

The Distorting Mirror

(A Sampler of Discrepancies
and Incongruities)

A Strange Arraignment

Joachim Joesten in his book "Oswald: Assassin or Fall-Guy?" (Marzani & Munsell, New York, 1964) hurled many serious accusations at the Dallas police and other official agencies that investigated the assassination. One of his charges was that police chief Jesse Curry and district attorney Henry Wade had tricked the public by concealing the fact that Oswald had never been arraigned for the murder of the President. Joesten must have been chagrined to learn from the Warren Report, published some six months after his book, that

... shortly after 1.30 am (on November 22, 1963) Oswald
... was brought to the identification bureau on the fourth
... floor and arraigned before Justice of the Peace (David
... Johnston... for the murder of President Kennedy. (WR 198)

According to the footnote, that states are rests on the testimony of Curry, Captain Fritz, and Johnston. After reading the testimony of those and other witnesses, and examining the Commission's documents, we find more basis for scepticism than Joesten proclaimed originally.

A somewhat unconventional hour seems to have been selected for the arraignment. According to the official chronology of events on November 22, 1963 (WR 198), Captain Fritz signed a complaint charging Oswald with the murder of Tippit "shortly after 7 pm" and at 7.10 pm Oswald was formally arraigned (advised of the charges against him) for the Tippit murder, in the office of Captain Fritz.

At 11.26 pm Captain Fritz signed a second complaint against Oswald, charging him this time with the murder of President Kennedy. At 11.26 pm Oswald was in Captain Fritz's office, and Judge Johnston was still in the building, fraternizing with the press and such local dignitaries as Jack Ruby.

But this time the signing of the complaint was not followed immediately by formal arraignment. There was a delay of more than two hours, on which the Report does not comment.

Oswald was taken to the basement for a press conference. When asked, "Did you kill the President?" Oswald replied, "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. (WR 201)

Oswald's seeming ignorance of his predicament is baffling. If one relies on Captain Fritz's report on the interrogation of Oswald during the preceding ten hours, it appears that all of the questions were directed to the assassination and that the murder of Tippit was scarcely mentioned. However, as cannot be repeated too often, there is no transcript of the interrogation sessions. Since Oswald's reply to the reporters is completely inconsistent with the interrogation as reconstructed from memory by Captain Fritz (he "kept" no notes), and since one can find no motive for Oswald to feign ignorance, one wonders if the official summaries of the interrogations faithfully reflect the proceedings.

The Report states that Oswald was removed to his cell at 12.20 am. The day had been eventful. Innocent or guilty, Oswald must have fallen asleep almost as quickly as he allegedly fired three shots earlier in the day. But if he slept he did not sleep long. "Shortly after 1.30 am" Oswald was removed from his cell and taken to the identification bureau to be arraigned for the murder of the President.

Surprisingly, when Oswald complained to the press the next day that he had been deprived of his "sanitary right" to take a shower (WR 200), he did not throw in a few words about his right to undisturbed rest after a ten-hour stretch of questioning and lineups. No one will deny that Oswald was jealous of his rights, to a fault.

Was it so urgent to arraign Oswald for the assassination that he had to be taken out of his cell in the middle of the night? If so, why was no proper record made of the arraignment?

The question of a record was raised with Curry when he testified before the Commission on April 22, 1964.

Warren I suppose they make a stenographic record of that, do they not?

Curry Yes, sir; I am sure they do.

Warren That is all I have.

Rankin Chief, our people made an inquiry to determine whether there was a stenographic record. They don't believe there was any.

Curry I am not sure of that. I know at the time he was arraigned for the assassination of the President, I was present at the time...we were inside the offices of the criminal identification section...the identification bureau ...there was only about a half dozen of us altogether there, I don't recall who all was there. (4H 156)

Without further ado, the Commission dropped the matter of a transcript of the arraignment--in a spirit of remarkable equanimity, considering its censorious attitude toward witnesses who failed to produce scrap paper on which they themselves had jotted the name "Oswald." The Commission's equanimity becomes all the more remarkable when one discovers the following passage in testimony taken two weeks before Curry's, from J B Hicks of the Dallas police laboratory.

Ball Were you present when Oswald was arraigned in the identification bureau?

Hicks No, sir; I left just a few minutes before that, I understand.

Ball What time did you leave; do you know?

Hicks I left shortly after 2. I don't know the exact time, maybe 2.15.

Ball You think he was arraigned after you left?

Hicks I am rather uncertain that he was because I believe I would have known about it had he been arraigned before I left because there is only one door in our office to go out and had any other group been there, I would have noticed it, I believe. (7H 289)

Yes, Hicks undoubtedly would have noticed if half a dozen people came into the room and started arraigning. We wish that the Commission had noticed a few things, especially discrepancies as hard to overlook as a kick in the head by a horse. As things stand, the unacknowledged contradictions raise some doubt as to the alleged post-midnight arraignment. Unless it took place on the astral plane, or considerably later than the Report indicates, it seems impossible that Hicks remained unaware of the whole show.

A possible reason for fabricating an arraignment is suggested in another passage of Curry's testimony.

Rankin In regard to arrangements (sic), do you know the Texas law as to how soon after an arrest an arraignment is required?

Curry Excuse me now; I am not an attorney.

Rankin Yes.

Curry It is my understanding that, so far in Texas, being brought immediately before a magistrate would be during the normal course of that court's business.

Rankin Your law--

Curry When they are in session.

Rankin Your law says he shall be brought immediately.

Curry Immediately, but it has been--

Rankin But in interpretation you ordinarily follow a practice of--

Curry During the normal course of the court's business. This was actually unusual because this type of arraignment--because usually it would have been later than this, but we were trying to take whatever precautions we could to see that he was given his--we were not violating his civil rights. That is the reason we did arraign him in the city hall. Ordinarily we would have taken him before a court. (4H 200)

"Ordinarily" Oswald might not have been arraigned until court opened on Monday the 25th of November 1963--the date of his funeral, as it turned out. The Dallas police might have looked even less professional, if that is possible, had their prisoner been "executed" for a crime with which he had not been formally charged.

Captain Fritz's testimony provides added fuel for speculating that something is out of joint.

Ball You had an arraignment charging him with the assassination of President Kennedy, murder of President Kennedy.

Fritz Yes, sir; I went to that arraignment...

Dall ...That is one, 1.35 am, shortly after midnight was the arraignment.

Fritz Yes, sir.

Ball Now, your records show that he was checked in the jail at 1.10 am and it doesn't show a checkout when he was taken to the arraignment.

Fritz To the arraignment. It probably wouldn't show that. Sometimes those cards, I don't usually make cards if the man is still in the custody of the jailers, and sometimes, of course, they might miss a card anyway because we use a lot of civilian employees up there.

(We hope that Fritz does not imply that civilians are less reliable and make more mistakes than the Dallas police?)

Ball And the jailer was there with him, wasn't he?

Fritz Yes, sir. He brought him out. (4H 221)

We invite attention to the thickening of the plot. The Report has told us that Oswald was returned to his cell at 12.20 am (WR 198); so what is this about his being checked in at 1.10 am?

Ball There is one problem here in your records that we asked about. Where was Oswald between 12.35 am and 1.10 am on Saturday, November 23, that is, right after midnight? ...The jailer's records show he was checked out.

Fritz I think I know where he was right after midnight. I think he went to the identification bureau to be fingerprinted and have his picture made...I think that, if it is the time that I am thinking about, if it is the time that after he was, after he had his arraignment, I think from what we found out since then that he went there for picture and fingerprints...Maybe you should ask Lieutenant Baker here something that I don't know anything about, that he knows, that might help to clarify that question you asked me just then. I thought he went for the picture, but tell him. (4H 247)

At that point, Lt. Baker intervened and rescued the English language from the non-civilianritz.

Baker Yes, sir; at 12.35 am, Lieutenant Knight* of the I D Bureau took him out of the jail on the fifth floor and with the assistance of Sergeant Warren* and one of the jailers* brought him to the fourth floor where the I D bureau was located...

There in the presence of Sergeant Warren and this jailer, one of his assistants, he was processed through the I D bureau, which consists of taking his pictures and fingerprints and making up the different circulars that go to the FBI, and so forth...He was placed back in the jail at 1.10.

Approximately 1.30 Sergeant Warren received a call from Chief Curry, advising him to bring him back to the identification bureau the same place for arraignment. Sergeant Warren and the same jailer returned him to the I D bureau, where he was arraigned by Judge Johnston at approximately 1.35 am. This arraignment took approximately 10 minutes, and he was returned to the fifth-floor jail by Sergeant Warren at approximately 1.45 am.

Ball That is all. (4H 248)

*Not a witness before the Warren Commission

Obviously the assumption that Oswald was asleep from 12.20 to 1.30 am was premature. Now it appears that he was checked out at 12.35 am for 35 minutes, checked in again at 1.10 am, checked out again at about 1.30 am, and checked in at 1.45 am. The checkout at 12.35 am and the return at 1.10 are recorded on a standard form (CE 2003, page 141) but although he was subsequently checked out by the same personnel, ostensibly for arraignment, there is no record of departure or return.

Lt Baker is precise, unhesitating, grammatical, and coherent and we are therefore reluctant to question his testimony. However, we have it on the authority of Mr Ball himself that the Dallas police records showed that Oswald was fingerprinted at 8.55 pm on Friday (4H 218); and there is testimony from W E Earnes of the police laboratory, who said that he took Oswald's fingerprints and palmprints in Captain Fritz's office, shortly after administering the paraffin test at about six o'clock that same day. (7H 284-285).

Much as we admire Lt Baker's precision, the matter remains ambiguous, and slightly more confused.

What is not ambiguous is the fact that the Warren Commission in its Report has withheld the information that Oswald was removed from his cell from 12.35 to 1.10 am, before being removed again at 1.35 am, allegedly for arraignment. The first absence is omitted from the Report but documented by a check-out slip (CE 2003, page 141); the second absence is asserted in the Report but there is no corresponding check-out slip and, moreover, the police officer who was present at the right time and place saw nothing of the ceremony at 1.35 am or anytime before he departed at 2 or 2.15 am.

The Commission's exercise in simplification, rather than disposing of charges that have been called irresponsible and unfounded, tends to revive and enhance them. Certainly nothing on the face of the legal instrument charging Oswald with "killing John F Kennedy by shooting him with a gun" (Johnston Exhibit 4) excludes the possibility of its posterior completion.

Perhaps the authenticity of the arraignment is only an academic question at this point in history. The integrity of the Warren Report is not.

Monitor and
Curry Jack

Another example of the Commission's oblivion to conspicuous contradictions arises, again from the testimony of police chief Curry.

Rankin Do you know whether it is possible to monitor conversations between the prisoner and the visitor on the intercom?

Curry Not by intercom. It would be--they are brought into --when a prisoner is brought in to visit with an attorney or relative he is placed on one side of a wall and the prisoner--I mean the visitor--on the other side, but we don't have any means of recording this. They talk through by telephone. There is a glass that separates them.

Rankin Did you monitor any conversations between Lee Oswald and his brother Robert, or Lee Oswald and Marina at any time?

Curry I did not, and I don't know of any. We don't have any way of doing it. I mean we have no setup for doing this.

(LH 200)

There is news for Curry, and perhaps for Rankin too, in an FBI report dated November 25, 1963, to wit:

Jack Ruby was observed by Special Agent Joseph M Myers* at the Dallas City Jail, Fifth Floor, from 5.05 pm November 24, 1963 to 1.20 am November 25...He was allowed to talk to two visitors through the visitors' room on a communication system and the permit allowing these visitors was signed by Will Fritz, 5.55 pm. The visitors were Pauline Hall* and Eva L Grant.

Ruby kept talking to his sister, Eva Grant, about all of his attorneys, naming Fred Bruner, Tom Howard, George Sanders, Jim Martin and another named Kaufman. He made the following remarks to his sister:

"Bruner is my man. I have friends here so don't worry about me. Something happens inside of you and then you crack and then it happens. Fred Bruner will come down in the morning and arrange bonds and have a hearing. I have nothing else to say and I've got the strength to stand up. I got lots of friends here so don't make a scene and get hysterical. Jack**

*Not a witness before the Warren Commission.

**Identity unknown.

came up and said 'we don't care how much the bonds are we'll make them.' You can't live forever so they will let any of my relatives come up to see me any time. The judge is real nice and they don't bother me here." (CE 2080)

Evidently police chief Curry has monitoring facilities he hasn't even counted yet. Or did the FBI introduce its own technology between the Saturday (when Oswald was visited by members of his family) and the Sunday?

If Rankin had seen the FBI report giving Ruby's verbatim remarks to his sister, his questions to Curry four months later seem excessively polite and indifferent to the contradiction between his replies and the contents of that document. Perhaps he did not press the issue out of the same solicitude for the Dallas police which may be glimpsed throughout the Report.

If the FBI report of November 25, 1963 was transmitted to the Warren Commission after Curry testified in April 1964, the report did not provoke the Commission to reopen the question of monitoring, nor to consider the implications of possible perjury and misrepresentation by an important witness.

A Watchful Neighbor

Eric Rogers, a neighbor of the Oswalds in New Orleans, was the only person to witness Oswald's departure from his apartment carrying two suitcases on the eve of his trip to Mexico City, as indicated in the Warren Report (WR 730). Rogers also witnessed Marina Oswald's departure from New Orleans on the preceding day.

According to the Report, "Marina and June departed with Mrs Ruth Paine for Irving on the morning of September 23 (WR 730). Although the Commission relied, solely on testimony from Marina Oswald and Ruth Paine on that event, Eric Rogers' description of the departure should not be overlooked. He told the Secret Service on January 14, 1964, that

he was at home on the occasion when Mrs Oswald and her child left in a light brown Ford or Chevrolet station wagon with a man and a woman. He said the man was about in his 40s and was short and stocky. In reply to questioning, Mr Rogers stated that he is certain there was a man present on this occasion. (Italics added) (CE 1154)

Mr Rogers' statement to the Secret Service in January 1964 is completely inconsistent with the testimony of Marina Oswald and Ruth Paine, who said that they were accompanied on the trip from New Orleans to Irving only by their children.

When Rogers gave formal testimony to the Warren Commission, six months after his interview by the Secret Service, his description of the departure now conformed exactly to that of Marina Oswald and Ruth Paine. The "short stocky man in his forties" vanished completely.

The transcript of Rogers' testimony opens with the following lines:

Liebeler Mr Rogers, I am an attorney on the staff of the President's Commission. I think I met you one day.

Rogers I remember you; yes, sir. (11H 460)

Further on in the transcript, Liebeler remarks,

We talked to you previously at the apartment, and my recollection is that you told us...that a station wagon came and picked up Mrs Oswald. (11H 462)

Rogers agreed and proceeded to discuss the departure of the two women and their children without the slightest allusion to the man, of whose presence on that occasion he had been "certain."

Something must have happened to Rogers during the six months that elapsed between his Secret Service interview and his Commission testimony that produced a localized amnesia. He still remembered the women and the children but the mysterious man was annihilated from his memory cells.

Perhaps the amnesia was contagious. Mr Liebeler, who presumably had access to the Secret Service report, forgot to ask Rogers a single question about the man in the station wagon who, if he existed, deserved some serious attention from the Commission.

Residential Protectors

Describing the advance preparations for the President's trip to Dallas, the Warren Report explains that,

The Protective Research Section (PRS) of the Secret Service maintains records of people who have threatened the President or so conducted themselves as to be deemed a potential danger to him. On November 8, 1963, after undertaking the responsibility for advance preparations for the visit to Dallas, Agent (Winston G) Lawson went to the PRS offices in Washington.

A check of the geographic indexes there revealed no listing for any individual deemed to be a potential danger to the President in the territory of the Secret Service regional office which includes Dallas and Fort Worth. (HR 29-30)

The editorial columns after the assassination have discussed at sufficient length the astonishing revelation that the indexes listed no one in Dallas "deemed to be a potential danger to the President" despite the world-wide attention given to the ugly manifestations and physical assault and indignity suffered by Adlai Stevenson on his visit in October 1963. As Secret Service agent Roy Kellerman testified,

it did seem strange that here we are hitting five cities in one State and---and from the apparent trouble that Ambassador Stevenson had down there one evening, we certainly should have had some information on somebody.

(2H 109-110)

We do not wish to belabor the strangeness of Secret Service methodology; but we do call attention to the strangeness of the Commission's.

When Secret Service agent Lawson testified before the Commission, he described not only the advance preparations for the trip but also the events which took place at the police station on Friday evening, when Oswald was under interrogation. Lawson, who was present, told the Commission that he had been

called out for a phone call a couple of times. We were given information from Mr Max Phillips, who was in our PRS section, and I believe it was during this that someone, an agent, was wanted on the phone, and I went out and answered this, and they gave us some information on people that it might have been ---a case (sic) that wasn't Oswald.

(4H 356)

(Italics added)

Gentlemen! we thought you told us there were no names?

Needless to say, neither counsel nor Commission members present paid the slightest attention to Lawson's startling remark. Had Lawson testified in the framework of the adversary procedures (anathema to the Commission), some lively cross-examination might have followed.

Thanks to a "fact-finding" body which suffered from hearing defect, and now appears to suffer also from reading disability, we can only add Lawson's unheeded comment to the list of discrepancies which remain unresolved and sinister.

...and the Carriers of the Mail

A macabre postscript to the arrest and murder of Oswald was the letter delivered to Arnold Johnson, an official of the Communist Party, a week after the assassination.

The letter was from Oswald. It was postmarked November 1, 1963--exactly four weeks before it arrived at Johnson's address in New York City. Oswald wrote in the letter that he had attended a right-wing meeting at which General Walker gave a speech, and then a meeting of the American Civil Liberties Union, which he seemed to be planning to "infiltrate" in order to correct its moderate position.

Johnson, quite justifiably, considered the four-week delay in the delivery of the letter to be "beyond all normal procedure." The lateness, it should be noted, covered a span of three weeks before Oswald's arrest and cannot be attributed to his sudden notoriety on November 22.

Johnson testified further that there was

something odd about the whole letter...For instance, you have a different kind of ink in two places here. It seems that way to me. But that's pretty hard to say with modern pens. The way he signs his name and the way--that could be a problem, because he didn't always sign it the same...I would just as soon leave that to a handwriting expert...It may be worthwhile to check it with a handwriting expert... (10H 103-105)

Rankin, who deposed the witness, was not taking advice from so tainted a source. There is no indication that the letter was submitted to handwriting analysis nor that any inquiry was made into the four-week delay in its transit.

Was Oswald's letter to an official of the Communist Party intercepted by an official agency? The presumption is strong. If the letter was so intercepted, doesn't that suggest a much more methodical surveillance of Oswald than the Warren Report admits?

...and the Guardians of the Border

Another apparent manifestation of official interest in Oswald was reported in the press a few days after the assassination. The New York Post reported on November 25, 1963 that William Kline, chief of US Customs at Laredo, had said on the same date that Oswald's movements had been watched at the request of a "federal agency at Washington." The New York Herald-Tribune reported on November 26, 1963 that US Customs official Oran Pugh had said that Oswald had been checked by US Immigration officials on entering and leaving Mexico; Pugh had admitted that that was not the usual procedure but that "US Immigration has a folder on Oswald's trip."

So far as is known, these press reports were not followed by any disclaimers by Kline or Pugh of the statements attributed to them.

The Warren Report does not mention the newspaper stories in the sections which deal with Oswald's trip to Mexico City nor even among the "speculations and rumors" of which the Commission briskly disposed (Appendix ^{III}). Kline and Pugh appear nowhere in the text except on the List of Witnesses (Appendix V); in that List a symbol indicates that they provided affidavits rather than testimony involving examination by Commission counsel.

Since the names "Kline" and "Pugh" appear in the List of Witnesses, the Commission indubitably was aware of their existence and of the speculations provoked by remarks attributed to them by newspapers. Those who had awaited the publication of the Warren Report in the anticipation that it would shed light on this affair had to resign themselves to waiting longer, now for the Hearings and Exhibits, for illumination. It was hard to understand why the rumors generated by Kline and Pugh were not debunked by the Commission in its "debunking" Appendix, as was, for example, the rumor that a detachment of US Army "began to rehearse for the funeral more than a week before the assassination" (WR 668). The rumor that Oswald was being watched at the request of "an official agency at Washington" seemed no less consequential than the funeral rehearsal.

The impression that the Commission wished to avoid confronting the issue was borne out when the Hearings and Exhibits finally became available. Mr Kline's affidavit (15H 640) states tersely,

I do not recall being interviewed by Harold Feldman who I am informed represented the New York Post...With respect to Lee Harvey Oswald, I have no personal knowledge whatsoever of any check made on him by the United States Public Health Service, Laredo, Texas, either upon his entry into or exit from Mexico in 1963. I have no personal knowledge whatsoever that any agency of the United States Government maintained a surveillance of Oswald's movements, and I have never indicated to the contrary to any news reporters. (15H 640)

Pugh's affidavit (15H 640-641) follows exactly the same lines. He "did not recall" being interviewed by the New York Post and "in any event" all information he had given to reporters had been supplied by his assistant, Kline, and did not derive from personal knowledge.

Kline's affidavit was executed on July 31, 1964; Pugh's, on August 26, 1964. If there are any intermediate reports, interviews, or documents, we have been unable to find them in the Exhibits.

We find ourselves not entirely satisfied that the affidavits really dispose of the matter. Since the affidavits repudiate Harold Feldman's story in the New York Post, we should have liked to hear from him, in addition to seeing the belated pro forma ~~and~~ disclaimers from his sources. And what about the story in the New York Herald-Tribune? That paper is not mentioned in the affidavits. Since the Herald-Tribune story of November 26, 1963 remains unchallenged, may we not regard it as accurate, by default?

The evidence suggests that there may be much more to this affair beneath the surface, but that it may be 75 years before it is excavated. Which brings to mind a passage from the testimony of Revilo Oliver, professor of classical philology and student of the assassination, in colloquy with counsel Albert Jenner on September 9, 1964.

Oliver The exact quotation is, "I do not know whether Oswald was paid by the CIA but I hear there was testimony before the Warren Commission that he was."

Jenner And from what source, on what source did you base the statement that you heard there was testimony before the Warren Commission that he was?

Oliver Principally, although not exclusively, an article ...by Henshaw in the National Enquirer at about the time that Earl Warren made his statement that the findings would not be released during the lifetime of the people then living.

Jenner If you will pardon my correcting you, even that newspaper account didn't say that the Chief Justice said that the findings of the Commission would not be released.

Oliver That the "full truth" wasn't that it?

Jenner I think not. It will be quoted in the report. This occurred a long time ago, and I have forgotten just what it was.

(Italics added)

(15H 736-737)

What page of the Report, Mr. Jenner?

It is a long time ago, but we haven't all forgotten.