

Harvey Harris

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This memorandum is directed to Staff members of the House Select Committee on Assassinations, and consists of a short discussion of one investigative area which I believe to be of great importance and about which I feel very strongly.

It is my hope that the Committee will give serious consideration to the very real possibility that Lee Harvey Oswald was innocent of the crimes of which he was accused (the slayings of President Kennedy and Dallas Police Officer J.D. Tippit), and that he was, in fact, a "patsy" or "scapegoat" for unknown persons conspiring to assassinate President Kennedy. It will be recalled that throughout his short period of custody by Dallas Police, Oswald steadfastly maintained his innocence of both crimes and told newsmen, "I'm just a patsy."

Careful examination of the 26 volumes of Warren Commission Hearings and unpublished Commission documents does not conclusively prove Oswald's innocence. But by no means does it show conclusively that he was guilty. When weighed and examined objectively, though, the evidence does show that a much, much stronger case can be made for Oswald's innocence, than for his guilt.

What follows is a very brief, concise list of several key points that raise the strong possibility that Lee Oswald was not the assassin of Mr. Kennedy. For detailed study of certain points I have cited sources at some points.

At the outset it should be noted that the Warren Commission began its investigation with the preconceived conclusion that Oswald alone was the President's killer, and never considered for a moment that he may have been a "patsy"-- as he claimed after his arrest. This is apparent from unpublished Commission documents. I refer particularly to a "Tentative Outline of the Work of the President's Commission", dated January 11, 1964; Section II of this Outline is titled, "Lee Harvey Oswald as the Assassin of President Kennedy." Since this was three weeks and two days before the Commission heard its first witness, it is clear that from the beginning of the inquiry the panel had already decided on Oswald as the (lone) assassin. The real purpose of the Commission, it would seem, was to (in effect) build or manufacture a case against Oswald and thereby reassuring the public by squelching rumors of a conspiracy. The panel's unwaivering assumption of Oswald's guilt is also borne out in a March 26, 1964 memorandum from staff counsel Norman Redlich to Chief Counsel J. Lee Rankin; it too contains an outline citing "Lee H. Oswald as the Assassin." (For a sampling of methods used against Oswald by the Commission during its assessment of the testimony, photographs and physical evidence, see chapters 1 - 4 of Cover-Up by Shaw w/ Harris).

The Warren Commission frankly admitted that it was unable to determine any motive Oswald might have had for wanting to slay the President; indeed, the known evidence indicates Oswald had no motive whatsoever (see chapter 12 of Meagher's Accessories After the Fact). The Commission could only suggest the possibility that Oswald's alleged Marxist beliefs and his supposed frustrations over personal failures might have been factors.

Despite widespread public misconceptions, there is no evidence-- physical eyewitness or otherwise-- that places Oswald on the sixth floor of the Texas School Book Depository at the time of the assassination. Even retired Dallas Police chief Jesse Curry admitted in a 1969 UPI interview, "We don't

have any proof that Oswald fired the rifle. No one has been able to put him in that building with a gun in his hand." For instance, Oswald's fingerprints could not be found on the rifle supposedly used in the murder, and the palmprint purportedly found on an inner part of the rifle by Dallas Police (the FBI could find no prints on the inner parts) is of dubious origin (Accessories After the Fact, pp. 120-27). Nor could Oswald's prints be found on the three cartridge cases, the unfired cartridge or the clip (24 H 262-64, Letter from Hoover to Curry).

Oswald told police he was on the first floor of the Book Depository at the time of the assassination. Several of his co-workers recall seeing him on the first floor prior to the assassination. Contrary to what he told the Warren Commission, Charles Givens last saw Oswald on the first floor thirty minutes before the assassination (CD 5, p. 329). Eddie Piper saw Oswald on the first floor at noon (19 H 499; 6 H 383). Carolyn Arnold believed she saw Oswald in the first floor vestibule around 12:15 (CD 5); at 12:15 spectators on Elm Street were already observing a man with a rifle on the TSBD sixth floor (2 H 169). (It should be noted that several witnesses saw two men on the sixth floor shortly before the assassination; their contention is seemingly borne out by photographic evidence-- see chapter 10 of J. Thompson's Six Seconds in Dallas). About 90 seconds after the last shot Roy Truly and policeman M.L. Baker encountered Oswald drinking a soft drink in the second floor lunchroom; his calm demeanor was not that of a man who had killed the President less than two minutes earlier, and he aroused no suspicion (3 H 224-25; 3 H 252).

The known facts suggest very strongly that Oswald lacked sufficient marksmanship ability to have accomplished the assassination. Meagher, Weisberg and H. Roffman, in their respective books, have prepared excellent discussions in this regard.

Oswald could not have carried the disassembled rifle to work in a paper bag as the Warren Commission alleged he did. Again, Meagher, Weisberg and Roffman have done excellent studies of this. Too, Buell Wesley Frazier's famous "curtain rod" story may have been fabricated out of fear; George O'Toole raises this interesting possibility in The Assassination Tapes (chapter 11).

Conflicting reports on the exact route of the Dallas motorcade made it extremely unlikely that Oswald could have known the parade would pass within firing distance of the TSBD; see Accessories After the Fact, pp. 36-39

The Mannlicher-Carcano allegedly used by Oswald was an unlikely choice as an assassination weapon; poorly-made, the gun has a notorious reputation for inaccuracy and unreliability. Regarding the weapon supposedly used by Oswald, the firing pin was worn and rusty, the bolt was difficult to operate because it frequently stuck, as did the trigger (3 H 447, 449). The telescopic sight, J. Edgar Hoover admitted, "could not be properly aligned with the target since the sight reached the limit of its adjustment before reaching accurate alignment" (26 H 104); furthermore, the scope was mounted for a left-handed person, but Oswald was right-handed (CE 2560).

As Meagher points out in chapter 4 of her book, there is nothing to suggest that Oswald practiced with the rifle prior to the assassination, nor that he purchased or owned ammunition for the weapon.

It should be pointed out, as Meagher does on pp. 106-110 of her book, that master riflemen with skills far superior to Oswald's were unable to duplicate the accused assassin's alleged feat of 11-22-63-- even though they were given every possible advantage.

Warren Commission Exhibit 543 is one of three empty cartridge cases purported to have been discovered by Dallas law enforcement officials on the TSBD sixth floor shortly after the assassination. It is interesting to note that this particular shell (unlike the other two) has a dent in its lip (the opening) so sharp that a bullet or projectile could not have been fitted therein. This means that this particular casing was not or could not have been fired from a gun on November 22, 1963. A thorough discussion of this point is found in chapter 7 of Six Seconds in Dallas. See also pp. 159-61 of Cover-Up.

Careful examination of the testimony, exhibits and photographs suggests the probability that only two shots, if any, were fired from the so-called "Oswald window" on the TSBD sixth floor, and that these two shots were fired for evidence purposes only and were not directed at the Presidential motorcade. The so-called "sniper's nest" in the southeast corner of the TSBD sixth floor, as it was at the time of the assassination, would have been most unsuitable as a vantage point for an assassin intent on shooting at President Kennedy. Example: CD 897, p. 158 states that there was a mere sixteen inches between the window and a wall of book cartons; no one could hope to kneel or sit and operate a bolt action weapon in a tiny 16" space. It should be noted that the original photographs of the "sniper's nest" as it appeared when police first reached it were not turned over to the Warren Commission by Dallas Police; every photograph they submitted was taken late 11-22-63 or on Monday, 11-25-63 after the area had been reconstructed by police to more closely resemble a firing point. A discussion of this, as well as photographs proving the above statement(s) can be found on pp. 66 70 of Cover-Up.

The known medical evidence suggests the strong probability that Oswald's rifle was not the weapon that inflicted wounds on the President and Governor Connally. The nature of the bullet fragmentation within Kennedy's head wound rules out full-jacketed military bullets like those said to have been used by Oswald. Likewise, Commission Exhibit 399, the controversial and nearly pristine bullet said to have caused seven wounds in two men, could not have caused Connally's wounds and those sustained by the President. An excellent discussion of this point appears in chapters 3,4 and 5 of H. Roffman's Presumed Guilty.

Commission Exhibit 399 and various bullet fragments were subjected to spectrographic analysis and Neutron Activation Analysis (NAA) to determine any differences in their composition. The actual results of these tests have never been made public and are withheld 14 years after the crime. Needless to say, their suppression indicates that the tests showed that more than one assassin fired at the motorcade, and that Oswald's weapon caused none of the wounds sustained by Kennedy and Connally. NOTE: It is imperative that the Select Committee obtain, if at all possible, the actual spectro and NAA test results.

Modern technology indicates that Oswald was being truthful when he told newsmen that he had not killed the President or shot anyone. Using the Psychological Stress Evaluator, this is the conclusion reached by George O'Toole and others. See chapter 7 of The Assassination Tapes.

Commission Exhibits 133a and 133b are two photographs showing Oswald with a rifle and pistol. Staff members of the Select Committee have seen very persuasive demonstrations by Richard E. Sprague, Jack White and others that these two photographs are forgeries, and were produced by unknown persons seeking to incriminate Oswald in the assassination.

There is much evidence and testimony showing that prior to the assassination unknown person(s) impersonating Oswald and using his name sought to portray Oswald as a potential presidential assassin. Much has been written about this aspect of the case. See Richard Popkin's The Second Oswald; chapter of Anson's They've Killed the President!; chapter 21 of Accessories After the Fact.

This memorandum is submitted to the Select Committee and its Staff with the hope that serious consideration will be given to the possibility that Lee Harvey Oswald was not a part of the actual assassination in Dealey Plaza.

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