

**Criminal Investigation – Dallas Style:  
Police Handling of Evidence in the JFK Assassination**

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## **Criminal Investigation – Dallas Style: Police Handling of Evidence in the JFK Assassination**

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### ***Abstract***

Using documentary evidence, this paper assesses Dallas police procedures in their investigation into the assassination of President John F. Kennedy. The failure of police to adhere to the fundamental principles and procedures of investigation in developing the basic evidence in the case has been a major factor in the overall failure to “solve” the crime and has contributed to the state of confusion and controversy which this “crime of the century” has generated. Subsequent failure to hold police accountable this important case has contributed to continuing failure in this important aspect of police work as illustrated in recent high-profile cases.

### ***Introduction***

This work is conceived as part of a larger project that attempts to explore some of the sociological implications of what some call, not inappropriately, the “crime of the century,” the assassination of President Kennedy. As a crime of such significance, it has received surprisingly little attention from scholars – historians, criminologists, and sociologists, in particular. To a great extent, it is a topic that has been so closely identified with the *National Enquirer* type of treatment, that serious scholars, with a few notable exceptions, have avoided it. And, indeed, it is a difficult area in which to work in without running the risk of being associated with the lunatic fringe of Elvis spotters and UFO captives. Yet, although the crime itself is unlikely to ever be

solved, in part for reasons to be discussed in this paper, there is a great deal that scholars can learn from a careful examination of this monumental historical event. Among the lessons that lie therein, one of the most important is that insight that can be gained into the functioning of our major institutions in time of such profound national crisis. One such institution is the police. How did they function in this crisis?

In our system of justice, great emphasis is placed on the establishment of "truth," the facts of a particular case to a near a certainty as possible. Thus, elaborate procedures have been developed to ensure that the facts will come out. A central aspect of this is, of course, the adversary process whereby the two sides in a case, prosecution and defense, argue back and forth and raise questions about the evidence presented. Consequently, evidence must be assembled and preserved and presented in such a way as to withstand challenge. This is a primary consideration in investigating crime.

The major responsibility for criminal investigation lies with the police. The murder of a President was, at the time, a state not a federal offense. Dallas and Texas authorities had jurisdiction. Thus, Dallas Police represent the first line of responsibility for criminal investigation in this case.<sup>1</sup> It was their responsibility to secure the scene of the crime, to gather

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<sup>1</sup>The Dallas Police were not alone. In the Kennedy assassination, there were many agencies and institutions with significant responsibility in assuring that the truth came out. The weight of the evidence available to us today suggests monumental failure on the part of most of them, if not all. Furthermore, there are many aspects of this case that represent extenuating circumstances for the Dallas Police, including FBI's almost immediate stepping into the case even though it lacked jurisdiction to do so. The major evidence, the body of the dead president, was forcibly taken out of Texas contrary to the law. All of the responsibility for investigating the crime after the murder of Oswald was assigned to the Warren Commission and the government agencies which did its investigations.

the evidence at the scene, to preserve it, to find and interview witnesses, and to find and arrest the suspect or suspects in the crime. Thus, whatever the state of the evidence in the case today, the Dallas Police had a significant role in it. If they did a competent job, the truth about the crime would be attainable, or more likely so. If they performed poorly, the most important evidence would likely be forever lost.

This paper will focus exclusively on the police responsibilities with respect to investigating the crime of the assassination of President Kennedy. In the scope of this paper, it will be possible to address only some of the major issues involved and a few examples of each. Did the Dallas Police responsibly and competently fulfill their obligations in investigating this crime? They did "if the available physical evidence was competently handled, the witnesses intelligently interviewed, the suspect effectively interrogated, all logical leads properly developed, and the case comprehensively, clearly, and accurately reported." (O'Hara, 1956:6-7)

### **Methodology**

In assessing the performance of the Dallas Police, this research focuses on three main areas: (1) the police handling of the scene of the crime; (2) the related issue of their handling of physical evidence, particularly that found at the crime scene; and (3) the interrogation of their suspect, Lee Harvey Oswald.

In order to ensure that the Dallas Police are not held to an unrealistic standard of criminal investigation, a criminal investigations textbook widely-used in courses prior to the 1960's, Charles E. O'Hara's *Fundamentals of Criminal Investigation* (1956), will provide a base for specifying appropriate investigatory principles and procedures with respect to the areas to be

examined. Data regarding the behavior of the Dallas Police is based largely on official documents, mainly police affidavits, statements and testimony found in the Report of the Warren Commission and its 26 volumes of hearings and exhibits.<sup>2</sup>

### **The Crime Scene**

A central focal point of any criminal investigation is the scene of the crime. It generally is the first -- and among the most important -- steps in the investigation.

A criminal investigation rests firmly or dissolves on the immediacy and thoroughness of the preliminary investigation. This means that protecting and preserving the crime scene are prime factors in the outcome of a trial. (Robbins, 1993:19)

O'Hara (1956:41) points out that in certain types of offenses, particularly crimes of violence, it is "the most important part of the investigation." At the scene of the crime, there may be suspects, witnesses, and crucial physical evidence. Among the steps that ordinarily need to be taken are the following.

1. Identification, questioning, and detention of all persons at the scene of the crime, taking care to separate them from each other.
2. Observation and/or inquiry as to the identity of the perpetrator if such information is available.
3. Physical isolation of the area in order to exclude all unauthorized persons and to

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<sup>2</sup>Recently, the main file of the Dallas Police Department on the Kennedy assassination case was turned over to the National Archives. This will provide an opportunity for further, more detailed and definitive exploration of the performance of the Dallas Police.



safeguard the area.

4. Insuring that no objects are touched, moved, or disturbed in any way.
5. Seeking of appropriate assistance as necessary and assignment of appropriate duties.
6. Photographing of “the untouched scene to obviate any objections to the photographs in court on the grounds that it does not purport to show the original scene.” (Summarized from O’Hara, 1956:42, 55)

In other words, it is essential that the scene of the crime be immediately secured, so that witnesses are discovered and can be interviewed and so that the scene itself may be recorded as it was at the time of the crime, as well as all the physical evidence being protected and preserved.

The scene of the crime in the assassination of President Kennedy and the wounding of Governor Connally may be difficult to specify with precision. In general, it could be considered to be the entire area of Dealey Plaza, its vicinity and surrounding buildings and other structures. However, almost immediately after the shots were fired, the Dallas Police had information from alleged witnesses that the shooting originated in the Texas School Book Depository building. A police radio report at 12:34, indicated that the shots had come from that building. And by 12:45, a police radio report broadcast a description of a suspect. (President’s Commission, 1964b, v21:392) Immediately after allegedly witnessing the shots, Howard L. Brennan reported to police officers that the shots came from a 6<sup>th</sup> floor window of that building. (President’s Commission, 1964a:64) Also, immediately after the shooting, another witness, Amos Lee Euins, reported to Dallas Police Sergeant D. V. Harkness “that the shots came from the last window of the floor

‘under the ledge’ on the side of the building they were facing.” (President’s Commission, 1964a:64) Harkness then reported the following to police headquarters at 12:36:

I have a witness that says that it came from the fifth floor of the Texas Book Depository Store. (President’s Commission, 1964a:64)

Thus, the Dallas Police has reason to believe almost immediately after the shots were fired that the Texas School Book Depository building was the scene of the crime. At that point, the building should have been sealed immediately. Indeed, Dallas Police radio logs indicate that at 12:36, D. V. Harkness indicates that “we are sealing off the building.” (President’s Commission, 1964a, v21:391) In fact, the building was not sealed off, if it ever was, until some time after that. As the Warren Report itself indicates, Secret Service Agent Forrest V. Sorrels was able to enter the building without having to identify himself about 20 minutes after the shooting. (President’s Commission, 1964a:156, 1964b, v7:348) Furthermore, as Harold Weisberg has pointed out, the Texas School Book Depository building, in addition to front and rear doors, has four warehouse type doors leading to the loading docks. (Weisberg, 1965:43) The Commission was unable to say when the police “sealed” the building. But, as Weisberg notes, there is no evidence that it was ever sealed. What the Warren Report states is based on testimony from police, that the front door was secured (except for a few minutes) and that the back door supposedly was as well just a few minutes after the shots. But Sorrels’ testimony contradicts that and no mention is made of the loading dock doors.

The first pieces of evidence found on the 6<sup>th</sup> floor were three cartridge cases found near the 6<sup>th</sup> floor window though to be that from which the shots were fired. Deputy Luke Mooney of the Sheriff’s Department found these and insured, appropriately, that they not be touched until

the appropriate experts arrived to photograph and dust them for fingerprints. (President's Commission, 1964, v3:281ff)

Lt. J. C. Day, Chief of the Dallas Police crime lab, was ordered to the crime scene about half an hour after the shots. By the time he got there, newsmen were already on the 6<sup>th</sup> floor, raising questions about the degree to which the building had been sealed off. (President's Commission, 1964b, v4:263) Day stated that he arrived at the scene at about 1:12 PM, about three quarters of an hour after the assassination. Photographs were taken of the shells before they were moved by Day and dusted for fingerprints, as required by procedures. Next, Day claimed, he photographed the area of the easternmost window of the 6th floor including the stacks of boxes which were thought to be a "sniper's nest." Although Day begins by testifying that the boxes at the window had not been moved prior to his photographing of them, when confronted with evidence to the contrary, photos of the window taken from outside almost immediately after the shots, he admitted that the boxes had been moved prior to the taking of any of the photographs in which they appear. Stuebaker, the officer who actually took the pictures, admitted under questioning that he had no prints that showed the boxes before they were moved. (President's Commission, 1964b, v7:141)

Mr. Ball: Then you don't have any pictures taken of the boxes before they were moved?

Mr. Stuebaker: No. (President's Commission, 1964b, v7:141)

Now, it was on the basis of just such photographs showing the boxes arranged appropriately for a "sniper's nest," including Oswald's prints on certain of them, and an indentation thought to have been caused by the rifle resting on the box, that a photographic re-enactment of crime by



FBI expert Lyndal L. Shaneyfelt was based. (President's Commission, 1964b, v5:145)

Similarly, the failure to faithfully record on film the precise setting of cartons under which the rifle was discovered – prior to disturbing the scene by climbing over and moving boxes around – is a failure to adhere to procedures which in fact in this case made it easier to maintain that Lee Harvey Oswald could have fired the shots, hidden the rifle, and still have gotten to the 2<sup>nd</sup> floor lunchroom by the time he was confronted there by Officer Marion Baker.<sup>3</sup> In any case, a record of the actual arrangement of the 6<sup>th</sup> floor would have been essential to a trial had Oswald lived, and was essential to a proper finding of fact by the Warren Commission. Yet, such a record was lacking due to the failure of the Dallas Police to adhere to appropriate procedures.

### **Physical Evidence**

The importance of the crime scene lies in great part in the physical evidence it frequently reveals. This case in no exception. On the 6<sup>th</sup> floor of the Texas School Book Depository building, essential evidence already referred to was discovered. The handling of this evidence must be such that its value as evidence can be preserved and withstand challenge in court. As O'Hara (1956:63,72) writes, there are several key considerations, including the following:

1. Handling must be kept to a minimum. "The number of persons who handle evidence between the time of commission of the alleged offense and the ultimate disposition of the case should be kept to a minimum. Each transfer of the

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<sup>3</sup>Even so, the Warren Commission had to rig the re-enactment and lie about its outcome to make it work.

evidence should be receipted. It is the responsibility of each transferee to insure that the evidence is accounted for during the time that it is in his possession, that it is properly protected, and that there is a record of the names of the persons from whom he received it and to whom he delivered it, together with the time and date of such receipt and delivery.” (O’Hara, 1956:63)

2. Evidence must be properly identified. “Evidence should be properly marked or labeled for identification as it is collected or as soon as practicable thereafter.”
3. Evidence must be properly marked. “Solid objects which have a volume of approximately one cubic inch or greater should be marked for identification with the initials of the investigator receiving or finding the evidence.” (O’Hara, 1956:72)
4. Evidence must be properly sealed. “Wherever practicable, articles of evidence should be inclosed in separate containers. Pillboxes, envelopes, test tubes and bottles containing evidentiary materials should be sealed in such a manner that they cannot be opened without breaking the seal. The investigator’s initials (or name) should be placed on the seal in ink.” (O’Hara, 1956:72)
5. Evidence must be photographed in place prior to being moved, touched or disturbed. (O’Hara, 1956:51ff)
6. Chain of custody of evidence must be maintained and documented. Each transfer of the evidence should be receipted. It is the responsibility of each transferee to insure that the evidence is accounted for during the time that it is in his possession, that it is properly protected, and that there is a record of the names of

the persons from whom he received it and to whom he delivered it, together with the time and date of such receipt and delivery.” (O’Hara. 1956:63)

Four key areas of physical evidence found at the scene merit examination – the rifle, the boxes, the shell cases, and the paper bag that allegedly was used to conceal the rifle when bringing it into the building.

*The Boxes:* As already seen, the cartons were moved prior to their being photographed and fingerprinted, all but destroying their evidentiary value. That a couple of boxes have Lee Harvey Oswald’s fingerprints on them is not surprising, nor is it relevant, considering that his job on the 6<sup>th</sup> floor of this building involved the handling of these book boxes.

*The Rifle and Shells:* The shells and rifle were photographed in place and handled with some care before being dusted for prints. However, Captain Fritz, chief of the Dallas Police Homicide Division, did handle the weapon, working the bolt and ejecting a shell. (President’s Commission, 1964a:599) The story of the shells is particularly informative of the Dallas Police Department procedures. After photographing them in place and dusting them for prints, such evidence is to be marked by the finder, sealed in an appropriate container with initials or signature on the seal in such a way that opening would break the seal and be obvious that evidence was tampered with.

When asked if he put his initials on the hulls, Lt. Day testified as follows:

At that time they were placed in an envelope and the envelope marked. The three hulls were not marked at that time. (President’s Commission, 1964b, v4:253)

He further stated that he placed three shells in the envelope and wrote his name on the envelope. At about 10:00 that evening, he received the envelope back and there were only two hulls in it.

He marked them at that time. He also indicated that he had not sealed the envelope and that it was not sealed when returned to him. Clearly, the lack of chain of custody documentation would have rendered this exceedingly important evidence useless at a trial. (President's Commission, 1964b, v4:253-254)

*The Bag:* With respect to the paper bag that was found at the scene and that Lee Harvey Oswald had allegedly fabricated from paper taken from the Book Depository, no photograph was taken of it where it was allegedly found. Warren Commission Exhibit 2707 (President's Commission, 1964a:142) shows a picture with a white dotted line indicating "Paper Bag Location," but there is no bag there.

One additional point on evidence preservation also relates to this bag. Part of the "proof" that the bag had been used to hold the rifle is the discovery of fibers from Oswald's blanket (that, the Warren Report maintains, Oswald stored the weapon in) in the paper bag. As Howard Roffman pointed out in his book, Day makes reference to a photo taken of most of the physical evidence on a table, prior to its being sent to the FBI for further analysis, including that which discovered the blanket fibers. The photograph shows the bag in contact with that blanket, thus suggesting the very real possibility that the bag was contaminated with blanket fibers after it was in police possession. (Roffman, 1975:171; President's Commission, 1964, v4:273-4)

### **Interrogation**

The final area of discussion is the interrogation of Lee Harvey Oswald by the Dallas Police and others. O'Hara suggests the following with respect to police interrogation of suspects. "An interview or interrogation may not be considered a success unless it is faithfully reproduced in



its significant parts." Written notes, "Although a great improvement over mere memory, . . . must necessarily be sketchy. . . . The disc, tape, or wire recording has been found to be the simplest and most practical means of reproducing the interview or the interrogation." (O'Hara, 1956:127) "Obviously the best evidence of an interview is the recorded voice." (O'Hara, 1956:128)

This is the key issue to be addressed with respect to the interrogation. In fact, nothing else much matters where there is no reliable record of what was said. Oswald was interrogated for about 12 hours. (President's Commission, 1964a:180). Yet, there was no transcript of the interrogation, no stenographic record, no tape recording. Several participants took brief notes which contradict each other on key points and omit key areas of inquiry. Captain Fritz of the Dallas Police was the chief interrogator. According to the Warren Commission, "he kept no notes." (President's Commission, 1964a:180) In fact, Fritz did prepare a 13 page typed report which included discussion of the interrogation. (President's Commission, 1964a:599ff) Recently, five pages of Fritz notes of the interrogation have been turned over to the National Archives. These appear to have been taken at the time of the interrogation or shortly thereafter. They are exceedingly brief and sketchy, hardly adequate for 12 hours of interrogation of the only official suspect of the "crime of the century."

### **Conclusions**

There are many other areas in the performance of the Dallas Police in this most important case merit further study, including the police protection of the legal rights of Lee Harvey Oswald, particularly his right to an attorney; the reckless transfer of Oswald that resulted in his death; the

exceedingly prejudicial statements made by Chief Curry, Captain Fritz, and others regarding their certainty of Oswald's guilt; the arrest of Oswald; police line-up procedures; and etc. Nevertheless, despite the limited number of aspects of police performance included in the present research, the degree of police failure evidenced suggests that the subsequent investigation of this crime based on evidence developed by the Dallas Police must be fundamentally flawed.

In his authoritative and well-documented analysis of the Kennedy assassination, Howard Roffman placed the failure of institutions, including the police, in the appropriate perspective:

Whoever killed President John F. Kennedy got away with it because the Warren Commission, the executive commission responsible for investigating the murder, engaged in a cover-up of the truth and issued a report that misrepresented or distorted almost every relevant fact about the crime. The Warren Commission, in turn, got away with disseminating falsehood and covering up because virtually every institution in our society that is supposed to make sure that the government works properly and honestly failed to function in the face of a profound challenge; the Congress, the law, and the press all failed to do a single meaningful thing to correct the massive abuse committed by the Warren Commission. (1975:9)

Writing on the heels of Watergate, Roffman adds, "To anyone who understood these basic facts, and there were few who did, the frightening abuses of the Nixon Administration that have come to be known as 'Watergate' were not unexpected and were surprising only by their nature and degree." (1975:9)

The Dallas Police were never held accountable for their failure to investigate properly the assassination of President Kennedy. The Warren Commission in its Report failed to criticize the police, except in the context of its relations with the media, in not controlling their access to the Police Department offices, in allowing them to witness the “abortive transfer” of Oswald, and in speaking too freely to the press. The failure of the Dallas Police to investigate the case properly is never mentioned, nor is the gross failure to record the interrogation. (President’s Commission, 1964a)<sup>4</sup>

The police who have a primary responsibility in the gathering and preserving evidence, in addition to their law enforcement and crime prevention duties, have a central role to play in the criminal justice process. If they fail to gather evidence, or gather it improperly, or do not maintain its integrity, or do not carefully document it, the determination of the facts of the case will be made impossible.

In an ordinary crime, there are obviously serious implications when any part of the process for arriving at the truth breaks down. When police do not investigate a crime adequately, that process is seriously undermined. An innocent person may be imprisoned or even executed. Or a dangerous criminal may be set free. And the deterrence of the criminal justice system will be weakened. And respect for the law itself may be subverted. Indeed, police performance in a number of recent highly publicized cases may have had such results. When the crime is also a

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<sup>4</sup>With respect to the interrogation, the Commission in its Report quotes approvingly from the testimony of Police Chief Curry that “we were violating every principle of interrogation . . . it was just against all principles of good interrogation practice.” (President’s Commission, 1964a:200). But the context, as is made quite clear in the testimony itself is the swarm of newsmen in the area of the interrogation and the excessive number of individuals participating in the interrogation. (4H152)

political act, as is the case in the murder of the elected leader in a democratic system, the crime itself undermines democratic government, and the failure to prosecute it essentially allows a *coup d'etat* to stand. The failure to establish the truth has serious historical implications, and the failure to try to establish the truth represents grave implications.

Most importantly, the failure of institutions in the face of such a crisis must be clearly seen and confronted if there is any possibility of making our institutions function properly. The failure to hold the police and other public agencies and institutions responsible for their actions and their failures undermines justice. Presumably, the Dallas Police were not unique in their approach to their responsibilities. Had they been held accountable in this case, police work might generally have improved. Instead, we have seen corruption and incompetence all too often. It is bad for the police, bad for the public, and undermines justice. It was an opportunity squandered.



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