

Statements of Witnesses - Testimony of EUGENE BOONE Q3 H 291-5)

Questioner - before the Commission, Wednesday, March 25, 1964.

At the beginning of the morning session the presense of "Charles Murray, observer; and Waggoner Carr, attorney-general of Texas" is noted. No appearances are noted for the afternoon session. I'll be absolutely astounded if Mr. Murray interjects anything on behalf of Oswald.

Devoting less than 5 pages to testimony about the finding of the gun, in the light of the tremendous space devoted to trivia, is in itself suspicious, especially when you consider that almost a page is taken up with introductory matter.

Boone is a deputy sheriff. He is a high school graduate, 26 years old. When the motorcade went past, he was in front of the sheriff's office on Main Street near Houston with several other deputy sheriffs. He placed the time at "approximately 1 o'clock" (p.291). He is not questioned when he says, "And there seemed to be a pause between the first shot and the second shot and third shots - a little longer pause." The reason for the failure to question him on this point is clear. Almost all of the police whose statements I have seen were in this area testified precisely this way, some of them saying the second and third shots were almost simultaneous, and of course, this would preclude the use of one non-automatic weapon.

In its report the Commission decided there were 3 shots almost on the basis of a vote, so to speak. It said that most of the witnesses had said they heard 3 shots. There were quite a number who reported hearing more than 3 shots; but ^{if} the Commission is going to be consistent, by the same voting technique it is clear that the second and third shots were too close together to have been fired by one weapon, according to the deputy sheriffs and other officers who were standing in the area of Main and Houston.

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He and those with him crossed Houston and "then cut across the grass out there behind the large cement works there. Some of the bystanders over there seemed to think the shots came from up over the railroad in the freight yards, from over the triple underpass." He was second over the retaining wall in the area where he crossed it, a Dallas motorcycle policeman preceding him. "We were unable to find anything." On the meaning of this testimony by Boone and similar statements by others, bear in mind the distance they had to run before they reached the wall. They had to cross Houston street, Dealey Plaza (unless they ran around Dealey Plaza), Elm Street, and then had to make their way through the people and presumably other traffic. There was ample time for someone to get away or conceal himself and his weapon. He said when asked if "a good many officers" were searching, that there were including "well, all ^{of} the officers in front of the sheriff's office there. There were others that I don't recall. ~~There were others that I don't recall.~~ ... Also, they all ran in that general direction, over around the depository and also down into the ^ffreight yards."

He saw only one colored boy "way on back down in the freight yard" when asked if he'd seen any railroad employees.

He says of Betzer's (sic) photographs, "they didn't extend past the second floor on the building." Wasn't the Commission interested in who was visible in and below the second floor, especially around the entrance? The only photograph they have used that I have thus far seen of the entrance area is one through a telephoto lens, Altgens, Exhibit 900, which ~~xxxx~~ would not take sufficient enlargement to permit clear identification of faces.

On the search of the building, Mr. Ball blundered in asking, "Somebody ~~xxx~~ tell you to go to the sixth floor?" Boone doesn't give him a yes

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or no answer, but replies, "Well, that is just where everybody was going. ... This was after Officer Mooney found the shells." (p.292) On the sixth floor "I proceeded to the east end of the building, I guess, and started working our way across the building to the west wall, looking in, under, and around all the boxes and pallets, and what-have-you that were on the floor. ~~xxx~~ got to the west wall, there were a row of windows there, and a slight space between some boxes and the wall. I squeezed through them. ... and I caught a glimpse of the rifle, stuffed down between two rows of boxes with another box or so pulled over the top of it. And I hollered that the rifle was here."

In conducting this search he had found it necessary to use a light which previous testimony shows had been brought from the sheriff's office because the area was so dark. Note he omits mention of Weitzman and he is not asked about Weitzman. Compared with Weitzman's testimony, there is a clear inference he has been led to pretend Weitzman wasn't there and that he did what Weitzman, in fact, testified that Weitzman did. Note especially his statement that he was looking "under", which Weitzman in his deposition in Vol. VII testified was the function that he, Weitzman, had performed in searching jointly with Boone. Boone does slip in the quoted portion above and say "working our way across the building." When some of the officers came over, he "told them to stand back, not to get around close, they might want to take prints of some of the boxes, and not touch the rifle. And at that time Captain Fritz and an ID man came over. I believe the ID man's name was Lieutenant Day ... the weapon was photographed as it lay. And at that time Captain Fritz picked it up by the strap, and it was removed from the place where it was."

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Asked if he was alone, he then replies, "There was an officer Weitzman, I believe. He is a deputy constable."

Then asked where the rifle was found, he gives a confusing description which conveys only the general area. He does not, as Weitzman had, ~~indicate~~ ^{indicate} that a hiding place had already been arranged in advance, that boxes had been piled up to hide the view of the rifle from people using the stairs. Note also that while he had kept people away from the boxes because "they might want to take prints," he does not testify to the taking of any prints, nor is he asked to. He is not asked about the taking of prints on the rifle or any parts of the rifle, such as the sling.

He is then shown Exhibit 514 and asked "Is that the way it looked when you saw it?" He replies, "Yes", and when the question is repeated, He replies, "Yes; I believe so." The question is then repeated a third time and his reply on this occasion is, "That is right. Then you could kneel down over here and see that it had a scope, a telescopic sight on it, by looking down underneath the boxes."

These are not pictures identified as having been taken by Lt. Day at the moment the rifle was found and before it was touched. There is, in fact, every reason to believe exactly the opposite. I have previously noted in comment on Vol. XVII that in the table of contents this series of pictures is described as "Various photographs of the sixth floor of Texas School Book Depository Building depicting location of the C2766 rifle when discovered." They appear on pp.224-6. Note as I have previously the use of the word "depicting". This is totally unnecessary and can serve no honest purpose. Photographs were taken by the police. They are official photographs. They are actual photographs. Not only do they show the actual rifle, which is itself a question even though the

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Commission pretends it is not, but more important they show, not only its precise location, but its precise relationship to its surroundings which, from the photographs, clearly had to be disturbed in removing the rifle. In addition to that, these photographs can or should show the manner in which the rifle was hidden, the manner in which and the elevation to which the boxes were stacked, and ~~also~~ all sorts of other essential information are of the greatest importance in any reconstruction of the time taken to hide the rifle. Photograph 514 shows only the rifle in relationship to some boxes. It does not show how high the boxes were piled around the place in which the rifle was found. It certainly doesn't show what Weitzman described.

Together with the repetition of the question by Mr. Ball, this unnecessary substitution of a "depiction" for the real thing can serve the additional function of deceiving the members of the Commission itself. Then Bell asks, "Now, I show you 515. Does that look anything like the area where you found the rifle?" and Boone replies, "Yes; it did."

Note here the use of the words, "Look anything like". It is clear he should have been shown the original photograph taken by Lt. Day and asked, "Is that what you saw? Is that the picture Lt. Day's camera should have taken?" or words to these effects. Ball then says, "Will you put that down on the table so that everyone can see where it is, and show us where the rifle was with reference to the stairwell?" In response, Boone sees things in the picture I don't see, but nonetheless says, "Now, the rifle was right down here in this area right here, /// almost directly. ... about 3 feet from the edge - you cannot see the edge of it, because it is behind this. (the stairwell wall) ... back behind these cases of books here."

Then Ball asks him to "mark with an arrow there the exact space

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between the boxes where you found the rifle as shown on this exhibit, which is 514?"

The exhibit under discussion was not 514 but 515. In any event, there is no arrow on 514 and there is no arrow on 515 as they are reproduced in Vol. XVII. Boone's reply was, "What do you mean - the exact space? It was in this space right in here, like this" which of course means nothing to the reader, as does his earlier and similar response. Especially does it mean nothing in the absence of the arrow. Mr. Ball's reply was, "The arrow marks the space." To which Boone says, "I had come around these boxes here, next to the windows over here, and that is when I saw it, looking down across this way." (p.293)

What Boone is saying is that he could not detect the ^{from the side} gun~~s~~/shown in the foreground of the picture. He had to go around to the background, up against the wall, next to the windows.

Ball then shows him exhibit 516 and prefaces his questioning about it by saying, "Now, 515 contains the arrow which shows the space between boxes where you found the rifle, is that right?" and is told "Yes." Ball asks of Exhibit 516, "Does that show - what corner of the building does that show? Or do you recognize it?" Boone said, "It appears to be the same general location here." Note his uncertainty; when he said only that "it appears to be". After some discussion intended to orient Ball directs him to "draw another arrow." He then shows Boone Exhibit 483 (17 H 201) "a diagram of the sixth floor. Now, by referring to these numbers, can you show us approximately where the rifle was found?" Boone's reply is "Roughly in the area here, designated by the arrow No. 35." Ball then explains, "The diagram on the sixth floor, as the Commission knows, has been correlated with certain pictures..." That is not the case and it is not a fair or an honest representation. At the

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bottom of Exhibit 483 is a legend which clearly explains that the mark identified by the witness, 35, was a camera location. In other words, the point from which some of the pictures were taken. On Exhibit 483, camera locations are numbered from 30 through 36 consecutively, with 35 and 36 in the part of the floor under discussion with the witness Boone. In short, Boone has identified as the area shown in the photograph the place from which the photograph was taken. By internal evidence, it is not possible to locate the direction in which the camera was pointing in Exhibit 514. But with respect to 515 and 516, there is no question, the camera is pointing to the west, but in Exhibit 483, the camera is shown as pointing to the north.

In addition, the camera was not in the same place when it took pictures 515 and 516. 516 was taken much farther away from the west wall. So the identifications in Exhibit ^{483 ?} 384 also mean less than represented.

Ball then says, "The diagram on the sixth floor, as the Commission knows, has been correlated with certain pictures. I now have Commission Exhibit 517 marked, which has the figure 35 on it, which corresponds to the position of the camera at the time the picture was taken." In other words, at about point 35 on this map. And now I show you a photograph marked 517. Is that about the way the rifle looked when you first saw it?"

Exhibit 517, 17 H 226, is roughly similar to Exhibit 514. However, rough similarity is hardly sufficient. They are not identical. 517 shows in the lower right hand corner and running at about a 45° angle toward the upper right hand corner what appears to be a mailbag. It occupies, in space, more than half of the lower edge of the picture. These are photographs taken looking downward on to the replica rifle

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at the duplicated site. But the comparison of these two pictures show that evidence was moved. The degree we can only guess, and Weitzman's testimony indicates that it might be a considerable degree. Either one however, shows that it was not possible for the assassin to make a hasty entrance into the area in which he deposited the rifle, if that is what he did, without leaving fingerprints all over the place. There is a better than good chance that he could not have done this, even slowly, without leaving fingerprints.

Here again the importance of using the official police photograph, which, to the best of my knowledge, was never entered in evidence, is clearly demonstrated. That other photographs were taken at the very instant becomes apparent in Deputy Boone's reply. It was, "Yes; it is. There was some newsman up there right behind Officer Whitman (sic) and myself who took movie film of it, too. I don't know his name."

"What time was it?" Ball asks, and Boone says, "1:22 p.m., in the afternoon" and he knows because he looked at his watch and made a note of it.

Boone may not mean what he said, but he said that at the moment he found the gun there was a newsman who took movies. If this was the case, then there is another source of photographs that do not involve replicas and do not involve duplicating the situation, assuming, of course, that in the course of taking his movies the newsman didn't move the boxes. But what happened to the "man-tight barricade until the crime lab came up ... " testified to by Weitzman (7 H 107) on April 1, 1964? And what of Boone's own testimony on p.293, "Some of the officers came over to look at it. I told them to stand back, not to get around close, they might want to take prints of some of the boxes, and not touch the rifle."

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Either Boone's testimony of the presence of a newsman who photographed the rifle before it was moved or his and Weitzman's testimony that nobody touched it before the homicide people got there is false. In context, one may be very well be perjury. The absence of any reference to fingerprinting or fingerprints in this area and especially around and on the boxes that had to be touched in order to reach the weapon is either inexcusable negligence on the part of the police, who did fingerprint elsewhere, or a clear evidence that there was no security around the weapon.

This testimony clearly proves the reconstruction of the time the Commission says it took Oswald to leave the sixth floor window and get to the second floor is completely impossible. That, in turn, proves Oswald could not possibly have done it. Yet, during all of this testimony, there is not a single voice raised to request that the unasked questions be asked or to point out the obvious flaws so far as the Commission's case is concerned that I have already pointed out. Mr. Murray was there. In what sense was he looking out for Oswald's interest? And how about the fine lawyers on the Commission and its staff? Is this an investigation characterized by even the most tenuous concept of integrity?

Ball then says, "I show you a rifle which is Commission Exhibit 139. Can you tell us whether or not that looks like the rifle you saw on the floor that day?" Boone's response was, "It looks like the same rifle. I ~~cannot~~ have no way of being positive." Ball then says, "You never handled it?" to which Boone replies, "I did not touch the weapon at all."

Obviously he could have handled the weapon carefully and unless he copied off or remembered its serial number, he would have no way of knowing

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whether in fact it was the same rifle or a similar one.

The table of contents to Vol. XVI describes Exhibit 139 as follows, "Mannlicher-Carcano rifle, serial No. C2766 (this rifle will subsequently be referred to as 'the C2766 rifle')." "

But we already have a "replica" which is described also as "of the C2766 rifle". It is Exhibit 542 on p.241 of Vol. XVII, only 15 pages away from the Exhibit discussed in this testimony. Replica or not, it is not the same because it bears no sling.

And we have already seen that the replica is referred to as "the C2766 rifle".

At this point Ball announces he has no further questions to ask. Approximately 3 pages cover all he had in mind!

But ~~Senator Cooper~~ the Chairman did ask if "the reason you didn't touch it was because of the danger of fingerprints on there ..." and Boone assured him "That is correct. ... Captain Fritz ... came over and it was photographed then." (p.294)

Then Senator Cooper asked him to look at Exhibit 483, on which the Senator says, "you have marked on there the place where you found the rifle."

This was not Boone's testimony. Boone testified that it was in the general area shown as representing ~~the~~ camera's position 35. But in any event, if Boone did put a mark on the picture, there was only one in the area and it is drawn touching the arrow on camera position 36. The Commission staff seemed not interested in this, but when Boone referred to "the stairwell right here in the northeast corner", Mr. Belin, an assistant counsel, interrupts to say, "Pardon me, Senator Cooper, I think you said northeast." Senator Cooper didn't get the

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the point, but Boone did for he immediately replied, "Northwest - I beg your pardon." So the Commission's staff was paying close attention and to what they wanted to pay attention to, ~~if~~ nothing else.

On further questioning by the Senator, Boone testified, "There were four railroad cars down approximately 100 yards from the retaining wall, right over the Elm Street tunnel, or portion of the triple underpass..." They should have provided a fine hiding place for a possible assassin, but no question is asked of that.

Ball had one more question, having to do with the identification of the rifle as a Mauser. Boone said he did, because "I thought it was a 7.65 Mauser." He believe also that Fritz made the same identification when he had knelt down there to look at it, and before he removed it, ... when Lieutenant Day ... was getting ready to photograph it."

I now refer back to the immediately preceding testimony of Deputy Mooney who, on p.289, said, "I was about 10 or 15 steps at most" away from the rifle and "I had to look twice before I actually saw the gun laying there. I had to get around to the right angle before I could see it..." That's how well hidden it was.

During Weitzman's deposition, he was shown 3 ^{end tape} photographs identified merely as D E and F. It struck me as strange that he wasn't shown exactly the same photographs as Boone. During Weitzman's testimony there was no reference to the introduction of these photographs in evidence. However, on the chance that at some inconspicuous place elsewhere the Commission as i an afterthought had done so, I checked and found that they are in Vol. XXI on pp.23-4. Photograph D subsequently identified as Weitzman Exhibit D, is testified to (7 H 108) as "taken the opposite side the flat I was looking under," and clearly was taken looking down, in other words, from over the top of the boxes. Notice that, with

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respect to this picture, on p.108 Weitzman had said "I believe there were more books in here (indicating)." It didn't serve the Commission's purpose to have him put an arrow here to indicate just where Weitzman thought there was more hiding the gun. Ball asked him at the same place in the deposition, "In this area, you mean protruding over the gun?" and Weitzman's reply was, "Yes, sir; it was more hidden than here."

But the most superficial examination of Weitzman Exhibit D and Exhibit 514 shows that they are not the same. The rifle is clearly visible in picture 514. However, even with flash and with the possibility of reflection from the boxes, which completely surrounded the rifle, the rifle is so well hidden that it barely shows; you have to look pretty hard to find it. Even with a magnifying glass, it is not clear at the butt end and the muzzle end is completely invisible. Yet Weitzman said it was "more ~~here~~ hidden than there". Weitzman Exhibit D also shows nothing at all where the mailbag appears (if that is what it is) in Commission Exhibit 517. There is reason to believe Exhibit 517 is part of the FBI report. It has a printed legend at the bottom showing in the reproduction reading "35. Position of rifle when discovered." Note also this is an evasive description. It says it shows only the "position". There is a very clear inference this is not the picture taken by the police or anyone else at the moment of discovery.

Weitzman Exhibits E and F may also be from the FBI report for there is a continuous line across the bottom with no printing visible but with a suggestion on the bottom ~~xxx~~ center of E of a trace of printing. But E is not completely identical with 515. They are similar; they may be even from the same negative cropped in different fashion; but they are not identical. Exhibit E shows objects at the very top that are not visible in 515. Exhibit 515 shows objects at the extreme right that

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are not visible in E.

Weitzman exhibit F is not the same as Exhibit 516 and in this case cursory examination reflects the same situation: There are objects visible in the ceiling at the top of Weitzman exhibit F not visible in 516. Again, I have no way of knowing whether or not they were made from the same negative. The exposure is considerably different.

None of them are good pictures. There is insufficient light in all of them, except with respect to Exhibit ~~X~~ 514, where it served the Commission's purposes for the rifle to be clearly visible and to appear as though it was not a difficult matter to hide it.

Weitzman was asked to mark on Exhibit F the spot at which he found the rifle. Boone was asked to do the same on 516.

They did not mark the same spot. In the case of Weitzman, the arrow he drew is on the wall around the window pointing to and behind a box that is visible with a magnifying glass. In the case of Boone, looking from front to back, he put the arrow in the same position; however, he marked an area considerably farther away from the wall.

Normal and proper procedure would have been for witnesses testifying to the same thing to have been shown exactly the same photographs, and by this I mean not two prints from the same negative, but the same print. So here we have a conflict between the two on where the rifle was found, and the area pointed out by arrow by Boone seems to be a much more accessible area. About Exhibit #E, it makes this even more clear, for the photograph shows the arrow partly hidden behind a high pile of boxes. And he also testified, "There was a row of boxes^x between the stairway and the gun because we came up the stairway and we couldn't help but see it if it was in the open." The area shown by the arrow drawn on by Boone on Exhibit 516 is a considerable distance away from the top of the Stair-

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way and it is, in fact, drawn over top of the pile of boxes referred to in Weitzman's deposition.

Weitzman was a lucid witness. There is no question in my mind that this is why Boone was called to testify before the Commission instead.