration in the video and audio tapes, police officials recall that one or two representatives of the press reinforced their demands to see Oswald by suggesting that the police had been guilty of brutalizing him. They intimated that unless they were given the opportunity to see him, these suggestions would be passed on to the public.²⁶³ Captain King testified that he had been told that

A short time after Oswald's arrest one newsman held up a photograph and said, "This is what the man charged with the assassination of the President looks like. Or at least this is what he did look like. We don't know what he looks like after an hour in the custody of the Dallas Police Department."²⁶⁴

City Manager Elgin Crull stated that when he visited Chief Curry in his office on the morning of November 23, Curry told him that he "felt it was necessary to cooperate with the news media representatives, in order to avoid being accused of using Gestapo tactics in connection with the handling of Oswald." Crull agreed with Curry.²⁶⁵ The Commission deems any such veiled threats to be absolutely without justification.

The general disorder in the Police and Courts Building during November 22-24 reveals a regrettable lack of self-discipline by the news-

men. The Commission believes that the news media, as well as the police authorities, who failed to impose conditions more in keeping with the orderly process of justice, must share responsibility for the failure of law enforcement which occurred in connection with the death of Oswald. On previous occasions, public bodies have voiced the need for the exercise of self-restraint by the news media in periods when the demand for information must be tempered by other fundamental requirements of our society.

At its annual meeting in Washington in April 1964, the American Society of Newspaper Editors discussed the role of the press in Dallas immediately after President Kennedy's assassination. The discussion revealed the strong misgivings among the editors themselves about the role that the press had played and their desire that the press display more self-discipline and adhere to higher standards of conduct in the future.²⁶⁶ To prevent a recurrence of the unfortunate events which followed the assassination, however, more than general concern will be needed. The promulgation of a code of professional conduct governing representatives of all news media would be welcome evidence that the press had profited by the lesson of Dallas.

The burden of insuring that appropriate action is taken to establish ethical standards of conduct for the news media must also be borne, however, by State and local governments, by the bar, and ultimately by the public. The experience in Dallas during November 22-24 is a dramatic affirmation of the need for steps to bring about a proper balance between the right of the public to be kept informed and the right of the individual to a fair and impartial trial.