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August 5, 1954

MEMORANDUM

To: *HT*
 Mr. J. Lee Rankin, General Counsel
 From: Howard P. Willens
 Subject: Chapter IV - Draft dated 7/21/54

I think that this Chapter needs substantial revision. I suggest the following comments for your consideration.

1. As a matter of general style, this Chapter is different from any of the other chapters and should be brought into conformity. I have the following specified in mind:

a. The headings and subheadings used in the table of contents and in the text of the chapter should be phrases rather than sentences.

b. Maria Oswald and Lee Harvey Oswald are occasionally referred to as Maria and Lee Oswald. I do not think that Maria Oswald should ever be referred to as Maria and believe that Oswald should be referred to as Oswald or as Lee Harvey Oswald.

c. I do not think that we need to use the prefix Mr. in the text of the Report.

d. For witnesses who have appeared before the Commission or members of the staff, I believe we should use the past tense when referring to their testimony rather than the present perfect, i.e., "testified" rather than "has testified".

e. In many sections of the chapter there is an inadequate introductory paragraph setting forth the conclusions documented in the subsequent discussion. The paragraphs in the chapter need trimming, since there is no consistent handling of paragraph length.

cc: Mr. Willens
 Mr. DeLoach
 Mr. Goldberg

2. In view of the importance of the chapter, I think that we can afford more than a single long paragraph as an introduction to the overall chapter. This would permit the Commission to speak in the introduction of the other evidence considered in the chapter, but not relied upon, although I have other suggestions to make regarding the handling of this material.

3. I still have a question about the validity of including as a minor finding Oswald's capability with a rifle. I think our case remains the same even if Oswald had limited or negligible capability with a rifle. In a way, we are emphasizing an argument we don't particularly need, which prompts controversy and may tend to weaken the stronger elements of our proof. I believe that this material should be discussed somewhere, and probably in this chapter, but I question whether it should be elevated to one of our eight major conclusions on which the Commission relies. An alternative to consider might be to place the question of Oswald's capability as a subheading to one of the first two major conclusions.

4. I think that the first major section should be entitled solely "The Assassination Weapon". The first subheading should be "Purchase of Rifle by Oswald". The subsequent discussion should set forth the conclusion of the Commission that Oswald purchased the rifle based on (a) handwriting analysis of the rifle purchase documents, (b) Oswald's rental of P. O. Box 2915, (c) prior use of alias "Hickell".

5. On page 6 I do not see the significance of the first full paragraph, with the exception of the first sentence. We know that Oswald lived in Dallas at the relevant time and I do not believe it is significant that Oswald did not receive mail from the box after he left Dallas for New Orleans on April 23.

6. The next major subhead should be the section beginning on page 8 dealing with Oswald's palimpsest. I think there should be some reference here to the fact that palimpsests are as good a basis for identification as fingerprints, plus an appropriate reference to the appendix.

7. In the third line from the bottom of page 8 the meaning of the word "lifted" is not clear to the lay reader. Similarly with the reference to the "pistol" in the second line on page 9. The last sentence of the first full paragraph on page 9 might be combined with the prior statement on page 8 about the metal of the rifle in a separate paragraph offering an explanation for the lack of other metals on the rifle, assuming correct use. If there are any statistics on other evidence on this point, I think they should be set forth and explained. This is a more controversial matter than I believe we have considered.

8. The section on fiber analysis lacks a conclusion in the text as opposed to the subheading. On page 10 in the second line, I do not think that the fibers in the shirt he was wearing should be described as "similarly colored" at this point.

9. With regard to the section beginning on page 10 we should consider reorganizing the discussion as follows.

First paragraph - covering Martin's testimony on pictures including date, place, number, etc.

Second paragraph - setting forth the narrator's conclusion that the pictures were in fact taken with Gerald's camera at Loeb's Street, and are not rephotographs.

Third paragraph - dealing with the conclusion that the wife in the picture is Mrs. Harvey Oswald's sister. If this reorganization is not adopted at the very least there should be an introductory paragraph setting forth the conclusions reached by the Commission regarding these pictures.

10. With regard to the last paragraph on page 11 I would consider mentioning the name of the magazine. I also think some reference should be made to the fact that the Commission has examined these pictures and reached certain conclusions regarding the purchase of the stock problem and the scope situation. In short, I think it is necessary to expand this discussion.

11. I am concerned by the lack of introduction to the section beginning on page 13A and the fact that the conclusions drawn have been to be somewhat elusive. If we are stating only that he was on the 16th floor 15 minutes before the shots were fired, that is one thing. If we are going to rely on Brennan in part, then we should state a conclusion at the beginning of this section which reflects our analysis of the eyewitness testimony. I realize that the "accuse" point has a logical history, going back several months, but I am not persuaded that it contributes very much.

12. It might be desirable prior to examining the scientific evidence to have a short section dealing with the site, setting forth the descriptive material now contained on page 16 and including other material in the chapter describing the curtains which were used to construct a barricade from the west of the floor.

11. There still is a little too much of the Ball-Ball approach in this for my taste. For example, on page 14 I do not see why the reader has to know the cartons were forwarded to the Federal Bureau of Investigation for chemical processing, since subsequent testimony demonstrates that. Similarly, on page 15 the finding of the palmprint by Lt. Day is of no particular significance.

12. The conclusion sought to be drawn from this section seems to me to go too far. I do not know why we place "great" weight on the fingerprint and palmprint identification to prove he was at the window. The basic question is when he was at the window and when we come back to that question we back away from it. Furthermore, we never do make an effort to refute the many other possibilities for these fingerprints which are consistent with Oswald's innocence.

I would consider combining the section on the paper bag with the section on the cartons. The section on the paper bag also lacks a topic sentence pointing out the conclusion. I wonder why we have the description of the paper bag here since it could be a sandwich bag and still be used to make the point that is involved here. I question whether the whole section on carrying the rifle into the FIBD should not be before this "evidence-warehouse". That organization could point us to introduce the paper bag in the most appropriate context.

13. Much of the material in the first full paragraph of page 17 should be relegated to the Appendix as far as I am concerned.

14. If we have any testimony as to the exact of the south-east corner early in the morning, I think it should receive greater emphasis in the text, since it provides greater support for linking Oswald with the cartons and bag found in the gutter after the assassination.

15. In the section on eyewitness identification, we should make sure references back to chapter 3 and Brennan's testimony there.

16. On page 21 the fact that another eyewitness identified Oswald in a way similar to Brennan does not seem to me to help support Brennan's identification. I would eliminate this comparison here and perhaps make a reference to it later on when the Hippit identity is discussed.

19. Throughout the discussion of Brennan's testimony we should reaffirm his testimony as to the source of the photo. On page 29 I think we go out of our way to qualify the Commission's reliance on Brennan's testimony. I can see no reason why we should pick Brennan out as the subject for the second paragraph on page 29. He is a good witness despite his difficulties to identify Oswald positively in the police lineup. Why not place this paragraph at the end of the entire section on circumstantial testimony. The record on Brennan speaks for itself. The last sentence in this paragraph is obvious, since we have stated several times that our findings that Oswald is the assassin is based on many different categories of evidence.

20. It seems to me that the last paragraph on page 31B gives Fischer and Elzerich more weight than Brennan. At least they are blessed with the "consistent with" characteristic, which I think is overworked in this chapter.

21. I have substantial problem with the section beginning on page 32. I would consider placing the first subsection, dealing with the rifle's location in the Buick garage, in the first section of the chapter dealing with Oswald's ownership and continued possession of the rifle. I do not think that this discussion here in anyway to the argument that he carried the rifle in on Friday. Also the testimony discussed here is more relevant here to the question of the rifle than it is to the location of the rifle in the Buick garage. The thrust of these two points is the more important conclusion and it should be bolstered by all available evidence.

22. I do not follow the argument contained in the first full paragraph of page 34. We do not have to prove that Oswald never took the rifle out of the garage in order to make the point that the garage was his usual storage place. I would consider eliminating the paragraph entirely.

23. After the above relocation of the Buick garage section, I would consider organizing this section as follows.

Direct Evidence: The paper bag contained a non-calibered weapon.

General Circumstances: Lee Harvey Oswald carried this bag to work.

- (a) He made the bag from K&M material;
- (b) He had the opportunity to make the bag;
- (c) He carried this bag on Friday;
- (d) He had loaded the bag.

Third Conclusion: He lied about the curtain and energy and the paper bag.

On reviewing this again I am persuaded once more that this entire section should go before the section dealing with Oswald's presence in the window.

25. The discussion at the bottom of page 27 regarding disassembling needs to have limited relevance. I would consider combining the paragraphs with the one at the end of this subsection.

26. On page 28 I question the relevance of the last sentence of the first full paragraph dealing with the location of the bag. I do not see how this is relevant to the conclusion that the bag contained the rifle. If this point is to be made, I think it should be made as part of the general description of the ammunition which seems to appear in one of my earlier comments.

27. The third line on page 31, I do not think that the meaning of the word "matched" is clear.

28. I think that the way that the Franker-Jacobs testimony is handled at pages 39-40 may well be the best possible way. It does occur to me, however, that under my proposed reorganization this testimony would be pertinent to the conclusion whether the bag contained the assassination weapon. Perhaps the organization should be changed so as to prove first that Oswald carried the paper bag to work, and then turn to the question whether the bag contained the assassination weapon. The Franker-Jacobs testimony could then be set against the scientific evidence as well as the other evidence bearing on this issue.

29. The characterization of the killing of Tippit on page 42 as a disputed set of facts may be true, but I would like to discuss this matter. Perhaps this point could be made in the overall introduction or summary at the chapter after all the other evidence is set forth.

30. On page 47 I would not begin the discussion of Tippit's eyewitnesses with Helen Mathias. On page 46 I think we should have at least a paragraph on Helen Mathias's alleged description of Oswald as "tall, stocky and heavy-set."

31. The sentence at the bottom of page 59 is not necessary here in view of the introductory paragraph which is contained in this subsection.

31. The discussion at pages 60-61 given me some difficulty. I do not see why we have to proceed without witnesses in asking the points to be made here. I would suggest that the paragraphs might be along these lines.

a. Lee Harvey Oswald entered the theater at such and such a time.

b. Police officers were summoned to the scene and entered the building.

c. Lee Harvey Oswald was apprehended and in the course of this may have attempted to kill the arresting officer.

d. Excessive force was not used by the police officials.

32. I am still troubled by the location of the section dealing with the interval of time between the assassination of President Kennedy and the murder of Officer Tippit. Once we have found that he did both acts, what could have happened in the interval which would be "inconvenient with" his having done them. In other words, can you prove that he did both acts that is the relevance of speaking of the intervening events. If there is anything in the intervening events which sheds doubt on his committing either of the two acts, that is a different matter. In that event, the activity during the intervening period would be an amount of evidence to be weighed in reaching the conclusion as to whether the actor is guilty of the crime in question. That is not our case here. The end result of this wording may be the suggestion that this section be treated in chronological fashion after the assassination of President Kennedy and prior to the case against Oswald for the murder of Tippit.

33. Regardless of where it is located, I think that the full paragraph of the section should state the basic facts as to Oswald's movements during this period of time. For example, the Commission concludes that Oswald went from the 5th floor to the 6th floor by the stairs, through the hallway and out the front door of the building before 10:15 when the building was not closed yet. At that time he had a taxi, went to his apartment, and proceeded to the scene of the Tippit killing.

34. I do think that we should maintain that Oswald was in the process of flight or at least that some of the events suggest that he was.

35. With the above recommendation in mind the testimony beginning at page 72 could be handled differently. This testimony could be set forth and appraised on the issue as to how and when Oswald descended from the 6th floor. In such a discussion the Commission could rely on some witnesses and reject the testimony of others, such as Victoria Adams.

36. On page 74, I think that we have to do something more with the Levely picture. It occurs to me that we should probably do a paragraph or section dealing with Oswald's known whereabouts at 10:50. In setting forth the limited amount of evidence as to his whereabouts at this time we could reject the allegation that the picture shows him standing in the doorway at the time of the assassination.

37. With regard to the treatment of the General Saline shooting, I think that we need a paragraph summarizing the investigation, or lack of it, conducted by the Dallas Police Department after the Walker shooting. We also should set forth briefly the fact that Walker initiated an investigation into the matter. Our conclusion that Oswald was probably responsible builds of course on the fact that it was an uncharged crime. We have to make some reference to the investigation made by Sheriff Earl Warren, Texas Statehouse regarding buff should be made part of the record and have been collected by Nichols.

38. I think that the final way that there should be at other evidence sources at the end of the chapter. This means that we have to find a place for each of the evidences. I think that the general facts discussion should be set forth early in the chapter. There is discussion of Oswald's ownership of the rifle. It could be set forth by the Commission in a brief statement that the Commission did not find sufficient evidence as opposed to circumstantial and circumstantial evidence that Oswald fired the rifle on November 22.

39. I would eliminate the section now titled clothing identification and make the point in the course of setting forth the testimony of the flight witnesses. It is clear enough about the Commission relies upon and about it does not rely upon and we do not need this section.

40. The Simon attempt problem presents a more difficult problem. I would consider discussing this under the same heading as the General Walker shooting so as to cover all police studies done in one section. In the course of that section we could state our own best appraisal of the conclusion that he fired at General Walker and why.

believe he did not attempt to shoot Nixon. An alternative to this would be to make reference to this incident only by a single sentence in Chapter 4 and treat it more fully in Chapter 7, as an illustration of Oswald's personality and treatment of his wife. I do not think it should be handled at the end of this chapter.

41. The section drafted by Mr. Michael on the Irving Sports Shop story can be handled earlier in the chapter dealing with the ownership of the rifle. I think it is reasonable to set forth the evidence supporting the conclusion that Oswald owned and handled this weapon and make the point also that the Commission has no credible evidence that Oswald owned another rifle. It also might be worth in there to state that the rifle was shipped with the scope already on.