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"KENNEDY ASSASSINATION  
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# THE GUN THAT DIDN'T SMOKE

## Part One

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### "ISSUES WE HAVE NOT NOW ANTICIPATED"

*Privates sleep where the rain comes down  
Generals have their bed in town  
Hay foot, Straw foot never knows  
Ifen the gun is loaded or not  
So load her again and if she blows  
Dead and buried and soon forgot  
— Civil War ballad*

### The Beginning

Despite claims of *prima facie* evidence in the murder of John F. Kennedy, the basic issue remains, in any real sense, unresolved. Thirty years after the publication of the Warren Report, the debate over whether or not a conspiracy killed President Kennedy continues. Most people, in their day-to-day affairs, whatever they may believe, act as if the case is closed.

Journalist Robert Sam Anson once noted that "The lack of positive evidence of conspiracy surely hampers an investigation of John Kennedy's death; it need not deter it. Oftentimes negative information is almost as important. Thus, each bit of conscious disinformation that was put out after the assassination should be followed to its source. All attempts to deflect the original investigators from the truth should be rigorously followed up." University of California, Berkeley, Professor Peter Dale Scott further noted that such deflections "...should be closely examined, for in this case damage control (as well as truth) is evidence: a clue to what relevant truths are being concealed.... Just as we believe the defendant who pleads guilty more readily than the one who pleads innocent, so we will pay more attention to the official record when it raises questions about its own reliability." In 1993, former Warren Commission Assistant Counsel Burt W. Griffin stated that rejecting the single bullet theory (a belief that one bullet caused seven wounds in two men despite its timing, flight path, points of entry and exit, and resulting condition) requires the assumption that ballistics evidence went undiscovered or was suppressed. Griffin, now Judge Griffin, is correct. He also admitted that he and other Warren Commission staff members did not believe that the Dallas Police, the FBI, the Secret Service, or the CIA, did a thorough job in investigating the crime.<sup>1</sup>

There are actually several conflicting single bullet theories,<sup>2</sup> a good reason, among many, to reject them. Rejecting them means there was more than one shooter. It also means there are problems with the ballistics evidence. This article endeavors to end assumptions about the suppression of that evidence. Notwithstanding the failure of the single bullet theories, and actually precluding them, we argue that the existence

of a conspiracy is sufficiently proved by exposing two unreliable claims of the Warren Commission; by exhausting all conceivable innocent explanations for those claims; by arguing that they were instead "damage control" attempts to deflect honest inquiry; and by calling into question long-accepted theories about the alleged murder weapon and its alleged misidentification.

We demonstrate how the planting of specific evidence — a part of the weapon — was based on an error. The perpetrators quickly realized the mistake, but not soon enough to correct it or hide it. All they could do was deflect attention from it. It was an error so obvious that it would have exposed, within hours of Lee Harvey Oswald's arrest, the conspiracy to frame him. In fact, the error has never been hidden, just confused. We therefore show that damage control was the motive for the unanticipated, but criminally necessary and deliberate, prolonged misidentification of the weapon.

Failing that proof, we further argue that there is only one other explanation for the weapon-related facts: traditional interpretations that a second reported murder weapon was deliberately replaced with one that could be traced to Oswald. If either argument is correct — both establishing planted and suppressed ballistics evidence — we will have sufficiently proved conspiracy.<sup>3</sup>

From the beginning, there has been no reason to deny the conspiracy. Four of the seven Warren Commissioners — the majority — including the Commission's chairman, Chief Justice Earl Warren, expressed doubts about the Commission's conclusions within a decade of their report. They were joined by a fifth Commissioner in 1978, when John J. McCloy told the House Select Committee on Assassinations (HSCA) that "I no longer feel we had no credible evidence or reliable evidence in regard to a conspiracy...." Lyndon Johnson never believed the report he commissioned. The official policy of the FBI is that the case is not closed, a policy begun by J. Edgar Hoover himself.<sup>4</sup> And those were the people who had supposedly found the truth.

By any standard of historiography, the lone-assassin scenario must be considered a minority opinion which is contrary to the known evidence. Yet that is not enough for a vocal minority of conspiracy deniers. Even the HSCA would go only as far as declaring a probable conspiracy. What is needed is simple evidence of conspiracy that is true, valid and sufficient at first impression. What is needed is a "smoking gun."

In a letter that remained classified until January 1993, Walt W. Rostow, advisor to Presidents Kennedy and Johnson, voiced his fear of such evidence to Secretary of State Dean Rusk in the days just before the Warren Report was made public. His main concerns were that "Overseas the report should do something to dilute the conspiracy theory of President

Kennedy's assassination," that "The report does, however, blow the fact that Oswald saw a named KGB agent at the Soviet Embassy in Mexico City"; that "the major task for ourselves and the USIA will be to prevent the discussion and debate in the U.S. from projecting an image of excessive domestic disarray" and that because "As the debate unfolds, issues will arise — almost certainly some issues we have not now anticipated. ... We must be a united government in this matter."<sup>5</sup>

That unity has never been less evident. During a 1992 campaign appearance with Bill Clinton in McKeesport, Pennsylvania, now-Vice President Albert Gore said he believed that President Kennedy was killed by a conspiracy of unknown origin and that all federal files should be opened to the public.<sup>6</sup> President Clinton, when asked at a thirtieth anniversary press conference whether he thought Kennedy was killed by a single assassin and whether he was satisfied with his own security arrangements, replied: "I'm satisfied with the finding that Lee Harvey Oswald acted alone. I am also very satisfied with the work done by the Secret Service in my behalf."<sup>7</sup> A good answer loaded with priorities perhaps, but this divided White House illustrates better than anything that, as a country, when it comes to the murder of our thirty-fifth president, believe what we might, we know no more now than we did in the waning weeks of 1963.

### The Search

For more than thirty years, researchers have sought the elusive "smoking gun" — a simple, indisputable fact that proves conspiracy in the murder of John F. Kennedy. It now appears that search may be over. This discovery is not based on new evidence. As is often the case in quests for definitive answers, it was right under our noses the whole time. It has lain dormant in the Warren Report for three



The Mannlicher-Carcano at the station - no protruding clip.

decades as one of Rostow's feared "issues we have not now anticipated." Obscure and riddled with disinformation, yes, but not impossible to see.

It is well-known that the rifle allegedly used as the murder weapon was identified as a 6.5 millimeter caliber, Italian-made, bolt-action, military rifle called a Mannlicher-Carcano, after its two inventors. It is largely unknown that during WWII, it was one of only two military-use rifles in the world that fed a cartridge into the chamber from a clip. The other was the M-1 Garand. The difference between the two is that the clip on the M-1 Garand ejects when the last round is fired, while on the Carcano the clip ejects when the last round is chambered. "In the clip system, the clip remains attached to the rounds on loading and forms an essential part of the magazine system, a follower forcing the rounds out of the clip and presenting them in turn to the bolt for loading."<sup>8</sup>

According to the Warren Report, when the weapon allegedly used to kill the President was found on the sixth floor of the Texas School Book Depository (TSBD), one cartridge remained, and it was in the chamber.<sup>9</sup> Therefore, if operating properly, the rifle had automatically ejected the clip. The Warren Commission reported, however, that when the rifle was found, it contained a clip.<sup>10</sup> Firearms experts for the HSCA explained the discrepancy. On September 8, 1978, Monty C. Lutz of the Committee's firearms panel, was asked about this by Pennsylvania Representative Robert W. Edgar.

Mr. Edgar. The cartridge clip was removed from CE-139 by Lieutenant Day of the Dallas Police Department on November 22, 1963 at the crime laboratory for the police department. Shouldn't a clip automatically fall out once the last cartridge has fed into the chamber?

Mr. Lutz. This rifle is designed to incorporate that feature so that the last cartridge is stripped out of the clip, then that allows the clip itself to fall or to drop from the opening that you see in the bottom of the box magazine. However, in many cases, and in this particular case, where we functioned the rifle, fed cartridges through it, we found this clip to stay in the rifle after the last round had been stripped and fed into the chamber. Because the lips or the edges of the clip many times will open up, they will spring against the walls on the inside of the box magazine and it will hang up in that area [sic], and even though it is supposed to drop out, many times it will hang up in the box area.<sup>11</sup>

That explanation seems reasonable enough. But it is not. It is true that the clip must be deformed to have any chance of getting as stuck as this one. But once bent, it stays bent. Commission Exhibits (CEs) 574 and 575 are photographs

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and can still.**

of the alleged clip in its normal, unbent condition. And five years after the HSCA reported the clip deformed, Life magazine photographer Michael O'Neill photographed it in normal condition for Life's November 1983 issue.<sup>12</sup>

### The Clip

According to assassination researcher and author J.W. Hughes, who has tested this deformation over fifty times on each of his seven Mannlicher-Carcanos, "When deformed, it will not hold the rounds because the locking ridge is spread too wide to hold the round and the weapon jams."<sup>13</sup> The Warren Commission was apparently silent about whether expert riflemen from the U.S. Army and FBI had such difficulty firing the alleged murder weapon in 1964, and whether it was fired with its alleged clip. Whether or not those marksmen used the original clip, they were required to use any test clip in the original's apparent "found" condition, i.e., deformed.

Anyone could have tested the clip by duplicating its required abnormal behavior, and can still. But CBS News, which claimed to "duplicate the conditions of the actual assassination" in its filmed rifle test in 1967, did not. According to reporter Dan Rather, "Eleven volunteer marksmen took turns firing clips of three bullets each at the moving target." They fired a total of thirty-seven three-round series, seventeen of which resulted in unfired bullets due to "trouble with the rifle." Clip problems or not, all data from those seventeen troubled series was disregarded by CBS analysts. It was the other series of shots, however, with properly emptied and ejected clips, deemed worthy of analysis by CBS, that should have been disqualified. In the CBS film, clips can be seen flying out of the gun so fast as to be a blur.<sup>14</sup> If a test clip is not bent, or ejects, or moves at all, Oswald's alleged feat is not duplicated, **invalidating the test**. The HSCA firearms panel seemed not to be interested in this phenomenon, since it did not test the clip under firing conditions. Congressman Edgar learned about the defect from Mr. Lutz when he asked for details about their firing test:

Mr. Lutz. This was a single cartridge being inserted into the chamber and firing into a cotton waste recovery box... backing away from the box, a foot or two, and pointing the muzzle into the box and then firing into it, in order to recover the projectile.

Mr. Edgar. But you weren't firing with clip — using the clip, were you?

Mr. Lutz. No sir; I did not.

Mr. Edgar. Did anyone on the panel fire with the clip in?

Mr. Lutz. I do not believe so; no, sir.

Mr. Edgar. What was the reason for that?

Mr. Lutz. There were no particular markings that we were able to identify as having come from the clip, nor were we checking for time firing or sequential firing in any way in that respect.<sup>15</sup>

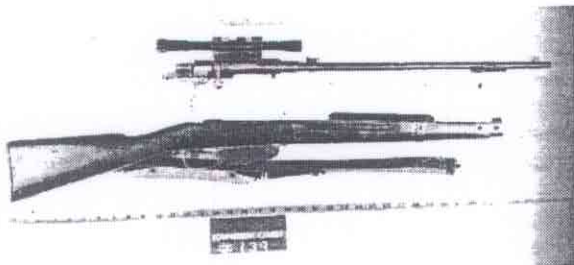
Under the heading "Findings and Conclusions of the Firearms Panel Concerning the Kennedy Assassination," we learn that, "Two bullets were test-fired into a horizontal water recovery tank. Further tests were conducted by loading four cartridges into the CE 375 [sic] cartridge clip and inserting it into the magazine of the rifle. The cartridges were worked through the rifle's mechanism and ejected without being fired. When the last cartridge was chambered, the cartridge clip remained in the magazine instead of falling out as it is designed to do."<sup>16</sup> Given Mr. Lutz's "the clip many times will open up" statement, this result demands further explanation.

"Many times will" also means "many times won't." Metal expands when heated and can alter its shape. But during the HSCA tests of the loading mechanism, the rifle should have been cool. In addition, CE 541 (3), a photograph of the clip stuck in the magazine reproduced on page 83 of the Warren Report, shows it in a cool rifle. Surely the rifle had not been fired for some time before that photography session. Is Lutz suggesting that the clip's sides spring out when cool and then return to a normal shape in the heat of firing? If such a violation of the laws of physics occurs with this rifle and clip, how then could the rifle have "contained a clip" when found?

Also, the HSCA's explanation does not explain what happened after the rifle was found. Over at least the next twenty-four hours, the Dallas Police Department reported, and left uncorrected, descriptions that remain a paradox to this day. Early news reports seemed to identify the murder weapon as anything but a 6.5 mm. Mannlicher-Carcano. NBC and WBAP radio identified it as a British Enfield .303. KLIF radio said it was a 7.65 German Mauser. KRLD radio announced that the rifle was "presumed to be a .25 caliber high powered Army or Japanese rifle." Radio station KBOX reported a German Mauser or a Japanese rifle. Dallas television station WFAA described it as three different kinds of Mauser: a "German Mauser," a 6.5 "Argentine Mauser" with a four-power scope, and a 7.65 "Mauser." Dallas NBC-affiliate television station WBAP's continuous coverage between 12:56 p.m. and 5:26 p.m. Central Standard Time (C.S.T.) reveals that the "conflicting reports" of the rifle's make evolved from the first (British .303) to the last (7.65 Mauser) in a very short time frame between 2:14 and 2:24.<sup>17</sup>

### The Rifle

Despite the fact that the alleged murder weapon that allegedly belonged to Oswald reportedly was clearly stamped "Made Italy" and "Cal. 6.5," local authorities and the media seemed to finally agree that it was a 7.65 German-made Mauser. Had as few as two different descriptions continued to dominate news reports the rest of the day, one of them being an Italian, or a clip-fed weapon, an argument could be made for confusion. But that is not what happened. The supposed murder weapon was not "called... most everything," as Captain Will Fritz testified.<sup>18</sup> Initial descriptions quickly gave way to a short-lived consensus for a 7.65 German Mauser, not further confusion. Probably due to the earlier conflicting reports, reporters remained skeptical. But they asked if it was a Mauser, and were told, tacitly at least, that it was. As different as these



The partially disassembled rifle photographed as evidence - no clip shown

early descriptions seemed from each other and from the weapon the Warren Commission finally chose, there is one difference they all have in common. It is the one difference from the Mannlicher-Carcano they all share. It is the key to the conspiracy. None of them can use an ammunition clip.

The early critics of the Warren Commission who dealt directly with the rifle descriptions and clip problems, including Mark Lane, Harold Weisburg and Sylvia Meagher, missed this particular paradox. Since the mid-seventies, most of the clip and rifle problems have been recognized by gun experts and many researchers, including Gary Shaw, Mary Ferrell, Jack White and George Michael Evica. But the fact that there is only one other clip system with which the Mannlicher-Carcano can be confused (the significance of which is explained below) and the absolute impossibility of confusing a Mannlicher-Carcano for any rifle but that one, seem to have been completely overlooked.

In the case of Meagher, it was a near miss. She was aware of a lack of direct evidence that a clip was found at the crime scene. The Texas Department of Public Safety official "Evidence Sheet" lists the incriminating evidence against Lee Harvey Oswald in detail. The number of spent shells found at the crime scene even changed from "(2)" to an obviously distorted "(3)" by the time the Warren Commission published the list, but no clip was ever accounted for.<sup>19</sup>

The FBI Laboratory Report from J. Edgar Hoover to Police Chief Jesse Curry the day after the assassination itemizes and numbers everything from metal fragments to a belatedly identified rifle. But the clip is not listed or numbered. It is mentioned only in passing as part of a group of things without fingerprints.<sup>20</sup>

Meagher even wrote, referring to testimony about confusion over the clip, "It is another coincidence, one supposes, that someone has mistaken a six-shot clip for a clip suitable to a Mauser, just as the Carcano was taken for a Mauser."<sup>21</sup>

This unfortunate statement may have ended further questions before they could be asked. Mausers are loaded from a "charger" (a.k.a. "stripper clip") which must be discarded after loading. While it is sometimes called a "clip," a charger has a completely different function.

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Meagher fell for FBI weapons expert Robert Frazier's subtle testimony. The question asked of Frazier was, "Is there any reason that you can think of why someone might call that a five-shot clip?" Frazier answered, "No, sir, unless they were unfamiliar with it. There is an area of confusion in that a different type of rifle shooting larger ammunition, such as a 30.06 or a German Mauser rifle, uses five-shot clips, and the five-shot clip is the common style or size of clip, whereas this one actually holds six."<sup>22</sup>

Frazier limited his answer to unfamiliarity with the clip itself. The full answer reveals the deception. The confusion is over the term, not the function. How could weapons expert Frazier not know this? Confusing a charger with a clip is only possible through complete and total ignorance of the way rifles are loaded. And that irrefutable fact leads, as the reader will see, to conclusive proof of conspiracy in the JFK assassination.<sup>23</sup>

Many questions about other rifles at the crime scene have been raised, and some of them answered conclusively, by JFK assassination researchers over the years.<sup>24</sup> Oswald and his fellow employees had even seen a Mauser at the TSBD in the possession of their supervisor, Roy Truly, just two days before the assassination.<sup>25</sup> But had the critics known about the charger-clip discrepancy, they might

have asked, along with questions about other rifles, slightly different questions: Why would a description of a superficially similar but non-clip-fed rifle prevail for at least twenty-four hours (and at most three days) after a clip-fed rifle became the most important piece of evidence? Was it because it prevented questions from being asked about ammunition clips? Why avoid such questions? Was it because no clip was found with the gun? Did the crime

scene investigators replace the clip? Why would the crime-scene investigators lie and fabricate evidence to hide a rifle's normal firing condition? Did they confuse the Mannlicher-Carcano's feeding system with that of the more familiar M-1 Garand, thinking it needed a clip if a round was in the chamber? Did they know, therefore, that the rifle was planted? And if they knew that, did they knowingly help frame Lee Harvey Oswald?

Things might have been very different had Mark Lane known to ask these questions when he brought the Mauser description to the Commission's attention on March 4, 1964. This analysis does not exculpate Lee Harvey Oswald. Nor does it conclusively indict other individuals. But if this analysis is correct, it does conclusively prove conspiracy. And it serves to remind us that, in this time of new evidence produced through technology and file declassification, nothing is wrong with the old evidence. A hard question we must ask — and answer for our children — is why it took us so long. That delay caused great damage they will have to undo.

In our search for a smoking gun, we missed the real *prima facie* evidence — the gun that didn't smoke. Let us begin again.

**In a murder involving a gun, an essential question is: "Is this the gun that fired the fatal bullet?"**

## "NO MORE SHELLS IN THE MAGAZINE"

An unlearned carpenter of my acquaintance once said in my hearing: "There is very little difference between one man and another; but what little there is, is very important." This distinction seems to me to go to the root of the matter.

— William James, 1897

### The Evidence

As trial jurors are reminded daily, evidence tampering can be inferred from an absence of evidence which is reasonably expected to exist, and, conversely, from the existence of evidence which is reasonably expected to be absent. Inference is the essence of circumstantial evidence, one of three major classifications of evidence. The other two major classifications are direct evidence and real evidence. The essence of direct evidence is that it directly establishes a main fact or element of the crime. It may be an actual object or an immediate experience on the part of a witness. Items of real evidence, the focus of our discussion here, are tangible objects which prove or disprove the facts at issue. Real evidence is self-explanatory. It may be either direct (e.g., an actual gun seen and collected) or circumstantial (e.g., a gun not seen or collected but inferred from established facts such as its visual and auditory effects). But real evidence needs only to be identified in court, not explained. Fingerprints and blood stains are other examples of real evidence. The most important real evidence is *corpus delicti* evidence. It consists of objects and substances which are an essential part of the body of a crime, such as a gun used to commit a murder. Investigators at a crime scene are therefore chiefly responsible for the discovery and preservation of *corpus delicti* evidence.

Those rules of evidence are among the most basic concepts used in criminal investigation. Like the basic procedures described below, they were known and used around the world at the time of Kennedy's assassination. They were studied worldwide in textbooks. One of those books, by criminologist and educator Charles E. O'Hara, *Fundamentals of Criminal Investigation*, first published in 1956, was in its third printing with 14,000 copies by 1963. Prescribed fundamentals like those in textbooks like O'Hara's were known to Dallas Police Lieutenant John Carl Day. On the day of the assassination, Day was fifty years old, had twenty-three years of experience with the Dallas Police Department, and had been the immediate supervisor of the crime-scene search section of its identification bureau for seven years.<sup>26</sup>

In his "shoot-out town," as Dallas was called in 1963,<sup>27</sup> Lieutenant Day knew all too well that investigators of the crime of murder have the greatest responsibility for competent inquiry. They face the most severe test of the full resources of the applied art of investigation. Among the most important of those investigative resources are science and prescribed methodology. In a murder involving a gun, an essential question is: "Is this the gun that fired the fatal bullet?" All the parts of the

gun, including those required for its successful operation, as well as the condition of those parts, are therefore crucial pieces of *corpus delicti* evidence. Such evidence must be intelligently handled from the point of view of science and the law. Each person who handles that evidence must insure that it is accounted for at all times while in their own possession.

Fingerprints take priority during collection because they are the most fragile. But *prior* to submitting a gun to the crime laboratory, it should be unloaded and all parts that are removable without the aid of tools, and which may leave an imprint on the bullet or cartridge case, should be removed from the gun and properly marked or labeled for identification as they are being collected or as soon as possible thereafter. All of that information, plus any unique characteristics, such as caliber or gauge, make, lot number, and serial number, should be recorded in the investigator's notebook during or immediately after the search.

Despite those long established, most important, most fundamental procedures used throughout the world in searches of the most important of all crime-scenes — those where murders occurred — on November 22nd, 1963, extremely unorthodox methods and extreme neglect by experienced investigators apparently prevailed during the search of the crime scene of the murder of the President of the United States.

At 12:30 p.m. C.S.T., shots were fired at the President. Immediately, Dallas police apparently suspected some had originated from the TSBD. According to the Warren Report, the Dallas police had two witnesses who saw from where the shots came, Howard Brennan and Amos Euins. Brennan "quickly reported his observations to police officers." And "Immediately after the assassination," Euins "reported his observations to Sgt. D. V. Harkness of the Dallas Police Department and also to James Underwood of station KRLD-TV of Dallas."<sup>28</sup>

Shortly before 1:03 p.m.,<sup>29</sup> Deputy Sheriff Luke Mooney reportedly discovered three used cartridge cases lying on the floor beneath the southeast corner window of the sixth floor. Harold Weisburg observed that, "More than a half-hour elapsed before the empty shells were found, yet they were 'found' at exactly the window pointed out. It was almost three-quarters of an hour before the rifle was 'found,' and it was found on that very floor."<sup>30</sup>

Reportedly at 1:22 p.m., Deputy Sheriff Eugene Boone and Deputy Constable Seymour Weitzman discovered a bolt-action rifle with a telescopic sight attached. The Warren Commission concluded that Weitzman — though neither man handled the rifle — described it as a 7.65 Mauser bolt action. It was subsequently described as a 6.5 millimeter Mannlicher-Carcano Italian military rifle. It reportedly contained one round, which was a copper-jacketed military-type bullet manufactured by Western Cartridge Co.<sup>31</sup>

The rifle was photographed and filmed almost from the moment it was found, but the earliest known evidence of an ammunition clip was not recorded until just before 1:57 p.m. It appeared in photographs taken by William G. Allen of the *Dallas Times Herald*, Ira D. "Jack" Beers of the *Dallas Morn-*

ing News, and Daniel Owens of Fort Worth television station WBAP.<sup>32</sup> In his book, *Pictures of the Pain*, Richard B. Trask described the scene:

Some time close to 1:45, Lieutenant Day left the Book Depository's front door carrying the rifle discovered on the sixth floor. Photographers swarmed around Day as he walked to Houston Street and crossed the street over to its east side and proceeded a short distance easterly on Elm Street to his vehicle. Day held the weapon by its strap and away from his body, attempting to touch it as little as possible to preserve any potential evidence on the rifle itself. The significance of the scene and the clear view of the presumed assassination weapon was not lost on any of the photographers. Allen took eight exposures while Beers shot at least three. By early evening the wire services would be circulating photos of this dramatic scene. Several of these photos clearly show the end of an ammunition clip protruding from the bottom of the rifle. The brass clip held up to 6 rounds. When the final round was bolted into the rifle chamber, the clip was supposed to fall out from the bottom of its chamber. The clip, however, had a propensity to catch and not fall out.<sup>33</sup>

We considered three aspects of these photographs: the precise time they were taken, the clip's "propensity" to align itself in the manner shown, and the photographic authenticity of the clip's image.



Lt Day leaving the Depository with the rifle and a protruding clip?

Precise timing of that event can be determined because the very next photographs, taken after Lieutenant J. C. Day departed, by Allen, Beers, and a newly-arrived photographer, George Smith of the *Fort Worth Star-Telegram*, were of three apparent "tramps" being escorted past the TSBD by two uni-

FIG. 1 : TEXAS SCHOOLBOOK DEPOSITORY (facing 165° South by Southeast) Shadows next to Loading Dock Gate on November 22, 1963

Scale: 0.5 inch = 4 inches NORTH →

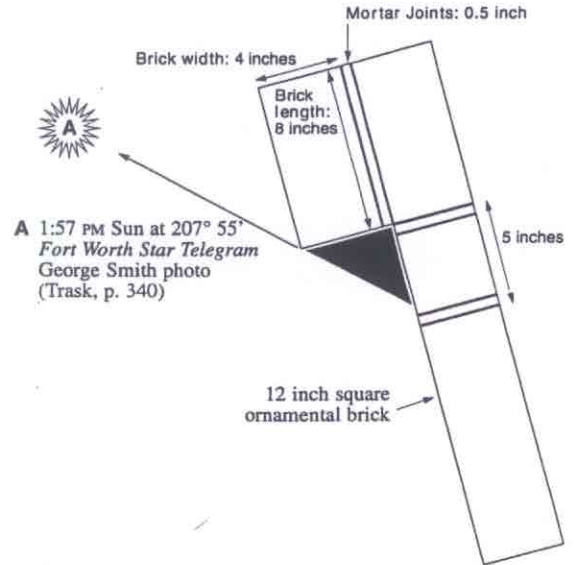


Fig. 1 — Illustration © 1997 Richard Bartholomew

formed policemen. The first of the seven known "tramp" photos, taken by Smith, shows shadows cast by the building's brickwork.<sup>34</sup> Shadows cast by sunlight can be read as a "sundial" by comparing the bricks' measurements to the known positions of the sun for that date (see fig. 1). We can therefore be certain that the clip first appeared in evidence just prior to 1:57 p.m.

### The Test

Using a 6.5 Mannlicher-Carcano rifle (not a carbine) in excellent working condition, two black steel clips, and one live shell with a rounded, exposed-lead tip, as opposed to a full-metal jacket, coauthor Richard Bartholomew tested Trask's claim that the clip "had a propensity to catch and not fall out."<sup>35</sup>

Inserting an empty clip manually from both the top and bottom resulted in the clip jamming against the clip release mechanism to its rear and against machined ridges on the sides of the magazine to its front. There were two distinctly different jamming effects, depending on which end of the magazine placement was attempted. Neither jamming effect occurred when the shell was loaded into the chamber from the clip.

First is the "bottom-placement" effect. When the clip was placed from the bottom, its posterior stayed aligned with the back of the magazine. This jamming effect could only be accomplished by manually protruding the clip partially from the

bottom and turning it clockwise. Turning it counterclockwise did not produce this effect. Instead, the clip always fell out. There was an audible clicking sound when the clip's right front side jammed into place behind the machined ridge. It was stuck firmly rather than loosely. This effect visually matched what is seen in the pictures of the alleged murder weapon being carried out of the TSBD. When the clip was placed farther into the magazine, from bottom to top, the second jamming effect occurred. It was identical to the "top-placement" effect, produced by placing the clip into the magazine from the top (as described below).

Second is the "top-placement" effect. When placed from the top, the clip always fell at an anterior-posterior angle, with the bottom angling forward and the top angling rearward. This fall resulted in the clip hanging on the front edge of the magazine's opening at the bottom. Then, when manually aligned properly, the clip slid easily through the ejection port, as it is designed to. Only by engaging the clip release button was it possible to remove the clip from the top. It was loose enough to rattle, but jostling would not release the clip. During some top-placement attempts, special manual alignment of the clip produced the "bottom-placement" jamming effect. The clip turned clockwise as a result of this physical handling, and holding the rifle at such an angle that the clip turned as it fell through the opening.

It is clear that there is a propensity for a normal, empty clip to stay inside the magazine when manually placed from the top. The "bottom-placement" jamming effect, which allowed partial ejection, was also reproducible when the clip was placed from the top, but it required physical manipulation to accomplish. However, neither jamming effect occurred when the shell was loaded into the chamber from the clip. The normal action of the rifle kept the clip aligned with the magazine's bottom opening, allowing it to fall out as designed.

From this experiment, experiences of others familiar with this weapon, and silence about clip-jamming frequency by official investigators who reportedly test-fired the alleged murder weapon with a clip, we concluded the clip must be deformed to jam regularly during rifle operation. A normal clip can be regularly jammed only through non-operational manipulation. The fact that no clip is seen protruding from the magazine in film taken on the sixth floor, combined with the fact that it is seen protruding from the magazine in film taken later at the front street entrance, means, at a minimum, that investigators handled the clip at the crime scene.

Therefore, the following aspects and implications of this clip's lack of an operational "propensity to catch" are discussed in this article: the clip was officially reported to have no prints; handling by investigators was never reported, nor was Captain Fritz's filmed handling of the rifle with a handkerchief; since Oswald did not take precautions against leaving prints, he either did not load the rifle, or investigators wiped his and their own prints off the clip. Given the official silence, both alternatives indicate conspiracy.

## The Photos

The remaining aspect of the Allen, Beers and Owens photographs, considered here, is the claim that no clip was visible to be photographed: the clip and its unusual placement are an illusion created entirely by photo-retouching. It is reasonable to consider such a forgery. It was both possible and probable with the then current state of photographic art. Photography in 1963-1964 had long been capable of altering history, and was known to have altered Russian history. The CIA's Ray Cline said, "Photography became to the fifties what code-breaking was to the forties." Code-breaking determined the outcome of WWII. During the Eisenhower administration, both C.D. Jackson, the purchaser of the Zapruder film of the assassination, and Edwin H. Land, the inventor of the Polaroid camera, worked closely with Director of Central Intelligence Allen Dulles on propaganda and U-2 photographic intelligence. While the Warren Commission was in session, Ranger 7 returned 4,308 photographs from the moon electronically.<sup>36</sup>

It could be argued, therefore, that the clip's image was faked because there was no evidence of a clip at the crime scene. But the plausibility of that claim ends there. Such a forgery has no other reasonable benefit to the conspirators. On the contrary, by the time the forgery could have been completed (one of the photographs was broadcast by NBC-TV News at 3:56 p.m. C.S.T.),<sup>37</sup> the use of extreme confidentiality regarding the clip had become obvious.

In fact, the Allen, Beers and Owens photos are among the best proof of conspiracy. As will be seen, those photos forced the bizarre, deafening silence that continues to surround the clip. Those photos forced the conspirators into a hasty cover-up of their worst mistake: thinking a clip was needed inside this rifle to satisfy its load-fire-reload characteristics. Without those photos, the conspirators could have said, "Nope, we didn't find any clip. It must have ejected normally and been ditched by the suspect." Had those photos never existed, we can be sure there would be no need for a clip in evidence, or any twenty-four-hour consensus about a Mauser.

Fifteen years later, the Allen, Beers and Owens photos forced esteemed firearms experts to tell the HSCA a ridiculous story about a clip so bent it could not move in any direction during the extensive handling of the rifle on the sixth floor. Those photos continue to force Lieutenant J.C. Day into extreme, tortured avoidance of how, where, and in what condition the clip was found. The claim least reasonably believed about

the photos is the normality Trask purports in the handling of evidence at the crime scene. Would not a clip so deformed (according to the HSCA) as to stick completely inside the rifle require extreme jarring to move it partially out of the rifle? Would the abnormality of a clip so deformed at least elicit some comment at the



Two shells photographed as evidence.

scene from those who described every other "normal" part of the rifle's discovery in detail?

### The Questions

The earliest known attempt to ask one of the crime-scene investigators for the exact location and condition of the clip when found, occurred on September 9, 1968. Dr. John K. Lattimer wrote and asked Day these questions: "Can you tell me where the empty cartridge clip was found? Was it on the floor under the window from which Oswald fired, or was it still in the rifle until Captain Fritz ejected the last round? I have not been able to find out this fact in the Warren Commission Report, and am appealing to you for clarification of this point." He gave, as a reference, Dr. Paul Peters, a member of the emergency medical team who tried to resuscitate JFK at Parkland Hospital. According to a handwritten notation, signed by Day and dated "9/16," at the bottom of Lattimer's letter, the only action taken by Day, apparently, was contacting Peters' office and learning that "Dr. Lattimer was a reputable professor." The only response to Lattimer's letter seems to have been a form-letter response, two weeks later, from Chief of Police Charles Batchelor, referring him to the Justice Department.<sup>38</sup>

If the clip was so deformed as to stick completely inside the rifle, unnoticed for a half hour, then stick partially outside the rifle until it was allegedly removed at the police crime lab, would not Lieutenant Day have answered Dr. Lattimer's 1968 letter that asked specifically how, where, and in what condition the clip was found? Would such a clip not elicit some comment at all, in three decades, from those who "found" it? In his 1980 book, Kennedy and Lincoln, Lattimer

vaguely reported questionable results from his own experiments. He did not report his expected answers from either Day, or the Justice Department, or anyone else. Yet Lattimer declared that "the Warren Commission had been correct" that "the clip was found in Oswald's rifle...."<sup>39</sup> As we will see, vague and inadequate as it is, Lattimer's "proof" is vastly superior to the Warren Commission's.

JFK assassination researchers are well aware that the statements concerning the alleged murder weapon consist of a collection of information, misinformation and disinformation. In 1993, the task of citing it was greatly simplified when one author compiled most of it into a single volume, necessary in his attempt to portray the Warren Commission's unsupported minority opinions as the truth.

Gerald Posner's Case Closed includes only two direct references to the Mannlicher-Carcano's ammunition clip. Posner says that the fact that Oswald used only four bullets in a six-bullet clip is a sign of his lack of preparation.<sup>40</sup> With regard to the three spent cartridges ejected from the rifle, he cites Lieutenant Carl Day's Warren Commission testimony as proof that

Day photographed the shells at the crime scene in their original position. He cites the photographs taken by Day and his assistant Robert Lee Studebaker, and Deputy Sheriff Luke Mooney's testimony as proof that the shells were found in a random pattern rather than in a neat row.<sup>41</sup> The claim that they were in a neat row was later made by Deputy Sheriff Roger Craig.<sup>42</sup>

Posner also refers to the so-called misidentification of the rifle reportedly found at the TSBD and the fact that it was mistaken for a Mauser.<sup>43</sup> The story that the Mannlicher-Carcano was planted at the Depository about twenty minutes after the assassination is "folklore," Posner claims.<sup>44</sup> He informs us that Mooney and Weitzman (actually, it was Boone and Weitzman) thought at first glance that the rifle was a 7.65 bolt-action Mauser. He adds that, "Although they quickly admitted their mistake, that initial misidentification led to speculation that a different gun was found on the sixth floor and that Oswald's Carcano was later swapped for the murder weapon."<sup>45</sup> No one "quickly admitted" any mistake. If they had, no argument would exist over the misidentification.

Posner ignores the earlier Enfield .303 identification altogether. He dismisses the Mauser identification by saying, "Firearms experts say they are easy to confuse without a proper exam (HSCA Vol. I, pp. 446-47; HSCA Vol. VII, p. 372.)" Posner gives no explanation for why, after a proper exam was made early that Friday afternoon by Lieutenant Day, the Mauser description continued uncorrected by the Dallas Police Department both internally to Police Chief Curry and public relations officer Captain Glen D.

King, and externally to District Attorney Henry Wade and the press. He then ridicules Mark Lane for "trying to portray a simple mistake as evidence of conspiracy (Rush to Judgment, pp. 95-101)."<sup>46</sup>

Posner, like many conspiracy deniers who continue to assert ludicrously that Weitzman made an innocent error, is evidently unaware that his fellow denier, Commission staffer Wesley J. Liebeler, revealed a motive. Mark Lane spoke about Liebeler's June 5, 1967, remarks on Stanford radio station KZSU: "Said Liebeler, 'And, of course, Mr. Weitzman is Jewish.' While the relevance of the officer's religion may not seem apparent at the outset, Liebeler's presentation of Weitzman's motive places it in context. Since 'the Germans have been picking' on the Jewish people 'for the last 50 years,' Weitzman reasoned, according to Liebeler, that he 'got one back at them.'"<sup>47</sup>

An unfortunate oversight, perhaps, for someone like Mr. Posner who has studied Nazi Germany and desires to close the case based on minority opinions of the Warren Commission. Of course, given the facts, we would have to believe that

**But as we have already seen, these men did not test whether the clip in evidence would allow the weapon to function properly.**



the other crime scene investigators and the Dallas Police Department conspired to join Weitzman in his alleged attack on German anti-Semitism.

On pages 474-75 of *Case Closed*, there is a technical illustration of the Carcano and the clip with a line drawn from the clip pointing to the area forward of the trigger, showing this position as its whereabouts when in use.

There is also a four-panel diagram illustrating the bolt action. The caption above reads, "The bolt action can easily be executed in a fraction of a second." The caption below reads, "1. Push bolt up... 2. Pull back (to eject case and position next cartridge)... 3. Push forward... 4. Push down (to lock bolt)." Posner does not point out that while the bolt action can be operated quickly, such rapid firing is only possible **with the clip**. Among the Warren Report's few words about the clip is the statement: "As long as there is ammunition in the clip, one need only work the bolt and pull the trigger to fire the rifle."<sup>48</sup> Otherwise a cartridge must be loaded after each firing.

Despite this semi-detailed look at the load-fire-reload cycle, Posner never mentions anywhere in his book the peculiarities of this rifle's feeding system. He also does not mention that there should have been some mention of discovering the clip by Boone, Weitzman, Mooney, and especially Day and Captain Will Fritz, head of the Dallas Police Department Homicide Division. The Warren Report cites Fritz's testimony<sup>49</sup> and Day's testimony<sup>50</sup> to support its statement that "When the rifle was found in the Texas School Book Depository Building it contained a clip..."<sup>51</sup>

Sylvia Meagher wrote: "...there is not one word on those pages about an ammunition clip, nor is there anything elsewhere in the testimony of Fritz or Day or other witnesses which establishes that an ammunition clip was found at all. The assertion in the Report that the rifle found in the Book Depository contained a clip is absolutely unsupported by direct evidence or testimony."<sup>52</sup>

Meagher is right. The pages cited by the Report as proof that the clip was found with the rifle say nothing about the clip. Fritz talks about Day. Day talks about Fritz. They both talk about the rifle: about finding it; photographing it; handling it; ejecting the live round; putting identifying marks on it and the live round; dusting them both for prints; and about how, when and where all of these activities were done. **But nothing in this testimony indicates the existence of a clip at the crime scene.**

Posner quotes the following from a January 19, 1992, interview, he had with Carl Day: "I knew there could be no fingerprints on that strap, so I picked the gun up by that. The stock was pretty porous and weather-worn, so there was little chance of any prints there. Before pulling the bolt back, I satisfied myself there were no prints on the little metal lever. Then I held the gun while Captain Fritz pulled the bolt, and a live round fell out. There were no more shells in the magazine."<sup>53</sup> From this statement we might be tempted to think that we now apparently have, twenty-nine years late, the first and only (and improbable) record of the clip ("magazine") being

FIG. 2 : MANNLICHER CLIP SYSTEM

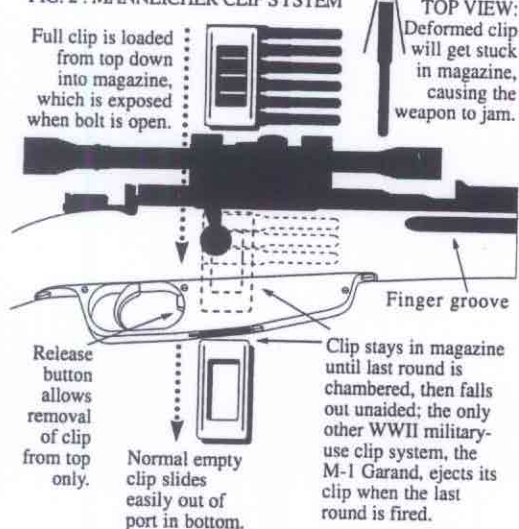


Fig. 2— Illustration © 1994 Richard Bartholomew

seen at the time of the discovery of the rifle. But returning to Lutz's testimony before the HSCA, aided by fellow firearms expert Donald E. Champagne, we learn otherwise:

Mr. Edgar. ...I was interested in seeing you handle the rifle and talking about the action of the rifle. I have just a couple of questions relating to the rifle itself.

Could you describe the magazine section of the rifle and how that works?

Mr. Lutz. The magazine section is this attached area, a fixed box-type magazine, that is part of the trigger guard protruding from the bottom of the stock. It is the large metal object that you see on the lower silhouette. The magazine itself consists of the follower, the steel or metal arm that is inside of the receiver, that is pushed down as the cartridges are inserted into the top of the firearm, and then that steel or metal arm is on a spring that pushes on the bottom cartridge and is part of the magazine and causes the feeding of the system to operate inside of the rifle as it is loaded.

Mr. Edgar. So it would be accurate to say that there isn't a portable magazine that is clipped into the rifle and clipped out again, that the magazine is part of the rifle itself.

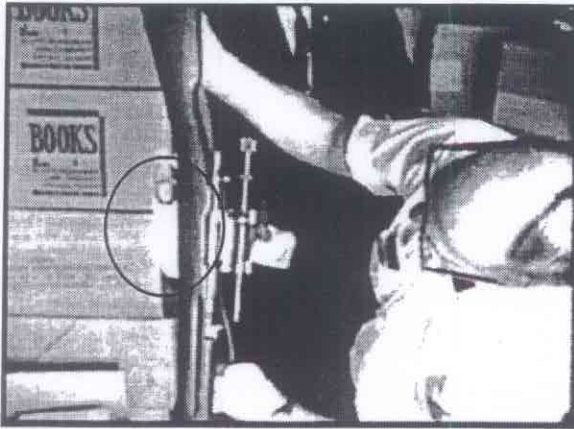
Mr. Lutz. That is correct as opposed to the detachable magazine that could be removed and taken out of the rifle....

Mr. Edgar. Do the magazine follower markings found in CE-141 [the live round ejected by Fritz] indicate that the clip was used?

Mr. Lutz. Could I defer that question to Mr. Champagne?

Mr. Edgar. Sure.

Mr. Champagne. Yes. Without the clip the weapon would not function properly. The cartridges would lie loose in the magazine.<sup>54</sup>



The rifle is found. No clip is seen protruding, but later seen seemingly being stuck in the magazine.

## The Facts

But as we have already seen, these men did not test whether the clip in evidence (as seen in CE 575) would allow the weapon to function properly. In the condition shown on page 83 of the Warren Report, given their reason for why the clip was there, it would not (see fig. 2).

The main point here is that in Posner's book, the terms "clip" and "magazine" are used interchangeably, when, in fact, they refer to **two different things**. Day was not talking about a clip. The clip holds the cartridges. The magazine is an integral part of the rifle which, in this instance, holds both the cartridges and the clip. The clip goes into the magazine.

On Mausers, the Lee Enfield or Springfield 1903, the magazine would hold the cartridges without the clip (a.k.a. charger or stripper clip) which is thrown away when the cartridges are "thumbed" into the magazine. The term "clip" is used in this latter case commonly, but the correct term is "charger" or "stripper clip."<sup>55</sup>

The point is that a Mannlicher-Carcano will not function, except impossibly slowly, without a clip, and a Mauser will not function properly with one. According to J.W. Hughes, "One thing that you should be aware of is that the Mannlicher-Carcano was not designed to 'single load'. If you attempt to single load the Mannlicher-Carcano, the bolt will push the round into the chamber, but will need to be *forced* closed. This

will in most cases not properly seat the bolt behind the round and the firing pin most generally will not strike the primer with sufficient force to discharge the round. Then, in most cases, it will deform the rear of the shell as the extractor is forced around the extractor ring as the bolt is opened. I tested my Mannlicher-Carcanos again with this type of loading and 1 out of 63 rounds fired."<sup>56</sup> (emphasis in original) Congressman Edgar did not ask the HSCA firearms panel, and its members did not volunteer, whether they had this difficulty during their firing tests conducted entirely without the clip.

Furthermore, with the Mannlicher-Carcano, we are talking about a rifle that feeds from the top. A clip feeds from the top (see fig. 2). A detachable magazine feeds from the bottom. The magazine is temporarily attached to the bottom of the rifle and houses the cartridges. During WWII, both Mausers and Enfields were equipped with ten-round detachable magazines. These magazines were attached to the bottom, which could not have been involved in the misidentification of the Mannlicher-Carcano.

Therefore, Carl Day was still cleverly avoiding the problem of the clip after twenty-nine years. When he told Gerald Posner, "There were no more shells in the magazine," he was correct. He was not only correct, but he provided himself an avenue of escape from the glaring subject of the clip. At the moment they determined there were no more rounds in the magazine, Day and Fritz could not avoid seeing the empty clip which was supposedly stuck inside the magazine.<sup>57</sup>

Mr. Posner was also purposely avoiding the issue. Even if Posner and Day simply misspoke, it is still unbelievable that several witnesses to this clip-magazine, including such firearms users as Boone, Weitzman, Mooney, and Fritz, have never said a word in thirty years about finding such an essential part of the weapon. And if Posner and Day misspoke, it is still unbelievable that a description of a non-clip-fed rifle prevailed inside and outside the Dallas Police Department during that Friday afternoon, evening and night. Historian and author George Michael Evica makes a very good point about this:

Lieutenant Day was credited by the Warren Commission with identifying the rifle in his possession as an Italian 6.5 mm. weapon. The Commission, however, supplied neither evidence nor documentation for its statement. Those references it did give to 'document' the alleged Day identification were irrelevant to the Commission's assertion. And Day himself seemed to deny the Commission's statement: 'I didn't describe the rifle to anyone other than [unidentified] police officers.' One of those 'police officers' seems to have been public relations officer Captain Glen D. King, but if Day did describe the weapon he examined to King, and King (doing his job) passed that description on to the working press the afternoon and evening of the 22nd, either Day described the rifle as a 7.65 Mauser, or King thought Day described it as such, since that description prevailed.<sup>58</sup>

Day, in describing a Friday night encounter with the press, testified under oath that, "Several of the newsmen asked me various questions about what the gun was at that time. I did not give them an answer.

"When I went back to the office after Marina Oswald viewed the gun, they still were hounding me for it. I told them to check with the chief's office, he would have to give them the information, and as soon as I got back to my office I gave a complete description, and so forth, to Captain King on the gun."<sup>59</sup>

Day, and King in turn, should have been following the official Dallas Police Department policy on news coverage. The Warren Report states:

Consistent with its policy of allowing news representatives to remain within the working quarters of the Police and Courts Building, the police department made every effort to keep the press fully informed about the progress of the investigation. As a result, from Friday afternoon until after the killing of Oswald on Sunday, the press was able to publicize virtually all of the information about the case which had been gathered until that time. In the process, a great deal of misinformation [and as later discovered, disinformation] was disseminated to a worldwide audience.

As administrative assistant to Chief Curry, Captain King also handled departmental press relations and issued press releases. According to King, it was "the responsibility of each member of the department to furnish to the press information on incidents in which they, themselves, were involved, except on matters which involved... personnel policies of the department, or... unless it would obviously interfere with an investigation under way..."

...In their efforts to keep the public abreast of the investigation, the police reported hearsay items and unverified leads; further investigation proved many of these to be incorrect or inaccurate. For example, the rifle found on the sixth floor of the Texas School Book Depository Building was initially identified as a Mauser 7.65 rather than a Mannlicher-Carcano 6.5 because a deputy constable who was one of the first to see it thought it looked like a Mauser. He neither handled the weapon nor saw it at close range.<sup>60</sup>

Considering the number and quality of worldwide journalistic organizations represented, is it possible that not one followed Day's instruction to "check with the chief's office" (i.e., King) on the second most sought-after piece of information? For all of these professional journalists to get the name and type of murder weapon wrong is no less unbelievable than if they had gotten the name and description of the primary suspect wrong for twenty-four hours after he was in custody.

Warren Commissioner John J. McCloy asked Day: "There was never any doubt in your mind what the rifle was from the minute you saw it?" Day replied, "No, sir; It was stamped right on there, 6.5, and when en route to the office with Mr. Odum, the FBI agent who drove me in, he radioed it in, he radioed in what it was to the FBI over the air."<sup>61</sup> The HSCA added that "Later that day, the rifle's six-round cartridge clip was removed by Lieutenant Day in the Dallas Police Crime Laboratory."<sup>62</sup>

Evica further points out that Day waited until he got to his office to dictate a detailed description of the rifle, which remained in his possession from the moment it was found. That description and four others are missing from the Commission's public record: 1) Weitzman's FBI description, 2) Day's dictated memo, 3) Day's description to FBI Special Agent Bardwell D. Odum, 4) Odum's broadcast, and 5) Dallas police Detective C.N. Dhority's description.<sup>63</sup> Five descriptions that would have prevented the "folklore" of a planted rifle were not made public.

## "CONFUSION OVER THE RIFLE"

*As out of place as a Presbyterian in Hell.*

— Mark Twain, 1912

## The Situation

In the main body of the Warren Report, the rifle, cartridges, cartridge cases, bullets, etc., are described under the heading, "Expert Examination," but there is not a word about the clip on the Mannlicher-Carcano despite that it would be of particular interest, since the Carcano and M-1 Garand were the only clip-fed (directly chambered from a clip) WWII military-use rifles in the world.

Turning to the Warren Report's Appendix X, we have coverage of the description and operation of the Carcano and everything associated with it in the minutest detail, but on the ejection of the clip, silence. This is the key to the operation of this weapon, because it tells the user when to reload. It is important enough to repeat that, on the M-1 Garand, the clip is ejected when the last round is fired, while on the Mannlicher system, the clip is ejected when the last round is chambered.

That was the state of the weapon left at the TSBD. Yet it is not until the Warren Report's Appendix X that, at long last, the silence is broken on the location of the clip. We read that when the rifle was found in the TSBD, it contained a clip. That was the only place in the world where the clip could not be found. It would have fallen out the bottom when the last round was chambered. The word "contained" precludes the slight possibility that the clip was stuck in the magazine.

Events at the crime scene seem to be predicated on 1) somehow a clip was involved, but 2) somehow these events were based on the misconception that the clip, as in the M-1 Garand, was ejected when the last round was fired, not chambered. See the Warren Report's Appendix X.

This latter misconception could have been the reason why Jack Ruby referred to "the confusion over the rifle." For at least twenty-four hours the public was informed the weapon was a Mauser, while it was known internally at the Dallas Police Department to be a Mannlicher-Carcano. The delay could have been to allow time to locate a clip, and synchronize stories, when actually it was unnecessary. The clip would have been ejected, and the shooter could have easily pocketed it to avoid identification of fingerprints.

The most plausible explanation is that the only confusion was over when the clip ejected during the load-fire-reload cycle. Trained soldiers throughout the world have filled hundreds of thousands of graves because of failure to understand this cycle on various weapons. So it is understood that people are slow to understand the cycle of this feeding system.<sup>64</sup> It seems too ironic, when considering these events, that the Carcano is one of only two clip-fed WWII military-use rifles in the world, and that the misconception was based on the timing of the ejection of this only other clip-fed system, the M-1 Garand.

The facts surrounding these events cry out for explanation because of repeated indications that during the first twenty-four hours the Depository rifle was known internally to be a Mannlicher-Carcano by the Dallas Police Department. And the cry becomes deafening when we add the fact that three days after the assassination, a CIA report identified the gun as a Mauser. Dated November 25, 1963, it reads:

The rifle he [Oswald] used was a Mauser which OSWALD had ordered (this is now known by handwriting examination) from Klein's Mail Order House, Chicago, Illinois. He had the rifle sent to a Post Office Box which Lee OSWALD had rented. In the order for the rifle, Oswald used the name Alex HIDEELL.

OSWALD also had in his possession at the time of his arrest (after he also killed a Texas policeman) a U.S. Selective Service Card in the name of Alex HIDEELL.<sup>65</sup>

This seemingly authoritative report was apparently written by an analyst who had not seen the Klein's mail order form he is writing about, since it is an order form for a Mannlicher-Carcano, not a Mauser. The CIA declined to comment on the report. And a CIA-translated, Italian military report, dated six days after the assassination reads, "The weapon which appears to have been employed in this criminal attack is a Model 91 rifle, 7.35 caliber, 1938 modification... The description of a [6.5 caliber] 'Mannlicher-Carcano' rifle in the Italian and foreign press is in error."<sup>66</sup> And then after weeks to think it over, Wade asked the Commission if a Mauser

was German. This is an official who had prosecuted scores of gun shot cases.<sup>67</sup> The cry for answers is still deafening. The silence is still equally deafening.

During his testimony, Dallas District Attorney Henry Wade mentioned something about a "situation" and of course no one was interested in what "situation." He implied the situation was the cause of unnatural statements and events at his post-midnight press conference.

Mr. Rankin. What did you say about it?

Mr. Wade. I think I said I thought it was a Mauser or I thought — was one of those things I didn't know what it was. It was an Italian gun, I think and I really thought I was giving them Italian but Mauser is a German gun, isn't it? But I think you have that — it was a situation, I don't contend I was right on that because it was a situation somebody asked me that and that is what I thought I was telling them and I never — all my information came from the police and actually somebody said originally it was a Mauser but it turned out it was not.<sup>68</sup>

**If the clip was actually there, it is highly unusual (and therefore suspicious) for Day not to have dusted it or mentioned dusting it.**

All Wade had to say was, "I called it a Mauser. I was wrong." Instead, he seems to refer to "a situation" in the sense that it was a critical, trying, or unusual state of affairs — a problem. He even passes the buck to the police. What was the problem? This "situation" was most likely the failure to understand the load-fire-reload cycle when the evidential line was being set up. There is nothing inherently sinister about an evidential line, a starting point has to be established to keep things under control. Why is he so defensive? Even

if he was wrong, it should not have been a problem.

Forget where the rifle came from, forget whether Oswald ever had the rifle, rate of fire or accuracy or whether the rifle was fired that day (there appears to be no evidence it was checked for recent firing). Forget everything about the rifle except two things: 1) the Carcano was the evidence on the scene and 2) its load-fire-reload cycle in relation to the state in which the rifle was found was that the last round was chambered.

The first factor was understood on the afternoon of November 22nd. The second factor was misunderstood and may have resulted in what Ruby referred to as the "confusion over the rifle." This confusion governed that afternoon, evening, night and the next day. It resulted in the Warren Commission drawing a conclusion that is completely impossible. It resulted in Henry Wade being forced to make ridiculous statements.<sup>53</sup>

Since there is no physical or photographic (and, as discussed below, truthful anecdotal) evidence of a Mauser or a clip at the sixth floor crime scene, the Mannlicher-Carcano was the only weapon in evidence on the sixth floor

of the TSBD at 1:22 p.m., November 22nd, 1963. The evidential line therefore had to be set up. Through failure to understand the second factor above, it was mistakenly thought a clip had to be found. A clip was obtained. A period of uncertainty followed. The public had to be informed it was a Mauser (the Carcano's non-clip-fed superficial-twin). As a result, no one asked, "Where's the clip?" When the conspirators realized they must remain committed to the clip (because Day had been photographed leaving the TSBD with the rifle and the clip is shown sticking noticeably out of the bottom of the trigger guard), the cover story was explained away as Weitzman's imagination having only "glimpsed" the murder weapon of the century. This, in all likelihood, is the "situation" Wade was talking about. Neither this nor anything else, however, suggests that Wade had knowledge of what was transpiring. It suggests only that he was being given a "bum steer."<sup>69</sup>

Why the misunderstanding? The familiar M-1 Garand, the other WWII, military-use, clip-fed rifle, during its load-fire-reload cycle, ejects the clip with a clatter when the last round is fired — not chambered. And that, of course, is the signal to reload. Being so familiar to everyone, it was not realized the same did not apply to the Mannlicher feeding system.

This "misunderstanding" ruled the afternoon of November 22nd, through the next day, and when the Warren Report was issued. This "misunderstanding" was the "confusion over the rifle" Ruby talked about, the "situation" Henry Wade talked about.<sup>70</sup>

And because the weapon was apparently never tested for recent firing, a probably unfired rifle was planted supposedly in a state to suggest an actual fire. For rifle experts, the first thing they focus on in picking up the Mannlicher-Carcano is the unusual clip ejection system and the characteristic of the clip getting stuck on occasion. The silence on this subject was deafening at Dallas, and this silence continued through most of the Warren Report. Finally, in the Report's Appendix X, it was dismissed in a terse, tortured manner, dismissed with a sentence that sounds like a thunder clap: "When the rifle was found at the [TSBD] it contained a clip." "Contained" does not mean "stuck in the bottom." Had that been what was observed, it would have been among the very first observations made at the crime scene.

John K. Lattimer, author of *Kennedy and Lincoln*, and the man who, in 1968, asked but reported no answer from Day about where the clip was found, dealt with this problem in his own twisted way. He explained his initial concern: "I had thought I had discovered a discrepancy in the Warren Commission report when I read that Oswald's clip was retained...." He reported that in experiments with his four Carcanos, the clip stuck on two. Instead of using the Commission's "rifle contained a clip," he used the phrases "rifles would retain the clip" and "that all these old Carcano rifles would eject the clip when it was empty... was not always so," both quite different from "contained."<sup>71</sup> While poetic in rhyme and synonymy, and while adequately describing the partial ejection seen rarely with Carcanos, "retain" — to hold back — does not describe

the invisible containment of a clip necessitated by the film and testimony documenting what was actually seen and allegedly done with the Carcano in question.

But in debating details about what was or was not reported and what the rifle will or will not do, we could find it easy to lose sight of the basic problem. Either way, it is devastating to the Warren Commission's minority opinion; to those who initially conducted this investigation; and to conspiracy deniers in general.

## The Function

If the clip was on the sixth floor for everyone to see, the tool mark notwithstanding, how could these men mistake a clip-fed rifle for a non-clip-fed Mauser? If the clip was there, the long-lived Mauser identification does not make sense: **unless it was a deliberate lie.** And since there was no reason to lie about a Mannlicher-Carcano with a clip, it either was a Mauser, quickly replaced by a Mannlicher-Carcano, **or there was no clip.** Those are two very good reasons to lie; but in the latter case, *only if you think a clip is needed.* And until there is evidence of a Mauser or a clip on the sixth floor, the latter explanation must predominate.

Therefore, if there was no clip on the sixth floor, why did the authorities say there was? If the clip was not there — a perfectly normal situation — the fact that they said it was does not make sense; unless they knew the rifle was planted, inserted a clip which they erroneously thought it needed, and lied to cover it up. Either way, Oswald was framed. If not for the serious implications, it would be laughable, because they did not need the clip.

As the Warren Report says, "The rifle probably was sold without a clip; however, the clip is commonly available." Given the known chain of custody of the clip, that statement incriminates Lieutenant Day as much as it does anybody. There is no evidence of clip ownership by Lee Harvey Oswald or even by his alleged paper *alter ego*, Alek James Hidell. In the conflicting evidence of mail-order paperwork used to purchase the alleged murder weapon, one fact is clear: no clip was ordered or purchased. The clip was offered free with the purchase of 108 rounds of ammunition which cost \$7.50. The carbine with scope was \$19.95, plus \$1.50 for postage and handling. The money order was in the amount of \$21.45. The order form sent to Klein's Sporting Goods was for only item C20-T750 ("Carbine with brand new good quality 4X scope"). The Klein's shipping order itemized only "1 ITALIAN CARBINE 6.5 W/4X SCOPE...19.95...PP-1.50." No ammunition was ordered or purchased, and no clip was ordered or purchased.<sup>72</sup>

After showing the clip inside the rifle in a photograph (CE 541) on page 83, the Warren Report first mentions it on page 555 at the end of the section called "The Rifle." Here the reader learns that "As long as there is ammunition in the clip, one need only work the bolt and pull the trigger to fire the rifle." The next, and last, paragraph of this section is entirely about the clip. While this section tells how it is inserted into the rifle, no mention is made of the unique way it is ejected. Of course, if they did that they would have to open a can of

threatening worms and explain why the rifle "contained a clip." FBI weapons expert Robert Frazier did testify about the ejection mechanism but said nothing about the clip remaining stuck in the weapon.<sup>73</sup>

The clip is not mentioned again. Even on pages 565-566, it is not mentioned as one of the "Objects in the Texas School Book Depository Building" dusted for prints. This section comes close when discussing "faint ridge formations" on the metal magazine housing in front of the trigger. (According to the recent PBS *Frontline* television broadcast, an identifiable fingerprint of Oswald's.) It comes close again when saying "No prints were developed on the cartridge found in the rifle or on the three expended cartridge cases." This statement's sources<sup>74</sup> are FBI fingerprint expert Sebastian Latona,<sup>75</sup> Lt. Carl Day,<sup>76</sup> and CE 2011, pp. 1, 5.

Latona testified that he dusted all parts of the weapon, and he specifically said he found no prints on the ammunition clip. His findings were even given in an FBI report.<sup>77</sup> Since the Warren Report states that "There is no evidence that Oswald wore gloves or that he wiped prints off the rifle,"<sup>78</sup> it appears that the FBI would have been forced to explain the absence of prints on the clip had they mentioned Latona's findings.

If the clip was actually there, it is highly unusual (and therefore suspicious) for Day not to have dusted it or mentioned dusting it on the sixth floor. Unlike the cartridges, it had to be handled when it was inserted into the magazine. The absence of prints on the cartridges means that any prints made in the act of loading would most likely be found on the clip. To say there were no prints on the clip but several on the rifle is to say that Oswald was careful not to handle the clip with bare hands yet after loading, handled the rifle with bare hands. Not likely. **It is more likely that no clip was found.**

Austin, Texas, gunsmith Jim Westbrook, formerly of the Austin Police Department, was asked if the clip could be in the weapon during its disassembled state, thus avoiding fingerprints upon assembly. He said the clip might be loaded disassembled, but not safely. While he would not say it could not be done, he pointed out that handling the rifle would endanger the user and others. He said one could even argue that Oswald left the gun loaded after the Walker shooting, but while loaded, the weapon could not be disassembled and reassembled safely. J.W. Hughes, however, is certain that it cannot be done at all. He said a loaded clip will not stay in the ammunition "well" when the trigger guard is removed from the rifle.

Westbrook brought up another point concerning claims of Oswald assembling the rifle after he reached the TSBD. He said the rifle would need significant adjustment to align all of the parts for accurate shooting, including the seating of the

action and the tension of the screws, requiring a torque wrench. Without such adjusting, even the iron sights could be misaligned. Even if it were possible, taking this kind of care during assembly would not jibe with the extremely unsafe practice of doing it while the gun was loaded.<sup>79</sup>

It has also been argued that the rifle was found with a clip still "attached" inside of which was that "last" round. Someone then operated the bolt so that the "last" round was chambered, followed by the clip falling out. And, afterward, it is possible that, in order to reestablish the original condition of the rifle found, the finder(s) replaced the round in the clip, or misplaced it in the chamber, and replaced the clip in the rifle.

Researcher Anthony Marsh has given this theory some thought: "The clip does not eject after the last round fired if there is still a live round in the magazine... a live round in the magazine, not chamber... if the last round was still in the magazine, then the clip would not have ejected. After someone ejected the last round to dust it, then the clip could have started

falling out. The fact that it is [apparently] only partially ejected when the rifle is being carried out of the TSBD supports the idea that the clip did not fully eject as happens on most M-Cs."<sup>80</sup>

The clip would have "started falling out" after the last round was chambered, not ejected. And the idea that a clip does not fully eject on most Carcanos is mistaken. A normal empty clip rarely catches during operational ejection on most Carcanos. As discussed above, a clip-jamming effect can be

regularly produced with most Carcanos only when an empty clip is inserted and manipulated into the relevant jammed position. Moreover, given the ejection of a last round as described by Fritz and Day, the presence of a "last" round in the clip and not in the chamber sounds impossible. Officially, Oswald had ejected three cartridge cases. Pulling the bolt back ejects the case in the chamber, and positions the next cartridge. When Oswald allegedly ejected the third cartridge, the fourth and last one remaining in the clip would have become chambered, ejecting the clip. The '03 Springfield has a cut off that enables one to work the bolt on an empty chamber and still retain rounds in the magazine. But even if the alleged JFK murder weapon has such an unreported feature, it is hard to imagine using the cut off while shooting at someone.<sup>81</sup> Another, more plausible, version of this un-chambered round theory will be discussed in part two of this article. Such arguments can distract from the primary issue, however.

If the clip was found "contained" in the rifle, the argument over whether it took a blow torch to remove it or it ejected at launch velocity is irrelevant to the issue of conspiracy. Such arguments are diversions. Resolving them will not acquit the

## **The "confuser," whose duty was to confuse the people, got confused himself over the Mannlicher feeding system.**

guilty parties. Their resolution will only help reveal which crime: Mauser switch; or clip replacement and Mauser lie. They claimed to have both.

### The Conclusions

By considering suppositions covering both options (clip and no clip), the truth begins to emerge: the authorities fabricated an explanation that conflicts with opposing conclusions (i.e., clip equals Mauser or Mauser fabrication, and no clip equals both clip fabrication and Mauser fabrication). Did they have a clip or did they have a Mauser? They cannot innocently have both, neither, or either, coexisting with their claims about the clip and the longevity of the Mauser identification. All options for innocence are exhausted. If the crime-scene investigators had left bad enough alone, they could have gotten away with it. Disputing the suppositions will help discover which crime took place. But the fact that these untruths concern a planted rifle, and therefore the framing of Oswald, is indisputable.

There is also the question of whether the rifle removed from the TSBD was tested for recent firing.<sup>83</sup> Every conceivable test of this rifle was performed repeatedly, documented, and written about exhaustively over the last thirty years — except the most obvious one. Why was a test for recent firing not the cornerstone of the Warren Report and the FBI reports? Why was it not at least mentioned by Gerald Posner, a man who claims to have re-indexed the Warren Commission's twenty-six volumes? If Mr. Posner wishes to prove his case with finality and portray the "conspiracy buffs" as frauds, why is he not shouting such test results from a rooftop and selling poster-sized reproductions of them?

The answer, reportedly, is that there is no test for recent firing. But there is a test for whether a gun has been fired since it was last cleaned. On Tuesday, March 31, 1964, John J. McCloy fully expected such a test and asked for the result:

Mr. McCloy. Was there metal fouling in the barrel?

Mr. Frazier. I did not examine it for that.<sup>83</sup>

A metal fouling test, then, is more accurately a test for recent non-firing. If such a test on the Carcano had been positive, i.e., showing metal fouling in the barrel, the test would be inconclusive regarding when it was last fired. The FBI could have just gone on assuming it was the murder weapon. But if such a test on the Carcano had produced a negative result, i.e., no metal fouling in the barrel, it would have meant the rifle had not been fired since it was last cleaned. Since it had not been cleaned between the time it was allegedly used to kill President Kennedy, and the time it came into the possession of the FBI, a negative metal-fouling test result would have proved the rifle was not the murder weapon. FBI firearms expert Robert Frazier evidently was not as curious as Commissioner McCloy about the condition of this particular barrel.

Moreover, McCloy did not ask *whether* such a test had been performed. He asked for the *result* of a metal fouling test. In other words, he expected that one had been done rou-

tinely. Upon learning that the test had not been done, McCloy asked Frazier: "Could you say roughly how many rounds you think had been fired since it left the factory, with the condition of the barrel as you found it?" Frazier answered, "No, sir; I could not, because the number of rounds is not an indication of the condition of the barrel, since if a barrel is allowed to rust, one round will remove that rust and wear the barrel to the same extent as 10 or 15 or 50 rounds just fired through a clean barrel." McCloy and the other Commissioners and staff present, apparently getting the hint, abandoned that line of questioning without asking the simple question: What would it mean if this "murder weapon" had been found to have no "metal fouling in the barrel?"

As a whole then, the rifle evidence tells the following story of confusion at the crime scene. Fritz and Day, and company found the Mannlicher-Carcano on the sixth floor. It had not recently been fired but was properly set up to look as if it had (last round chambered, no clip). No other WWII military-use rifle ejects a clip upon chambering the last round.

The rifle's discoverers were not as familiar with its ammunition feeding peculiarity as the rifle's planters. Their ignorance created a "situation" (according to Wade) based on "confusion over the rifle" (according to Ruby). The discoverers thought the clip normally ejected after the last round was fired (like the only other clip-fed WWII military-use rifle, the M-1 Garand).

*The way they dealt with their confusion — their first mistake — reveals the discoverers' roles as accomplices. Innocent, confused discoverers would have reported finding a rifle in an impossible post-firing condition, suspected it was planted, and tested it for recent firing. If it had been fired, they would have eventually realized their mistake and concluded the suspect took the clip with him (a reasonable explanation because of fingerprints). If it had not been fired they would have concluded it was planted despite their mistake. The actual discoverers did none of these things.*

When we look through the eyes of persons reacting to their M-1 operation instincts, we have the reaction of 1) a person not knowing it was a plant contrasted with 2) a person knowing it was a plant. Assuming in both cases that there was no clip, based on the direct evidence and testimony about the crime scene, the first person's reaction would be that the post-firing condition was impossible, and he would go from there. He would look for another weapon and check for recent firing, which is the normal, instinctive reaction in any shooting. The second person, knowing it was a plant, would say something like, "Holy S\_\_\_, there has to be a clip in there!"

Therefore, the amazing fact that the rifle was never tested for recent firing reveals the finders's knowledge that it had not been fired and was therefore planted. Since the last round was in the chamber, they thought the planters had made a mistake by not including the clip in the gun. They did two things to remedy this assumed error. They sought out an appropriate replacement clip and stalled for time until they were successful.

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DEPARTMENT OF UROLOGY

STANDARD FORM NO. 64

September 9, 1968

Lieutenant J.C. Day  
Dallas Police Department  
Dallas, Texas

Dear Lieutenant Day:

I am a medical historian, naturally interested in forensic questions raised in connection with the Kennedy assassination. In reading the Warren Commission Report, I see that you photographed the three empty cartridge cases as they lay on the 6th floor of the Texas Book Depository Building, after Oswald fired them.

Can you tell me where the empty cartridge clip was found? Was it on the floor under the window from which Oswald fired, or was it still in the rifle until Captain Fritz ejected the last round? I have not been able to find out this fact in the Warren Commission Report, and am appealing to you for clarification of this point.

As evidence of the bona fide (and sympathetic) nature of my interest, I offer as a reference, Dr. Paul Peters, of the staff of the Parkland Hospital, who would be glad to act as a reference for me.

Sincerely,

*John K. Lattimer*

John K. Lattimer, M.D.  
Professor of Urology  
Chairman, Department of Urology

*This is a copy of the original letter from Dr. Lattimer to Lt. J.C. Day. It is being given to you as a reference for me.*

JKL: MJ  
cc: Dr. Paul Peters

Dr. Lattimer questions Lieutenant Day concerning the finding of the clip in 1968.

03

4 X 18 COATED ORDNANCE OPTICS INC. HOLLYWOOD, CALIFORNIA  
OIO JAPAN OSC INSIDE A CLOVERLEAF DESIGN  
6.5 CALIBER Q 2766

-MEN BOLT OPENED, ONE LIVE ROUND WAS IN THE BARRELL. NO PRINTS  
ARE ON THE LIVE ROUND. CAPT. FRITZ AND LT. DAY OPENED THE BARRELL.  
CAPT. FRITZ HAS THE LIVE ROUND. THREE SPENT BULLS WERE FOUND UNDER  
THE WINDOW, -THEY WERE PICKED UP BY DET. SIMS AND WITNESSED BY  
LT. DAY. THE CLIP IS STAMPED SMI 952.

*Handwritten notes:*  
1. 4  
2. *Handwritten signature/initials*



From the Dallas Police Department files: the first mention of a serial number on a clip. Note the handwritten date and no identification Bureau letterhead. Is this document real?  
(Document from Debra Conway)



They purposely misidentified the rifle — probably first as an Enfield and/or other non-clip-fed rifles — their second mistake — to avoid questions about clips. Then they realized there was a rifle closer in appearance to the Carcano. In an attempt to make the fake misidentification more plausible, they quickly changed it to the Carcano's superficial twin, but non-clip-fed, Mauser.

Their third mistake reveals the apparent method by which they chose the Mauser. Paul Mauser's first accepted box-magazine rifle was the 7.65 mm. Belgium 1890 Mauser. By 1963, who would be thinking any rifle was a 7.65 mm. caliber?

Gunsmith and former police officer Jim Westbrook said it was his recollection that the 7.65s were not all that plentiful even when they were the standard. He said he did not think they were much used outside of Germany and Italy. Westbrook speculated that such a number could have come from someone using the metric equivalent of the standard rifle caliber, .3006. He said it is like looking at a Chevy and knowing it is a six-cylinder because that was standard for that model year.<sup>84</sup> George Michael Evica, on the other hand, quoted a UPI story with a Dallas dateline, dated November 24th, 1963, which said, "...the 7.65 German-made Mauser was in big demand about two years ago.... The rifle takes a 32-caliber shell and is comparable to the American 30.06."<sup>85</sup>

But regardless of whether 7.65s were common or rare by 1963, if a gun enthusiast had Mausers in mind when looking at the 6.5 mm. (0.26 inch) barrel, or, in this case, a rebarrelled 7.35, and thought of a .3006 inch (7.5 mm.) barrel, why would he not use the newer 7.62 mm. caliber? In 1898 Germany established the 7.92 mm. standard which lasted until the NATO standard of 7.62 mm. went into effect after 1949. The metric equivalent to .3006 inch which should have been foremost in anyone's mind by 1963 would most reasonably have been the current standard of 7.62 millimeters; or at least the previous standard for a half-century of 7.92 millimeters. Even if someone was influenced by the numbers "6.5" stamped on the Mannlicher-Carcano barrel, the moment he said "7.65" the others should have thought he was nuts. Instead, "...the police reported.... a Mauser 7.65 rather than a Mannlicher-Carcano 6.5...."<sup>86</sup>

A surplus of 7.65 German-Mauser rifles sold recently in the Dallas firearms market would certainly explain how that caliber could be foremost in the mind of local conspirators in need of a quick distraction. Otherwise, the only way, apparently, a gun user could have reported (even by mistake) the old 7.65 caliber would be by hurriedly looking Mausers up in a reference book.<sup>87</sup> Mausers had been two different calibers for over a half-century — the lifetime of those at the crime scene. Gerald Posner, inasmuch as he does not mention it in his book *Case Closed*, also seems to be ignorant of the oddity of the 7.65 caliber designation. Committing to a cover story involving such an old and odd caliber was obviously a horrendous mistake.

To cover that mistake, among other reasons, Deputy Sheriff Roger Craig was apparently forced by the conspirators to lie about seeing a nonexistent "7.65 Mauser" tool mark stamped on the barrel, a classic misdirecting strategy. Although

the story meant conspiracy, it led nowhere and, because it could not be proved, weakened Craig's credibility on other events he witnessed, further protecting the actual conspirators. (Craig will be explored in detail in part two of this study.)

The bizarre twists in this story bring to mind a fable about an ancient land where confusion reigned. Living there was a devilish imp doing devilish things. To be effective he had to remain behind a fence so as not to be seen by the people. One day he threw a golden apple over the fence for the confused attention of the people. Attention thus diverted, he could continue his devilish ways on his side of the fence. He had an accomplice on the people's side of the fence to guide them in their confusion. He was the "confuser." In modern times, some devil threw a Mannlicher-Carcano over the fence for the world to ponder. The only flaw was that the "confuser," whose duty was to confuse the people, got confused himself over the Mannlicher feeding system. How else can it be explained that the weapon was proclaimed to the people to be a Mauser all that afternoon, after midnight and the next day? How else?

## NOTES

1. Robert Sam Anson, *They've Killed the President!* (New York: Bantam, 1975) p. 356; hereafter cited as Anson 356. (Investigation of negative information:) Peter Dale Scott, *Deep Politics* (Berkeley, Ca.: University of California Press, 1993) pp. 58, 60-61, 69; hereafter cited as Scott 58, 60-61, 69; Charles J. Sanders and Mark S. Zaid, "The Declassification of Dealey Plaza: After Thirty Years, A New Disclosure Law At Last May Help To Clarify the Facts of the Kennedy Assassination," *South Texas Law Review*, Vol. 34:407, Oct. 1993; later published in "The President John F. Kennedy Assassination Records Collection Act of 1992" (ARCA), *The Fourth Decade*, Special Edition, 1994, pp. 411-12 n.8 (Griffin statements); hereafter cited as Sanders and Zaid 411-12 n.8.
2. Sanders and Zaid 410-12 n.8 (Warren Commission theory critique); Guth and Wrone xxvii-xxx (House Committee theory critique); Gerald Posner, *Case Closed* (New York: Random House, 1993) p. 317, 326-35, 474, 477, 478-79; hereafter cited as Posner with page number(s); (American Bar Association Mock Trial of Lee Harvey Oswald prosecution theory presented uncritically and without credit to A.B.A. by Posner).
3. The authors realize that the idea of proving conspiracy with finality is difficult to accept. Respected researchers have expressed aversion, on nothing more than rhetorical grounds, to our application of the notion. However, after remaining skeptical, scrutinizing our premise, relevant facts, arguments and counterarguments, and after requesting and receiving peer review, we believe this basic premise has resisted all arguments. Nevertheless, because of its awful consequences, we hope our conclusion will be quickly and rationally disproved. With regard to the identity of a possible second found murder weapon: although the alleged misidentification described a 7.65 Mauser, and although the authors often refer to a supposed second rifle as a Mauser, that description could have been used to distract attention from a different, but completely unmarked Mannlicher-Carcano, as well as from the discrepancy over its loading mechanism; see discussion in George Michael Evica, *And We Are All Mortal* (Hartford, Conn.: University of Hartford, 1978) pp. 1-61; hereafter cited as Evica 1-61.

4. William M. Blair, "Warren Commission Will Ask Mrs. Oswald to Identify Rifle Used in the Kennedy Assassination," New York Times Feb. 5, 1964, p. 19 (Chairman Warren's doubts); This source quotes Warren's only public statement of doubt: that full disclosure was not possible for reasons of national security (Warren's statement was originally made to Dallas Morning News reporter Clint Richmond at Love Field the day Warren was in Dallas to interview Jack Ruby [Richard Bartholomew discussion with Clint Richmond, Mar. 5, 1997]). But in 1976 the extent of Warren's private doubt became publicly known. It had been confirmed in Jan. 1967, when columnist Drew Pearson told Warren about a conspiratorial lead involving CIA-Mafia assassination plots. Rather than stand by the Commission's conclusions, Warren referred the information to Secret Service Director James J. Rowley, who testified that Warren "...said he thought this was serious enough... and that the Warren Commission was finished, and he wanted the thing pursued, I suppose, by ourselves or the FBI" (Select Committee to Study Governmental Operations with respect to Intelligence Activities, The Investigation of the Assassination of President Kennedy: Performance of the Intelligence Agencies [Senate Report 94-755, 94th Cong., 2nd sess., 1976, Final Report, Book V] p. 80; cited in Bernard Fensterwald, Coincidence or Conspiracy [New York: Zebra Books, 1977] pp. 74-75; hereafter cited as Fensterwald 74-75). Edward Jay Epstein, Inquest: The Warren Commission and the Establishment of Truth (New York: Viking, Jun. 1966) pp. 149-50, (Bantam, Oct. 1966) p. 122 (doubts of Commissioners Russell, Cooper and Boggs); see also Fensterwald 86, 91, 96, 99. Hearings Before the House Select Committee on Assassinations, vol. XI (Washington D.C.: U.S. Government Printing Office, 1979) note 11 at p. 14; hereafter cited as 11 HH 14 n.11 (Commissioner McCloy's doubt); see also Fensterwald 86. Walter Cronkite interview, CBS News, broadcast on Apr. 25, 1975 (President Johnson's doubt); see also Fensterwald 76, 124. Warren Commission Hearings and Evidence (Washington D.C.: U.S. Government Printing Office, 1964, v. V) p. 99; cited hereafter as 5H 99 (Hoover's policy). See also discussion in Sanders and Zaid 412 n.11.
5. Letter from Walt Rostow to Dean Rusk, September 25, 1964 (LBJ Library: Papers of Walt W. Rostow, Box 14).
6. Los Angeles Times Jul. 20, 1992.
7. David E. Rosenbaum, "30-Year Commemoration In Dallas and Arlington," New York Times Nov. 23, 1993, p. A16.
8. Ian V. Hogg, "The Mannlicher Clip System," The Encyclopedia of Infantry Weapons of World War II (London: Bison Books, 1977, New York: Thomas Y. Crowell, Inc., 1977).
9. Warren Commission Report (Washington D.C.: U.S. Government Printing Office, 1964) p. 555; hereafter cited as R 555.
10. R 555.
11. 1 HH 482.
12. 17H (CE 574) 258, (CE 575) 259. Life magazine, November 1983, pp. 16-17.
13. Letter from J.W. Hughes to Walter F. Graf, May 25, 1994.
14. R 193-95. "CBS News Inquiry: 'The Warren Commission Report'" (4-part series produced by Leslie Midgely, narrated by Walter Cronkite) June 25-28, 1967; official transcript cited in Mark Lane, A Citizen's Dissent (New York: Holt, Rinehart and Winston, 1968) pp. 103, 104, 106-07; hereafter cited as Lane, Dissent 103, 104, 106-07. Anson 143. CBS rifle test film rebroadcasts: "The 20th Century" (narrated by Mike Wallace, Arts & Entertainment Cable Network, Nov. 16, 1994, 1 hr.); "Cronkite Remembers: Television and Politics" (Discovery Channel Cable Network, Jan. 23, 1997, 30 mins.).
15. 1 HH 483.
16. 7 HH 365.
17. 26 H (CE 3048) 599. Sylvia Meagher, Accessories After the Fact (New York: Bobbs-Merrill, 1967, Vintage Books, 1976, 1992) p. 95; hereafter cited as Meagher, Accessories 95. Sylvia Meagher, "Treasure-Hunting in the National Archives," The Third Decade January 1986, p. 2; cited in Sheldon Inkol, "Other Patsies," The Third Decade May 1990, p. 8. Richard B. Trask, Pictures of the Pain (Danvers, Mass.: Yeoman Press, 1994) p. 532; hereafter cited as Trask 532. "JFK Assassination: As It Happened" (Arts & Entertainment Cable Network, Nov. 22, 1988, 6 hrs.) at 1 hr.-14 min. and 1 hr.-24 min.; hereafter cited as As It Happened 1:14, 1:24.
18. 4H 206.
19. Texas Department of Public Safety Evidence Sheet No. 443-A, and 24H (CE 2003, p. 130), reproduced in J. Gary Shaw and Larry R. Harris, Cover-Up: The Governmental Conspiracy to Conceal the Facts About the Public Execution of John Kennedy (Cleburne, Texas: self-published, 1976) pp. 159, 160.
20. 24 H (CE 2003 pp. 131-35) 262-64. FBI file no. PC-78243 BX, Nov. 23, 1963, p. 5; reproduced in Jesse E. Curry, Retired Dallas Police Chief Jesse Curry Reveals his personal JFK Assassination 46. Posner 271.
47. Lane, Dissent 126.
48. R 555. Any assumption that a clip was present in the manner alleged because the Carcano was rapidly fired as a "repeater" is the result of circular reasoning. In its alleged found condition, this "murder weapon" could have been used as a clip-fed repeater whether a clip had been found after the shooting or not. The clip's presence after chambering of the last round must be established independently because: 1) chambering of the last round is reason enough to expect the clip's absence, and 2) the clip's abnormal presence was too-betwedly alleged to be due to an unproven, abnormal defect. Preclusively, the claim that the alleged murder weapon was used as a repeater depends on scientific evidence chemically matching its ammunition and alleged chambered bullet to another specific bullet and several specific bullet fragments. The likelihood of those matches, in turn, depends on the unbiased credibility of the opinions of Dr. Vincent P. Guinn who did neutron activation analysis tests of that ballistic evidence for the HSCA. Despite his oath, Guinn's testimony was not "the whole truth and nothing but...." See Guinn's oath and testimony denying he did "any work" for the FBI or Warren Commission: 1 HH 491, 557; compare with UPI's report quoting Guinn stating he did do such work: "Radioactive tests used in Oswald case," Glasgow, Scotland, Aug. 27, New York Times Aug. 28, 1964, p. 32; cited in Richard Bartholomew, "Dial 'P' For Perjury," JFK/Deep Politics Quarterly Jul. 1996, pp. 7-10.
49. 4H 205.
50. 4H 258.
51. R 555.
52. Meagher, Accessories 117.
53. Posner 271.
54. 1 HH 481-83.
55. Charger: Ian V. Hogg, "The Mannlicher Clip System," The Encyclopedia of Infantry Weapons of World War II. Stripper clip: Interview of Mike Blackwell by Richard Bartholomew, Sept. 25, 1994; Craig Roberts (The Assassination Chronicles, Dec. 1995) wrote: "A stripper clip is one in which the rounds are stripped off during mechanical operation of the bolt assembly. The Carcano, M-1, and other weapons... fall into this category." Reacting to Roberts in a letter to Richard Bartholomew, Oct. 8, 1996. Walter

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identifying the gun as a Mannlicher-Carcano. (5H 228) Wade testified that the report was the first evidence that Curry got directly, rather than through Captain Fritz. Wade implied that Fritz would not have revealed it to the press. Yet, Wade himself gave the false Mauser description to the press in the early hours of that same day, a description that originated with Fritz, according to the known evidence. Therefore, Wade and Fritz apparently preferred the prolonged public falsehood. J. Edgar Hoover twice singled out the FBI's "identification of the gun," to emphasize that "If the case had been in the hands of the FBI none of that information

Graf wrote: "I always thought that a 'stripper clip' was the 'strip' or 'charger' thrown away when the cartridge was thumbed into the Springfield, Mauser, or Enfield... Then recently I was watching an A&E documentary with top experts like Ian Hogg (English). Twice they referred to a stripper clip as the strip (charger) on the Springfield 03, etc.... Somehow the usage of the term got switched over the years."

56. Letter from J.W. Hughes to Walter Graf, May 25, 1994.  
57. R (17H (CE 541 [3]) 239) 83.  
58. Evica 24.  
59. 4H 264.  
60. R 231-35.  
61. 4H 264.  
62. 7 HH 355.  
63. Evica 25.  
64. Employees of the main distributor of Carcanos in the U.S. in 1960, Folsom Arms, were so confused about how to load them, the company had to seek foreign help: "[Master Italian gunsmith Luciano Riva] went to New York in December, 1960, and found that at the Yonkers warehouse of Folsom Arms, the Folsom people had attempted to hand-load the Carcanos without success. But the rifles 'loaded with a clip,' Riva remonstrated.... Riva showed the Folsom employees how it was done..." (Evica 29).  
65. CIA Document No. 1367, declassified spring 1976; cited in Fensterwald 443-44. Henry Hurt, Reasonable Doubt (New York: Henry Holt, 1985) pp. 102-03. Evica 23.  
66. Jim Marrs, Crossfire: The Plot that Killed Kennedy (New York: Carroll & Graf, 1989) p. 440; hereafter cited as Marrs 440. Evica 53-55.  
67. Evica 23; citing 24H (CE 2169) 829.  
68. 5H 250.  
69. 24H (CE 2169, p. 4) 829. 5H 250.  
70. Letter from Walter F. Graf to Richard Bartholomew, Dec. 17, 1996. Evica 23-24; Evica mentions Wade's amazement and disapproval over Chief Curry's Nov. 23rd TV appearance at about 2:30 p.m., during which Curry revealed details of the FBI report would have been given out." He even expressed regret that the gun's identity had become known before Curry "refrained from further comment" at Hoover's personal insistence. (R 235-36, 5H 115-16.)  
71. Lattimer 298-99.  
72. R 555 ("commonly available"). R 120 ("paperwork"). Martha Moyers, "Ordering the Rifle," The Assassination Chronicles March 1996, pp. 25-35 ("conflicting evidence"). 17H (CE 773) 635; 21H (Waldman Exhibit Nos. 7 and 8) 703, 704 ("purchase order" and "shipping order"). 17H (CE 788) 677 ("money order").  
73. 3H 397-98.  
74. R 855 n.132.  
75. 4H 23.  
76. 4H 253-258.  
77. 4H 23. 24H (CE 2003 pp. 131-35) 262-64.  
78. R 647.  
79. Interview of Jim Westbrook by Richard Bartholomew, Sept. 1, 1994. Interview of J.W. Hughes by Richard Bartholomew, Sept. 26, 1994. Ian Griggs, "The Mannlicher-Carcano — A Practical Experiment in its Reassembly," Dallas '63: The British Forum for Views and Research into the Assassination of President John F. Kennedy, v. 1, no. 3, August 1994, pp. 19-24.  
80. E-mail from Anthony Marsh to Richard Bartholomew, "JFK\_ASSN" Fidonet discussion group, posted Jul. 16, 1995.  
81. Letter from Walter F. Graf to Richard Bartholomew, Feb. 5, 1996.  
82. Jim Garrison, A Heritage of Stone (New York: G. P. Putnam's Sons, 1970, Berkley Medallion, 1975) p. 49.  
83. 3H 395  
84. Interview: Jim Westbrook by Richard Bartholomew, Sept. 12, 1994.  
85. Evica 349 n.5.  
86. R 235.  
87. When asked how he identified the Mannlicher-Carcano sent to him from Dallas, FBI weapons expert Robert Frazier testified: "I identified it pictorially by comparing it with pictures in reference books" (3H 392).