

Oswald the Man, Dallas Cops Sure

By HENRY MACHIRELLA

THE DALLAS COPS CERTAINLY MADE THE NEWS
This appeared in the N.Y. News, Nov. 24

THE DAY AFTER Wade's historic press conference, and three days after the Oswald arrest, a new discovery was made.

"Today Mr. Wade announced that authorities had also found a marked map, showing the course of the President's motorcade, in Oswald's rented room. It was a map tracing the location of the parade route, the district attorney said, and this place [the Texas School Book Depository, a warehouse from which the fatal shots were fired] was marked with a straight line. Mr. Wade said Oswald had marked the map at two other places, 'apparently places which he considered a possibility for an assassination.'" (New York Times, Nov. 25.)

A document written by the defendant showing his intention to commit a crime is important evidence. It seems incredible, were such a map in the hands of the Dallas authorities on the previous day when Wade presented the evidence, "piece by piece," that he would have neglected to mention it.

Oswald was arrested three days prior to the map announcement. On the day of his arrest police removed all of his belongings from his room, telling the landlady that Oswald "would not return." One wonders where the map came from three days later. The same newspapers that hailed the discovery of the map Nov. 25, without a single question as to its legitimacy, origin, or previous whereabouts, totally ignored or buried the last comment regarding this important document. "Dallas officials yesterday denied that such a map exists." (Washington Post, Nov. 27.)

The people vs. Oswald

WHEN A CRIMINAL CASE is brought in federal court against an individual, it is entitled, "The People of the United States against" the named defendant. No federal charge was lodged against Oswald; however, in the most significant sense the case became the entire country and its institutions against one man. Very likely no prospective defendant in the history of civilization has been tried and condemned through the utilization of the media as thoroughly as was Oswald.

The American Civil Liberties Union commented on Dec. 6:

"It is our opinion that Lee Harvey Oswald, had he lived, would have been deprived of all opportunity to receive a fair trial by the conduct of the police and prosecuting officials in Dallas, under pressure from the public and the news media.

"From the moment of his arrest until his murder two days later, Oswald was tried and convicted many times over in the newspapers, on the radio, and over television by the public statements of the Dallas law enforcement officials. Time and again high-ranking police and prosecution officials state their complete satisfaction that Oswald was the assassin. As their investigation uncovered one piece of evidence after another, the results were broadcast to the public.

"... Oswald's trial would ... have been nothing but a hollow formality."

In a section headed "Police Responsibility for Os-

wald's killing" the ACLU stated that the concessions to the media "resulted in Oswald being deprived not only of his day in court, but of his life as well."

On Dec. 4 the chancellor-elect of the Philadelphia Bar Association stated that Lee Oswald had been "lynched" and that this was an "indictment" of the legal profession for its failure to protect Oswald (New York Times, Dec. 5). These two comments, made after the death of Oswald and buried by the news media under the avalanche of news attacks against Oswald (including the FBI leaks of other crimes alleged to have been committed by him), constitute to date almost the only indication of sanity in the country.

After Oswald's death, the FBI acted to prevent certain information from reaching the public. "Most private citizens who had cooperated with newsmen reporting the crime have refused to give further help after being interviewed by agents of the Federal Bureau of Investigation." (New York Times, Dec. 6). The FBI acted, not to protect the rights of a defendant, but, after he was murdered, to protect the inconsistent evidence from further scrutiny. Mrs. Oswald, still in Secret Service custody, hidden in an unknown location, was quoted on the front pages of papers throughout the country Dec. 6 and 7 as implicating Oswald in another crime. Such a quotation could have come only from a Secret Service or FBI leak. No one else had access to her. And so the insanity accelerates until the few remaining vestiges of doubt as to Oswald's guilt are obliterated from the American scene.

However, let it not be said that the lawyers are not aroused by an attorney's giving statements to the public in relation to a pending case. "A Dallas Bar Association grievance committee met three hours last night on charges that Tom Howard, attorney for Jack Ruby, had violated legal ethics by discussing Ruby's case with the press ... No charges had been placed against District Attorney Henry Wade." (New York Post, Dec. 6)

When an entire society moves in for the kill, logic is a weapon of doubtful value. Were logic to prevail, a number of questions might be raised for rational deliberation. For example, one might inquire why the FBI, having questioned Oswald just a week before the assassination and having discovered that he worked in a building directly on the President's line of march, and knowing that Oswald had purchased a rifle, did not watch him on the day of assassination. Certainly, a small portion of the millions of dollars bestowed upon the FBI each year and utilized for following persons of unorthodox political views and tapping their telephones might have been made available under these circumstances, as part of what the FBI and Secret Service referred to as the "greatest security provisions ever taken to protect an American President."

The question of motive

WHETHER THE DALLAS POLICE through complicity or complacency permitted the murder of the defendant by a police department friend after two warnings through the FBI that such an attempt would be made should be a matter for press discussion. Whether or not the FBI showed Mrs. Oswald, the defendant's mother, a picture of Ruby before Ruby murdered Oswald would ordinarily demand media debate.

There are two matters not even commented upon by the press to date—Oswald's motive and Oswald's plan for escape. Oswald seemed to respect President Kennedy. If Oswald were a leftist, pro-Soviet and pro-Cuban, did he not know that during the last year, with the assistance of President Kennedy, a better relationship was in the process of developing between the U.S. and the Soviet Union? Even the relations between the U.S. and Cuba, while still extremely unfriendly, have progressed past the stage of military intervention. Fidel Castro himself stated, just before the President's death, "He (Kennedy) has the possibility of becoming the greatest President of the United States ... He has

'airtight' case



OSWALD'S FAMILY AT THE POLICE STATION
Mother, Marguerite, with wife, Marina, and baby

come to understand many things over the last few months . . . I'm convinced that anyone else would be worse." (New York Times, Dec. 11)

The press made much of the fact that Oswald had been seen with a copy of the *Worker*, a Communist publication, and that he had received at least two letters from the Communist Party. A New York newspaper referred to him editorially as a "Communist murderer." Did Oswald know that the U.S. Communist Party supported Kennedy when he ran for the presidency in 1960 and that within the last six months Gus Hall urged the Communist Party, which he leads, to endorse and support Kennedy again?

Why should Oswald wish to assassinate the President; and after firing at the President, how did he plan to escape? Did he wish to flee from the building? If so, why did he remain in the lunchroom sipping a soda? Was he in a hurry? If so, why did he take a ride on a bus? It was a very warm day in Dallas. Mrs. Kennedy, sweltering in the open moving car, later said that she was looking forward to the cool relief of riding through the underpass just ahead. Why then, did Oswald, seeking to escape the police, go home to pick up his jacket? If he was planning to leave the city, why did he then go to a movie just as the city-wide search was gaining intensity?

These are genuine areas for speculation by the press now that the defendant is dead. These are, nevertheless almost the only areas left unexamined by the media.

Perhaps some day, when America is ready for the sunlight of reason to penetrate the national mind, now frozen to a false and unfair conclusion, this article and

others far more comprehensive may be read.

An affirmative case

UNDER OUR SYSTEM of justice a defendant need not prove he is innocent. It is the obligation of the prosecutor to attempt to prove the defendant guilty beyond a reasonable doubt. Should the prosecutor fail to sustain that burden, the defendant must be declared not guilty.

In the case of Oswald, hysteria and intolerance have so swept our country that the protections guaranteed by our Constitution and by our traditions have failed to operate. Since irrationality is the implacable foe of justice and due process, we are compelled to depart from ordinary legal procedure. At this point we shall submit an affirmative case. We shall attempt to present facts that tend to prove that Oswald did not shoot President Kennedy.

A denial by a defendant that he committed a crime when supported by testimony as to his good character is sufficient in and of itself to cause a reasonable doubt which, even in the face of evidence to the contrary, may result in acquittal.

Oswald denied he shot anyone. He stated that the charges against him were "ridiculous." He persisted in his denial despite the fact that he was questioned for 48 hours without the benefit of counsel.

Denial of counsel, when coupled with extensive questioning, is improper and contrary to long-established principles of law. This principle was developed out of

revulsion against the ancient trial by ordeal or trial by fire which forced a person accused of a crime to cooperate in the prosecution of his own case. Great constitutional protections, including the Fifth Amendment to the U.S. Constitution, were developed. It was found that not only would guilty persons confess when sufficient pressure was placed against them, but innocent persons also were likely to succumb.

Great pressure was placed against Oswald. He stood all alone condemned as the slayer of a popular leader. "Oswald was pummeled by the arresting officers until his face was puffed and battered. 'Kill the President will you?' one officer shouted in a choked voice." (Washington Post, Dec. 1.)

In addition "Oswald received a black eye and a cut on his forehead." (New York Times, Nov. 24.)

When a reporter asked Oswald in a televised interview how he received the bruises and cuts on his face, he answered calmly, "A policeman hit me."

For 48 hours, Oswald was denied the elementary right to counsel of his choice. The Dallas police falsely told the attorneys for the ACLU that Oswald "did not want counsel." Despite physical abuse and absolute isolation, Oswald continued to state that he was innocent. Each previous assassin of an American president immediately and boastfully declared that the act was his.

Character witnesses

The press has been glutted with attacks upon Oswald since his death, with each informant issuing self-serving declarations as to his own ability to detect incipient mental problems or character weaknesses, when Oswald was much younger.

A former probation officer in New York City permitted an interview which violated principles of a privileged and protected relationship between himself and a young boy. A justice of the Family Court released records to the FBI, and the information was carried in the press.

Nevertheless, those who knew Oswald a little better had some rather kind things to say about him. At a trial, their testimony could have been decisive. The associate pastor of First Unitarian Church, Dallas, Rev. Byrd Helligas, described Lee Oswald as "erudite." "He had . . .

had a good vocabulary. No dangling participles or split infinitives. In the dictionary definition of the word 'intellectual' he was an intellectual." Heiligas added that he sensed "no frustration through erudition. He was calm." (Washington Post, Dec. 1.)

Samuel Ballen, described in the press as a "Republican petroleum economist in Dallas," said he found Lee Oswald to be "an independent, thinking, inquiring young man . . . He was a rather frail person physically. At least to me, he was the kind of person I could like. I kind of took a liking to him, I wanted to help him a little bit. . . . He had a kind of Ghandi, far-off look about him." (Washington Post, Dec. 1.)

Roy Truly, the director of the depository where Oswald was employed, said of Oswald, "He seemed just a normal, quiet young fellow."

Mrs. Paine, with whom his wife and children lived and where he stayed on weekends, said, "Marina (Lee Oswald's wife) felt very favorably toward the President and his family. Most of what she learned of American news was provided by Lee, who translated from newspapers and news magazines. Marina said he never transferred any negative feelings toward President Kennedy." (Washington Post, Nov. 28.)

Mrs. Paine also stated that, "As far as I know Oswald had never been critical of Kennedy. He had been critical of General [Edwin] Walker, but I never heard him say anything against the President. In fact, it was my impression that he respected him." (New York World Telegram and Sun, Nov. 25.)

In 1959, Oswald was interviewed by Priscilla Johnson, an American correspondent while in Moscow. She reported, "I found him rather likeable. He was quiet and didn't have a vehement manner. He was so very young. He was someone you would try to help."

Mrs. Luella Merrett, principal of West Ridglea Elementary School which Oswald attended, said, "If he had problems, we did not recognize them . . . He was interested in things."

Were the case to be tried, persons ordinarily selected as character witnesses would include his employer, a minister, his landlady, a respected businessman, a correspondent who knew him abroad, and the Quaker family with whom his wife resided and his school teachers. Judging by the initial response, one could conclude that character testimony for Lee Oswald would be compelling.

Time, place and Oswald

IN ADDITION to consistent denial of guilt by the defendant and statements of character witnesses that seem to indicate a person different from the disturbed, hostile character usually associated with the particular crime, a defendant may offer testimony indicating that he was somewhere other than at the scene of the crime when it was committed. We, of course, can't get such information from this defendant.

However, a valid defense could result in showing that even if the defendant were at the scene he could not have committed the crime. Such a defense is available. If Oswald was on the sixth floor of the book depository armed with the alleged murder weapon, a 6.5mm Italian

carbine, he could not have fired three shots that struck President Kennedy and Gov. Connally.

The official homicide report filed by the Dallas Police Department, attested to by two police officers, states under the section "Place of Occurrence": "Elm Street (approximately 150 feet west of Houston)." The report also states under the section "Pronounced dead by Physician," the name "Dr. Kemp Clark, 1 p.m., Parkland Hospital."

A motion picture taken of the President just before, during and after the shooting, and demonstrated on television showed that the President was looking directly ahead when the first shot, which entered his throat,

was fired. A series of still pictures taken from the motion picture and published in Life magazine on Nov. 29 show exactly the same situation. The Life pictures also reveal that the car carrying the President was well past the turn from Houston St. and a considerable distance past the depository building. The Life estimate in an accompanying caption states that the car with the President was 75 yards past the sixth-floor window when the first shot was fired.

The New York Times (Nov. 27) reported: "Dr. Kemp Clark, who pronounced Mr. Kennedy dead, said one [bullet] struck him at about the necktie knot. 'It ranged downward in his chest and did not exit,' the surgeon said. The second he called a 'tangential wound', caused by a bullet that struck the 'right back of his head.'"

The New York Herald Tribune (Nov. 27) said: "On the basis of accumulated data, investigators have concluded that the first shot, fired as the Presidential car was approaching, struck the President in the neck just above the knot of his necktie, then ranged downward into his body."

Surgeons who attended the President at the Parkland Memorial Hospital described the throat wound as "an entrance wound." (St. Louis Post-Dispatch, Dec. 1), "They said it was in the center of the front, just below the Adam's apple, at about the necktie knot." (Ibid.) Dr. Malcolm Perry began to cut an air passage in the President's throat in an effort to restore an air passage and start his breathing. The incision was made through the bullet wound, since it was in the normal place for the operation. "Dr. Perry described the bullet hole as an entrance wound." (Ibid.) Dr. Robert N. McClelland, one of three surgeons who participated in the operation, said "It certainly did look like an entrance wound." (Ibid.) Dr. McClelland said he saw bullet wounds every day, "sometimes several a day. This did appear to be an entrance wound." (Ibid.)

On Nov. 27, the Secret Service re-enacted the assassination of the President. "The purpose was 'to test whether it could be done the way we believe it was done' an official source said." (New York Times, Nov. 28.) The consensus was "that the shooting began after the President's car had made the turn from Houston Street into Elm Street." (New York Times, Nov. 28.)

In an interview broadcast from Dallas Nov. 27, Gov. Connally told Martin Agronsky that the shooting began after the car had turned the corner. (New York Times, Nov. 28.)

If the throat wound resulted from a shot fired from the book depository the President would have had to turn around with his throat facing almost directly to the rear. Dr. McClelland stated that the doctors postulated that "he [the President] would have had to be looking almost completely to the rear." (St. Louis Post-Dispatch, Dec. 1.) The Washington correspondent for the Post-Dispatch stated that, "The motion pictures, however, showed the President looking forward." (Dec. 1.) "Mrs. John Connally, the wife of the Texas Governor, has said that she had just told Mr. Kennedy, 'You can't say Dallas isn't friendly to you today.' Presumably he was about to reply when he was hit." (Ibid.) Mrs. Connally was seated in front of the President.

Relying, therefore, upon the Homicide Report filed with the Dallas Police by two officers who were eyewitnesses, the motion pictures taken of the shooting, still shots taken from the motion pictures, the statement of Gov. Connally, the consensus of those who re-enacted the scene under supervision of the Secret Service, and the report of the attending physicians, we may conclude that the shot was fired while the back of the President was to the sixth-floor window and many yards removed from that window and that the bullet

entered the front of the President's throat.

If Oswald was at the sixth-floor window, as alleged, when the President was shot it would have been physically impossible for him to have fired the first shot that struck the President. In the words of Richard Dudman, the correspondent for the Post-Dispatch (Dec. 1), "The question that suggests itself is: How could the President have been shot in the front from the back?"

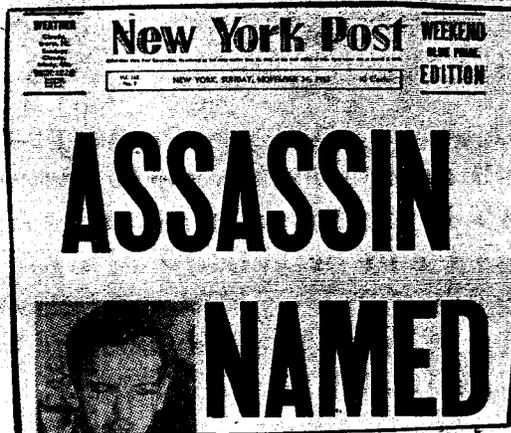
The gun and the experts

THE QUESTION now arises as to whether any one man, even a skilled expert, could have fired the three shots within a period of five seconds. An Olympic rifle champion, Hubert Hammer, said he doubted it

could be done with the weapon allegedly used. The Dallas sheriff, Bill Decker, said he believed three shots "could be fired in less than 20 seconds." (Washington Post, Nov. 27.) The FBI and the witnesses agree the elapsed period was five seconds, possibly five and one-half seconds.

Life magazine (Dec. 6) hired a skilled marksman, the director of the National Rifle Association, to fire a similar rifle. The best he could do was "three hits in 6.2 seconds." The New York Times, Nov. 23 reported: "As marines go, Lee Harvey Oswald was not highly regarded as a rifleman."

Debate will continue whether the rifle in question was capable, in the hands of an expert, of the performance the prosecution insists it gave. All agree, however, that such a remarkable display of shooting would be



A PRESUMPTION OF GUILT IN THE PUBLIC PRESS
The way the N.Y. Post expressed it Nov. 24

beyond the ability of any person less qualified. To maintain the ability to fire a rifle accurately, one must practice continually. Oswald's wife and the Paine family, all of whom lived in the house where the rifle was allegedly stored, did not even know Oswald owned a rifle. This would seem to indicate an extremely limited usage of the rifle at the very most. Oswald did not have the requisite skill to fire three accurate shots within 5½ seconds at a moving target.

Other uncertainties

IF OSWALD WAS WHERE the FBI and the Dallas District Attorney said he was when the shots were fired and if the President was assassinated by one person as charged—Lee Harvey Oswald is demonstrably not guilty. Oswald was in the wrong place and did not have sufficient time to shoot President Kennedy as

charged.

The facts as presented to date by the FBI and the Dallas district attorney (soon to be rewritten no doubt) have overcome the presumption of guilt manufactured when the case was initiated.

Dudman wrote in the St. Louis Post-Dispatch (Dec. 1): "Another unexplained circumstance is a small hole in the windshield of the presidential limousine. This correspondent and one other man saw the hole, which resembled a bullet hole, as the automobile stood at the hospital emergency entrance while the President was being treated inside the building.

"The Secret Service kept possession of the automobile and flew it back to Washington. A spokesman for the agency rejected a request to inspect the vehicle here [Washington]. He declined to discuss any hole there might be in the windshield."

Undoubtedly the Secret Service has placed the auto in protective custody, "in a secret place for its own protection."

Dudman continued to present startling information. "Uncertainty surrounds the number of shots fired." (Ibid.) Although most witnesses heard three shots fired within a period of five seconds it seems that five bullets have been discovered.

"The first bullet is said by the doctors to have entered the throat, coursed downward and remained in the President's body. The second was extracted from Gov. Connally's thigh. It had lodged there after entering the right side of his back, passing through his body and through his wrist. A third, which may be the one that struck the back of Mr. Kennedy's head, was recovered from the stretcher on which he was carried into the hospital. A fourth was found in fragments in the car. Still another bullet was found by Dallas police officers after the shooting. It was in the grass opposite the point where the President was hit. They did not know whether it had anything to do with the shooting of the President and the Governor." (Ibid.)

One point does emerge with absolute clarity. The theory held by the Dallas police and supported repeatedly by the FBI that "there is an airtight case against Oswald as the sole killer" is based upon an investigation so open as to be almost entirely uninvestigated.

dedicated to a particular conclusion at the outset.

The investigation

The FBI, having completed its investigation, has submitted what amounts to its findings and conclusions as well. The verdict, deftly and covertly divulged to the press, and then blared forth throughout the world, is impressively simple: "Oswald is the assassin. He acted alone." This remarkable law enforcement and investigatory agency, unable to solve a single one of the more than 40 Birmingham bombings, is now able to function as investigator, prosecutor, judge and jury. No other American agency has presumed to occupy so many positions of trust at one time.

The essential problem is that no investigating agency can fairly evaluate the fruits of its own work. Were the FBI certain of its conclusions it seems likely it would not be so reluctant to permit witnesses to talk with the press. It might not feel the need continually to leak information favorable to its verdict to the press. Most disquieting of all, however, is that the FBI, once wedded to a conclusion conceived before investigation, might be motivated to discover evidence which supports that conclusion. Within a few hours after Oswald was arrested the Dallas police, with the FBI at its side, announced the very same verdict now reinforced by the latest FBI discoveries. Under such circumstances, we fear that evidence tending to prove Oswald innocent might be discarded and evidence proving him guilty might be developed out of proportion or

