

inexplicably, there was no organized search of the building, either immediately or as an afterthought. No one was ordered to inspect and search the area from which witnesses immediately reported the shots were fired. Not one of the police, from private to inspector, undertook this obvious search on his own. The empty cases of the bullets that both the police and the Commission concluded were fired were found in plain view at precisely the spot reported by witnesses - 42 minutes after the assassination (R79). The rifle was not found until ten minutes later than that, and it was on the same floor. An alleged eyewitness description of the man later accused of being the assassin was immediately reported to radio-equipped police who did nothing about it. With the supposed killer still in the building, its exits were not secured. His description was not even broadcast on the police radio for almost 15 minutes.

These blunders, if that is what they were, did not stop once the immediate shock of the crime had passed. They were the persistent pattern of the entire police operation, and they have been dignified and perpetuated by the Commission in both its hearings and its Report. Nowhere in the Report will you find any criticism of the police, except for its "public relations". Nowhere will you find any suggestion that the police could or should have done otherwise, or that their errors were in any way suspicious.

At the scene an abundance of evidence was immediately available from both tangible objects and many eyewitnesses. The evidence was sometimes contradictory, as it was regarding the source of the shots. But it was there. So were the eyewitnesses. These people in some cases were just told to wait until they were questioned, without their identifications even being sought. Today there is no way of knowing whether all these witnesses were ever interviewed or whether their knowledge was ever transmitted to the police.

The chief of homicide, Captain Will Fritz, went to the hospital on orders of Chief Jesse E. Curry. Before his experts got to the scene of the crime, Deputy Sheriff Lake Mooney (JH281F) found three empty cartridge cases near the easternmost window on the sixth floor of the building on the south side, facing the motorcade route. No one was allowed to touch this evidence until the identification experts arrived. About 1:22 p.m., Deputy Sheriff Eugene Boone and Constable Seymour Weltzman simultaneously saw the rifle. At a moment less precisely fixed the "bag" was identified as an important piece of evidence. These items have already been discussed. Both the shells and the rifle were ordered treated carefully. They were, at least until the picture possibilities of Captain Fritz holding the rifle arose. But the bag was not so handled. In his subsequent account, Captain Fritz said he ordered only that the rifle and bullets be "protected" for the crime laboratory (R599).

It was about a half-hour after the assassination before the chief of the crime laboratory, Lieutenant J. C. Day (JH219;78;7H102), was ordered to the scene. By the time he got there, newsmen were already on the sixth floor (JH263). He and his assistants took about 50 pictures, but not one showing the bag in the place where it was found. No question is raised about this in the Report, especially regrettable because of the importance this bag assumes in the Commission's reconstruction. All sorts of pictures were taken, but not that one. Instead, there is a picture of the blank floor showing where the bag allegedly had been (Exhibit 729). Yet Day had immediately recognized the importance of this evidence, for "at the time the sack was found," he wrote on it, "found next to the sixth-floor window gun fired from. May have been used to carry gun" (JH266-7). A number of pictures were taken with the police photographer standing on the very spot where that bag was found. There were no fingerprints on the outside, although it had been moved by Day's assistant, Robert Lee Studebaker (7H137-149). Studebaker testified that he had not taken any pictures first and that the bag does not show in any other pictures (7H141). He was not asked why. Everything else Studebaker is known to have

moved he left well supplied with fingerprints (R566). The Commission was no less indifferent in questioning Day about the inexplicable moving of evidence.

The police were at least consistent. The boxes in the area, especially those allegedly stacked up by the assassin to serve as a gun rest (7H149), were treated with equal carelessness. They were moved before they were photographed. Some had been moved before the police identification people arrived. Yet these were the pictures used to re-enact and reconstruct the crime!

Studebaker twice testified he had taken pictures of the boxes in the window before they were moved. On one of these photographs, identified as "Studebaker Exhibit A" (21H643), he marked an indentation he believed caused by the rifle. Thereafter he was asked, "Do you have any pictures of the boxes before they were moved . . . ?" Studebaker replied, "Just these two," referring to Exhibit A and another marked "B", taken from the opposite direction and showing only a very small part of a box on the window sill (7H140-1). Then, with but the briefest interrogation ending with, "then, you don't have any pictures taken of the boxes before they were moved?" Studebaker admitted, "No, sir" (7H141).

Before they were moved he said these boxes were "in the left-hand corner of the window looking towards Elm Street . . . right at the edge" of the sill (7H142). This was the correct location, according to a photograph taken at the time of the assassination, "Dillard Exhibit G" (R66). (This exhibit also appears throughout the supplementary volumes in a number of differently edited versions, each with a different exhibit number.) When shown another of his photographs, identified as Studebaker Exhibit J (21H649), he twice said of the boxes, "I put them back in the exact same position" (7H147).

However, Studebaker Exhibit J shows these boxes not in the eastern corner of the window as does Studebaker A, but at least as far west as the middle of the window. Because the entire window is not shown, it is not possible to know how much further west the boxes were repositioned. Both photographs show the boxes at about a 45-degree angle to the window and piled all pointed in the same direction. Unfortunately, this reconstruction has the alleged mark of the rifle on the box pointing about 90 degrees in the wrong direction. Then there is another Studebaker photograph of the same "rifle-rest" boxes, Exhibit D (21H646). This picture shows all three boxes pointing in different directions, with the top box at right angles to the window and not touching the sill.

A photograph similar to or from the same negative as Studebaker Exhibit J appears in Volume 22 as Exhibit 1301. It appears to be part of the FBI report, from the lettering that has been added. This lettering reads, "Southeast corner of Sixth Floor Showing Arrangements of Cartons Shortly After Shots were Fired". The description of this photograph in the table of contents reads, "Photograph of southeast corner of sixth floor of Texas School Book Depository Building, showing arrangements of cartons shortly after shots were fired". Does not Studebaker's testimony provide the best characterization of this language and the only purpose it could have been intended to serve?

Exhibit 1301 shows the three places on two of these boxes where Oswald's fingerprints or palmprints were said to have been found. It is not at all surprising that the prints of an employee assigned to work among these boxes appears upon them. What is surprising is that any serious effort should be made to attribute meaning to the presence of these prints. It is also surprising that Exhibit 1301 should be another of the never-ending coincidences upon which this Report is built. Find Oswald's prints on only the top one of the three "gun rest" boxes and attribute meaning to that in the light of the Studebaker and Day testimony that the police rearranged the boxes. The Report discusses these prints (R140-1). It quotes Studebaker

as authority for the opinion that "the boxes in the window seem to have been arranged as a convenient gun rest (see Commission Exhibit 1301, p. 138)". It also suggested that the large second box on which Oswald's palmprint was found was a place upon which he sat, implying, in contradiction to the testimony of its star witness, Brennan, that the assassin was sitting. The words used are, "someone sitting on the box facing the window would have his palm in this position if he placed his hand alongside his right hip." (See Exhibit No. 1308, p. 139)".

Having seen fit not only to refer to these exhibits but to reproduce them in the Report, it is distressing that the authors of the Report appeared to overlook another in this series of photographs in Volume 22, Exhibit 1312, which shows that a man Oswald's size sitting upon this box could not have fired the weapon as the Report represents he did because the closed part of the window would have been in his way. The height of the window sill from the floor, as this exhibit shows, is about one foot. In this entire discussion, the authors of the Report found no interest in all the testimony about the moving of the boxes and in the fact that the boxes were placed in the pictures they reprinted in a way that did not and could not duplicate their positions at the time of the assassination.

Lieutenant Day was more helpful, but he, too, added confusion. These, remember, were the official photographs, from which both the Police and the Commission were to reconstruct the shooting. At first, Day said he did not believe any boxes had been moved prior to his arrival. He was shown Exhibit 182 (21H200), a cropped version of Dillard C, and said this view from the outside coincided with what he saw on the inside (4H251). But after examining this picture, he decided it "doesn't fit with my picture of the inside" (4H252). Day was correct. The Dillard photograph clearly shows another box extending much higher than the "rifle rest" box in the opposite or western side of the window. But this box and the boxes upon which it rested are missing in all the official photographs. The official interest in them ended as soon as it began, too. Perhaps this was necessary because of the probability that a barricade such as these westernmost boxes necessarily represented could have effectively prevented the ricocheting of the third empty cartridge to the point at which it was found. This point is shown in Studebaker Exhibit A and in Exhibit 716 (17H500), similar but not identical photographs represented as taken before the empty cartridges were touched.

This mystery is not solved in the Report, which details the ricocheting of the ejected cases with the most scientific precision. But it avoids explaining how the case could have gone through a solid object. It also avoids mention of either this western barricade of boxes or how they disappeared completely. And it makes no allowance in its time reconstructions for the removal of such a barricade by Oswald.

Day understood what must have happened. He said the boxes had to have been moved after Dillard took his picture and before the identification police arrived (4H253). This left limited alternatives. If Oswald had done it, there had to be other boxes with his fingerprints, and there were none, and the extra time required would have shattered the Commission's time reconstruction which was tenuous at best. If another person did it, he is not accounted for and there is at least a strong suspicion he might have been the assassin. Otherwise, is there anyone left but the police?

With the "rifle-rest" boxes, Day was no help. He admitted that at the time Exhibit 722 (17H504) was taken these boxes had been moved. This photograph shows the windowsill and the view south on Houston Street with no boxes at all (4H264). He identified Exhibit 724 (17H505) as a picture he took at 3:00 or 3:15 p.m. the day of the assassination from the assassination window looking west on Elm Street. This is still a different, though official, version. This photograph has the boxes stacked one on top of the other, all pointed

toward Elm Street at about a 45-degree angle to one another. None of the boxes is on the windowsill. They had been carefully stacked to allow the assassin room for his body between them and the eastern end of the window, a situation precluded by the Dillard photograph. When he acknowledged that the boxes had been moved prior to the taking of the picture, the Commission had no further interest or questions about such an obvious fake (4H264-5). Day's first attempt at an explanation was interrupted by the Commission's examiner. Day then returned to his self-justification, saying that an hour and a half after the assassination he did not know the direction in which the shots had been fired.

There are other contradictions, but are they in need of explanation? Day is perhaps best left with this explanation of what happened to the boxes: "They weren't put back in any particular order" (4H265). The reader should recall this account of what really happened to the boxes in considering the photographic reconstructions. The story of the empty rifle shells is just as bad and does not require complete tracing. They were photographed in place. Detective Sims carefully picked them up and Day sought fingerprints. There were none. They were put into an unsealed envelope which Day signed and returned to Sims. Although Day had earlier informed the Commission he had marked all three shells at the scene, he admitted that was incorrect. At about 10 o'clock that night he had marked two of the shells. Although the third shell was missing, Day said, "I didn't examine it too close at that time." The third shell bears the identification of Captain George Dougherty, Day's superior.

Why the shells did not all bear Day's mark is unexplained. How Dougherty's mark constitutes any kind of an identification at all is a mystery. There was much conflicting and contradictory testimony about these empty cases and a number of affidavits of further explanation were filed. There is this additional mystery: Day was asked by the examiner of one of these shells, "It appears to be flattened out here. Do you know or have you any independent recollection as to whether or not it was flattened out on the small end when you saw it?" Day's response was, "No, sir; I don't." What needs explaining is how a deformed shell fit into a precisely machined rifle breach (4H253-5).

By this time what happened when the identification experts were called over to where the rifle had been found should be comprehensible in a streamlined account. There is no indication on the area was checked for fingerprints at all, even though the rifle was completely surrounded by boxes and carefully hidden in a space "just wide enough to accommodate that rifle and hold it in an upright position" (4H259). By "upright", Day meant horizontal. He and Studebaker clambered all over the unfingerprinted barriers behind which the rifle was hidden to take pictures, but they took only similar pictures from exactly the same spot. Studebaker's even show his own knee as he photographed downward (21H645).

After the rifle was photographed, Day held it by the stock. He assumed the stock would show no prints. Then Captain Fritz, perhaps because of the presence of newsmen, grasped the bolt and ejected a live cartridge. Day had found no fingerprints on the bolt. If there was any need for this operation, it was never indicated. There was no print on either the clip or the live bullet.

As with all the evidence, the pictures of the rifle also have other minor mysteries. Day testified that he made a negative (Exhibit 514) from one of his two negatives (Exhibit 718) of the rifle in the position in which it was found. What useful purpose this served, especially if the result sought was greater clarity, is not apparent (4H257ff.). If these are identical, they were at the very least cropped differently. The confusion extended to the Commission's editor, who described the copied negative as "depicting location of the 02766 rifle when discovered" but of the original negative said, "Photograph of rifle hidden beneath boxes..."