

Memo re: JFK Assassination
Five Topics and a Comment
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Topic 1: A new analysis of the testimony of Charles Givens.

NOTE: This section is written under the assumption that the reader is familiar with Sylvia Meager's discussion of Charles Givens testimony in the Texas Observer (August 13, 1971) and Accessories After the Fact.

On April 8, 1964, Charles Givens, an employee at the Texas School Book Depository, testified before Warren Commission Council David Belin. In summary, he stated that at 11:45 he and others who were working on the sixth floor of the TSBD quit work and raced downstairs via the elevators to eat lunch. After reaching the first floor, Givens discovered that he had left his cigarettes in his jacket on the sixth floor. He then returned to the sixth floor taking the east elevator to get his jacket at 11:55. While he was on the sixth floor, he claimed that he saw Lee Harvey Oswald.

Givens story suffers from the anachronism that earlier in his testimony he said that he hung his jacket up on the first floor when he arrived at work:

Mr. Belin: Where did you go when you got to work?

Mr. Givens: I went in a little lunchroom that we have downstairs.

Mr. Belin: Is that what you call the domain room?

Mr. Givens: Yes, sir.

Mr. Belin: You carry your lunch with you?

Mr. Givens: Yes, sir.

Mr. Belin: You put your lunch there?

Mr. Givens: Yes, sir.

Mr. Balin: Did you ever wear a jacket to work that day?

Mr. Givens: I wore a raincoat, I believe. It was misting that morning..

Mr. Balin: Did you hang your coat up in that room, too?

Mr. Givens: Yes, sir. (6H 347)

Givens never explained why he put on his raincoat/jacket latter in the morning and took it up to the sixth floor.

If this seems baffling consider Givens subsequent actions:

According to his story, Givens, while on the sixth floor, picks up his jacket and takes it downstairs.

Mr. Givens: ...and I took the elevator back upstairs to get my jacket with my cigarettes in it. (6H 349)

Mr. Balin: Did you glance around when you got off the elevator, do you remember?

Mr. Givens: Well, no, sir. I just walked off and turned and went right over there and picked my jacket up and started back. (6H 353)

After getting his jacket, Givens goes outside to eat his bag-lunch, (6H 351) only to return back to the building to get his coat again:

Mr. Givens: So I goes back over to the parking lot and wait until I see Junior.

Mr. Balin: Is that Jarman?

Mr. Givens: Yes. They were on their way home, and I said, "I'd better go back and get my hat and coat." So I started over there to pick up my hat and coat, and Officer Dawson saw me and he called me and asked me was my name Charles Givens, and I said, "yes." (6H 355)

Unless Givens had an uncommon practice of ^{wearing} ~~wearing~~ two coats, his subsequent actions are baffling. After hanging up his jacket on the

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first floor when he arrives in the morning, his jacket somehow ends up on the sixth floor. Givens then brings his jacket downstairs and goes directly outside only to re-enter the building for the express purpose of getting his jacket again. Givens actions only make sense if the 11:55 sixth floor visit is erased.

Both Givens and Billy Lovelady worked on the sixth floor. Both men raced down in the elevators together after knocking off work. (6H 352) Lovelady went to get a coke (6H 353) and immediately returned to the first floor where he saw Bill Shelly:

Mr. Lovelady: *That* 's on second floor; so I started going to the domino room where I generally went to sit down and eat and nobody was there and I happened to look on the outside and Mr. Shelly was standing there with Mrs. Sarah Stanton. (6H 358)

Shelly had seen Oswald in the lunchroom before he went outside. (6H 385) Lovelady saw Shelly outside, hence Shelly had to have seen Oswald right after the boys raced downstairs -- or during the time Givens said he returned upstairs. So Oswald had already descended the stairs and could not have been on the sixth floor.

Topic 2: A New View of the Murder of Officer J. D. Tippit.

In September, 1964, George and Patricia Nash uncovered a new witness to the Tippit affair and its aftermath. Frank Wright ran to the door of his apartment in time to see Tippit fall. He said he saw a man with a long coat escape in a parked car:

I looked around to see what he happened. I knew there had been a shooting. I saw a man standing in front of the car. He was looking toward the man on the ground. He stood there a while and looked at the man. I couldn't tell who the man was on the ground. The man who was standing in front of him was about medium height. He had on a long coat. It ended above his hands. I didn't

see any gun. He ran around on the passenger side of the police car. He ran as fast as he could go and he got into his car. His car was a grey, little old coupe. It was about a 1950-1951, maybe a Plymouth. It was a grey car, parked on the same side of the street as the police car, but beyond it from me. It was heading away from me. He got in that car and he drove away as quick as you could see. He drove down 10th Street away from me. I don't know how far he drove. After he got into the middle of the next block between Patton and Crawford, I didn't look at him anymore. (The New Leader, October 12, 1964, p. 7-8)

Immediately after the shooting, Mrs. Wright called the telephone operator and told her to send an ambulance to 501 East 16th Street, the address of the Wright's. Despite the fact that the hospital records show that an emergency unit was dispatched to 501 East 10th Street, no Commission statement was ever taken from the Wrights.

Surprisingly enough, Wright's testimony has collaboration. Domingo Benevides, who was driving his pick up truck on Tenth Street at the time of the murder, ducked down and steered his truck into the curb during the Tippit shooting. When he popped his head up he noticed that a car which had driven up just before the shooting had hurriedly left after the shots.

Mr. Belin: Anything else?

Mr. Benevides: I think there was another car that was in front of me, a red ford, I believe. I didn't know the man, but I guess he was about 25 or 30, and he pulled over. I didn't never see him get out of his car, but when he heard the scare, I guess he was about six cars from them, and he pulled over, and I don't know if he came back or not. (64 453)

Benevides placed the car in the same position Wright did, thus providing verification for Wright's observations.

Attorney Mark Lane uncovered another witness to the whole

affair, Aquilla Clemons. She saw two men near the police car moments before Tippet was shot. After the shooting, she saw one man wave to the other as the two ran off in different directions. (Lane, 193-194) .

The Tippet Murder: A Reconstruction

For the first time, a reconstruction of the Tippet murder can be made, taking into account not only the three best eyewitnesses to the crime, two of which were ignored by the Warren Commission, but also the ballistics evidence.

The testimony of Aquilla Clemons, Frank Wright and Domingo Benevides fits together. If one assailant ran around Tippet's car in order to reach the getaway car, as Wright testified, it would appear, as Mrs. Clemons stated that both men ran in different directions.

Benevides never really saw the whole shooting because as soon as he pulled his moving pick up truck over to the curb he "ducked down" (SH 447-448) - this would explain his failure to notice the second man. However, when the shooting ended Benevides noted that the car, which was in the same position as Wright placed it, had left, collaboration for Wright's testimony. One assailant leaves in the car, the other takes off on foot.

Physical Evidence

The ballistics evidence left at the scene of the Tippet murder bear out this reconstruction. Four bullets (17H 271) and four shells (17H 267) were recovered from the Tippet murder. Four bullets were given to the Dallas Police by the autopsy doctors. (17H 415; 3H 474) However, the Dallas Police only allowed the FBI to examine one missile

(Commission Exhibit 602) on the day after the murder, and this bullet was so badly mutilated that there weren't sufficient individual microscopic characteristics for identification purposes'. (17H 265)

A quarter of a year later, the Dallas Police handed the other three bullets over to the FBI. FBI firearms identifications expert, Cortland Cunningham examined the Tippit bullets for the Warren Commission. His testimony reinforces the possibility of two assailants:

Mr. Cunningham: Well, it is my understanding the first bullet was turned over to the FBI office in Dallas by the Dallas Police Department. They reportedly said this was the only bullet that was recovered, or that they had. Later, at the request of this Commission, we went back to the Dallas Police Department and found in their files that they actually had three other bullets.

Mr. Eisenburg: Now, were you able to determine whether those bullets have been fired in this weapon?

Mr. Cunningham: No; I was not.

Mr. Eisenburg: Can you explain why?

Mr. Cunningham: Yes, sir. First of all, Commission Exhibit No. 602 was too mutilated. There were not sufficient microscopic marks remaining on the surface of this bullet, due to the mutilation, to determine whether or not it had been fired from this weapon.

However, Commission Exhibits 603, 604, and 605 do bear microscopic marks for comparison purposes, but it was not possible from an examination and comparison of these bullets to determine whether or not they had been fired - these bullets themselves - had been fired from one weapon or if they had been fired from Oswald's revolver. (3H 474-5)

Cunningham was unable to determine whether or not one weapon fired all the Tippit bullets, a conclusion which takes added significance when we consider another piece of ballistic evidence: Three of the four bullets recovered from Tippit's body were manufactured by Winchester-Western, (3H 475) but only two shells found at the scene of the crime were manufactured by that company. (3H 465) One Remington-Peters bullet was recovered from Tippit's body, (3H 475)

yet two shells of that manufacture were found at the scene of the crime.
(3H 465)

The possibility that two persons were involved is enhanced by the shells of a different manufacture which were found at the scene of the crime. I suggest that five shots were fired with one Remington-Peters bullet missing Tippit. The missile to this bullet was never located but the shell was found. Meanwhile when one of the killers ejected the spent cartridges from his gun, one of the shells (Winchester-Western) was never found. Two assailants using ammunition of a different manufacture.

Although I do not fully believe the Tippit theory, I have just propounded, I include it in this memo for the edification of the reader.

Topic 3: Oswald's Role

Lee Harvey Oswald was framed by those who executed the murder of John F. Kennedy. They did so in order to avoid being captured themselves. Although I believe Oswald was involved in the assassination, it appears conclusively from the evidence that he did not take part in any of the actual violence on November 22.

On November 22, Oswald entered the Depository through the back door (6H 377). This was not an unusual act for him since he normally used the back door to enter the building. (6H 359)

It is my belief that Oswald was in the lunchroom during the shooting. The Eruly-Daker incident and the testimony of Eddie Piger, William Shelly and Carolyn Arnold do much to back up Oswald's claim (4H 224) that he was in the lunchroom during the shooting. The last known person to leave the lunchroom was Mrs. Robert Reid who left to

watch the motorcade at 12:30:

Mr. Belin: All right. Do you know about what time it was that you left the lunchroom, was it 12, 12:15?

Mrs. Reid: I think around 12:30, somewhere along in there. (3H 271)

Mr. Belin: Were you the last person in the lunchroom?

Mrs. Reid: No, I could not say that. (3H 272)

I believe that Oswald was in the lunchroom for a very good reason. He was the look-out man for the Depository assassin. In order to avoid being seen in the TSHD it would have been necessary for someone to make sure "the coast is clear" for the assassin to enter and leave the building. The lunchroom is located by the back stairs, and it was Oswald's job to sneak the gun man up the ~~back~~ back stairs before the shooting and to sneak him out the back door afterwards.

Since Oswald was a part of the conspiracy, the assassin's doubtless had some sort of access to his home in Irving. Oswald did not consent to being framed (there would have been no reason to ask him to be the scapegoat) and he went to the theater because he was told to meet someone there.

Topic 4: The blanket in the Faine Garage

When the blanket Oswald allegedly kept the gun in was found, the outlines of the object which was kept in it were visible. FBI agent Paul Stambaugh examined two distinct creases which were caused by the object when it was wrapped in the blanket. Critics of the Report have mentioned the fact that one of the folds was 10 inches long and that the longest object on the rifle was the scope (11 inches long) which was too long to have caused the fold.

Stombaugh also found another fold in the blanket, one located at the base end which was seven inches long. (4H 57) To my memory no critic has taken issue with this second fold. When the rifle is placed in the blanket, one finds that this fold could have only been caused by one of the ends of the gun. The longest end, the butt end is only 4 1/2 inches long. (22H 480)

Topic 5: The Giordenello Decision and its relevance to Lee Harvey Oswald.

In 1958, five years before the assassination, the U. S. Supreme Court handed down the Giordenello decision.

Before relating the significance of the Giordenello decision to Lee Harvey Oswald, I ask you to read the relevant parts of Justice Harlan's opinion which is typed below.

GIORDENNELLO v. UNITED STATES
357 U.S. 480, 78 S.Ct. 1245, 2 L.Ed 2d 1508 (1958)

Agent Finley of the Federal Bureau of Narcotics obtained a warrant for the arrest of petitioner from the United States Commissioner in Houston, Texas, on January 26, 1956. This warrant, issued under Rules 3 and 4 of the Federal Rules of Criminal Procedure . . . was based on a written complaint, sworn to by Finley, which read in part:

"The undersigned complainant (Finley) being duly sworn states: That on or about January 26, 1956, at Houston, Texas in the Southern District of Texas, Veto Giordenello did receive, conceal etc., narcotic drugs to-wit: heroin hydrochloride with knowledge of unlawful importation; in violation of Section 175, Title 21, United States Code.

"And the complainant further states that he believes that A B are material witnesses in relation to this charge."

Rules 3 and 4 written and worn complaint setting forth "the essential facts constituting the offense charged," showing "that there is probable cause to believe that (such) an offense has been committed and that the defendant has committed it. The language of the Fourth Amendment, that ". . . no Warrants shall issue, but upon describing. . . the persons or things to be seized," of course applies to arrest as well as search warrants. . . the inferences from the facts which lead to the complaint" ~~MUST~~ be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime." (Johnson v. United States, 333 U.S. 10, 14.) The purpose of the complaint, then, is to enable the appropriate magistrate, here a Commissioner, to determine whether the "probable cause" required to support a warrant exists ^{the complaint in this case} ~~does not pass muster be-~~ cause it does not provide any basis for the Commissioner's determination under Rule 4 that probable cause existed. . . it does not set forth any other sufficient basis upon which a finding of probable cause could be made. We think those deficiencies could not be cured by the Commissioner's reliance upon a presumption that the complaint was made on the personal knowledge of the complaining officer.

On pages 244-246 in the book Investigation of A Homicide by Judy Whitson Bonner (Anderson N.C.: Drake House, 1969) the official complaints charging Lee Harvey Oswald with the shootings of President Kennedy, John B. Connolly and Officer Tippit appear. In substance each complaint simply states that Oswald: 1) "did voluntarily and with malice aforethought kill John F. Kennedy by shooting him with a gun." 2) "did voluntarily and with malice aforethought kill J. D. Tippit by shooting him with a gun." 3) "did then and there unlawfully in and upon John B. Connolly with malice aforethought did make an assault with the intent then and there to murder the said John B. Connolly."

The complaints do nothing more than relate the act Oswald allegedly committed. Since they do not provide any basis upon which a Commissioner's determination of **probable** cause could be based they are unconstitutional. As such, Oswald was unconstitutionally arrested. A person unconstitutionally arrested does not have to answer the charges against him in a court

of law. As such, Oswald's case could have been thrown out of court and he could not be arrested again for the Kennedy-Connolly-Tippit charges because of double jeopardy. As such, when Oswald was shot by Jack Ruby the Dallas Police had no legal justification for his custody.

Topic 6: Two other points of interest and a comment.

1. Detective Studebaker testified that the shield of boxes was stacked only 10 inches from the S. E. corner window (7H 143). Since the carcass is 34.8 inches long (WCR 83) who ever stacked the shield of boxes left himself very little space and as such some may consider the assassins lair a somewhat uncomfortable position.
2. The palmprint which Lieutenant Day claims to have lifted from the inside surface of the rifle was described by Day to the FBI as "an old dry print" (26 H 831). So even if one believes the print is genuine it does not prove that Oswald handled the gun on November 22.

COMMENT: I have written this memo in the hope that others will write memo's on what they have discovered about the assassination. Without the free flow of information we will probably never find out truth. With the free flow of information we will at least have a chance to understand what actually happened on November 22, 1963.