

Meagher moves for ~~inquiry~~ ^{inquiry} of ~~the~~ ^{the} ~~report~~ ^{report}

The Non-Arraignment...

The Committee's Report includes a somewhat cryptic description of the legal steps taken against Oswald after his arrest by the Dallas Police, in the following terms:

At approximately 2 p.m. Lee Harvey Oswald was arrested in the Texas Theatre. He was subsequently charged in the murder of Tippit and named as a suspect in the Kennedy assassination. (R 53)
(Emphasis added)

The significance of this description is likely to escape the reader unless he is aware of a long-standing ^{doubt} ~~controversy~~ surrounding the alleged arraignment of Oswald for the murder of President Kennedy.

The Warren Report had asserted that:

...shortly after 1:30 a.m. /on November 23, 1963/
Oswald was brought to the identification bureau on the fourth floor and arraigned...for the murder of President Kennedy. (WR 198)

This claim was questioned in a book published in 1967 (Accessories After the Fact, pages 305-309) which pointed out that (1) there was no stenographic transcript of the supposed arraignment; (2) the police laboratory technician who was present in the identification bureau until shortly after 2 a.m. testified that no one had entered the room and conducted an arraignment while he was there; and (3) there was no record of Oswald having been removed from his cell at 1:30 a.m. or of his being returned ten minutes later, although his other removals from and returns to his cell were recorded on a standard form.

The assertion in the Warren Report that Oswald had been arraigned for the murder of President Kennedy shortly after 1:30 a.m. had rested on the testimony of Police Chief Jesse Curry, Captain Will Fritz, and Justice of the Peace David Johnston. If the arraignment had not in fact taken place, the possibility of perjury and collusion hung in the air.

The question lingered until, in about 1970, a Warren Commission document was obtained from the National Archives. This document presented information obtained by FBI Special Agent James P. Hosty, Jr., from the office of Capt. Will Fritz, Dallas Police Department, on November 25, 1963. It stated that Oswald had been arraigned for the murder of J.D. Tippit but that:

No arraignment on the murder charges in connection with the death of President Kennedy was held inasmuch as such arraignment was not necessary in view of the previous charges filed against Oswald and for which he was arraigned. (CD 5 page 400)

If this document was accurate and reliable, it supported the suspicion of perjury and collusion and suggested moreover that the Warren Commission had overlooked or concealed a criminal and conspiratorial act by two central witnesses involved not only in the aggregation of evidence incriminating Oswald in the assassination but also in the so-called "abortive transfer" during which Oswald was murdered while handcuffed to and surrounded by police officers.

This was the status of evidence that confronted the Committee when it undertook its re-investigation of the Kennedy assassination. It is impossible to determine from its Report or the supporting volumes what inquiry it undertook to resolve the conflict in the evidence surrounding the alleged arraignment. The statement in the Committee's Report that Oswald was "named as a suspect in the Kennedy assassination" is not footnoted and there is no clue to the means by which the Committee arrived at that finding. Yet the assertion that Oswald was charged in one murder and named as a suspect in the other implicitly legitimizes the information obtained by Special Agent Hosty and corroborates the claims by critics of the Warren Report that the alleged arraignment never took place. No other interpretation seems possible of the Committee's careful differentiation of the terms "charged" and "named as a suspect".

Is not the Committee thereby rejecting the sworn testimony to the Warren Commission of Chief Curry, Captain Fritz, and Justice of the Peace Johnston? Again, no other interpretation seems possible. Unfortunately, the Committee in its Report does not acknowledge the existence of conflicting evidence about the arraignment, nor does it comment on the issue of perjury and collusion.

This is a serious matter indeed, when the Committee through its Chairman promised the public time and again full disclosure of the facts it uncovered. The three witnesses—Curry, Fritz, and Johnston—should have been called to give the Committee sworn testimony on the matter of the arraignment. They should have been given the opportunity to repeat their Warren Commission testimony under oath, or to withdraw it. If there was perjury and collusion, it should have been prosecuted. The public should have been given the means by which to judge whether or not key witnesses against Oswald and key participants in the events surrounding his murder are credible and have clean hands.

The Committee did interview Jesse Curry but did not publish the results of the interview. We do not know if he was asked about the alleged arraignment of Oswald in the murder of the President. The records do not indicate any interviews of Captain Will Fritz or of David Johnston.

The Committee apparently considered scrutiny of the Dallas Police to be generally outside of its mandate but its careful wording seems to reject the Warren Commission's account of the arraignment. A seemingly insignificant matter involving the difference between "charged" and "named as a suspect" is therefore fraught with significance and leaves unresolved the issue of perjury, collusion, and cover-up.

...and the Non-Encounter

The Committee has left unresolved also a more serious matter involving Oswald's whereabouts before the shooting. This is what its Report says:

As for Oswald's presence on the sixth floor shortly before the assassination, the committee considered the testimony of Oswald's fellow employees at the depository. Although a number of them placed him on the fifth or sixth floor just before noon, a half hour before the assassination, one recalled he was on the first floor at that same time.

The committee decided not to try to reconcile the testimony of these witnesses. Whether Oswald was on the first, fifth or sixth floor at noon, he could have still been on the sixth floor at 12:30. There was no witness who said he saw Oswald anywhere at the time

of the assassination, and there was no witness who claimed to have been on the sixth floor and therefore in a position to have seen Oswald, had he been there. (R 57)

This passage contains inaccurate and misleading assertions. A number of employees placed Oswald on the fifth floor at about 11:45 a.m. but only one placed him on the sixth floor "a half hour before the assassination" (at 11:55 a.m.) and that one was Charles Givens. Nor did "one recall he was on the first floor at that same time". Eddie Piper saw and spoke to Oswald on the first floor at noon; William Shelley saw him downstairs at 11:50 a.m.; and Charles Givens, in his initial story on the day of the assassination--a story which was to change radically five months later--said that he had seen Oswald reading a newspaper on the first floor at 11:50 a.m. Finally, while it is literally true that there was no witness who claims to have been on the sixth floor at 12:30 p.m. and therefore in a position to have seen Oswald, had he been there, this fails to reflect the fact that Bonnie Ray Williams returned to the sixth floor at noon to eat his lunch. He saw neither Oswald nor anyone else between noon and 12:20 p.m., when he left to go to the fifth floor.

The Committee did not wish to delve into all of this precise detail but contented itself with the conclusion that wherever Oswald was or was not in the forty-five minutes preceding the shooting, he could have been on the sixth floor at 12:30. The matter is not that simple nor can it be disposed of that simply.

The Warren Commission, in setting forth the evidence against Oswald, relied heavily on ~~the~~ testimony of Charles Givens, ^{who} ~~which~~ placed Oswald on the sixth floor at 11:55 a.m. The Warren Report alleged that Givens had forgotten his cigarettes on the sixth floor and upon returning there to retrieve them had encountered Oswald near the southeast corner window (the "sniper's window"). This allegation was challenged in the critical literature, as the Committee well knew. A book published in 1967 and an article in 1971* pointed to inherent illogic in Givens'

*Accessories After the Fact, pages 64-69, and "The Curious Testimony of Mr. Givens", The Texas Observer, August 13, 1971.

story and to serious discrepancies between his version of events and corresponding testimony and documents. Most important among these discrepancies was the fact that in his affidavit given to the Dallas Police only a few hours after the assassination, Givens had said nothing about forgetting his cigarettes, returning to the sixth floor, or meeting Oswald there--an omission that was incredible if the encounter had really taken place. Indeed, from November 22, 1963, to April 8, 1964 Givens never mentioned forgotten cigarettes or the alleged encounter with Oswald on the sixth floor. On the contrary, he told FBI agents on November 22, 1963 that he had seen Oswald on the first floor at 11:50 a.m. (CD 5 page 329). He had then gone to the washroom, eaten his lunch, and departed for a near-by parking lot to visit a friend who worked there. Givens gave a similar account to the Secret Service in December 1963.

Only in April 1964 did Givens reveal for the first time his story of forgotten cigarettes and a return to the sixth floor during which he met Oswald. David Belin, the Warren Commission lawyer who took Givens' testimony, was fully aware of the different story Givens had told consistently to the Dallas Police, the FBI, and the Secret Service during the preceding five months. Yet Belin in no way challenged Givens' new story, which was supported in part by testimony of Dallas Police witnesses--testimony of a contrived and patently suspect nature, which Belin also failed to challenge.

All of this, set forth in the literature with chapter and verse, led inescapably to a question of perjury, collusion, and fabrication of evidence on the part of Givens, two police officials, and a Warren Commission counsel. What did the Committee do to resolve the question, with its ominous implications? Nothing in its published records indicates any effort to probe this matter or to make a determination of the ~~real~~ truth. What is significant is that the Committee does not repeat or rely upon Givens' story but implies that it is not important, one way or the other. The Committee is interested in Oswald's whereabouts at 12:30 p.m. and does not care where he was at 11:55 or at noon. But why does the Committee not care about possible perjury and collusion involving Givens, Dallas Police officials, and a Warren Commission lawyer? And, with that issue unresolved, how can the Committee in good conscience assure us, as it does, that the Warren Commission "arrived at its conclusions...in good faith"?

In the matter of the arraignment and in the matter of the curious testimony of Charles Givens, grave questions arise as to the lawful conduct of the Dallas Police and the integrity of the Warren Commission. The Committee, in failing to deal with those questions, has created doubt about its own commitment to arrive at the truth and to establish a firm historical record.