

their provisions and enforcement, and whether there was full disclosure of evidence and information among agencies and departments of the U.S. Government, and whether any evidence or information not in the possession of an agency or department would have been of assistance in investigating the assassination, and why such information was not provided or collected by that agency or department, and to make recommendations to the House if the select committee deems appropriate for amendment of existing legislation or enactment of new legislation."

Mr. Cornwell is recognized to begin the questioning of the witness at this time.

**TESTIMONY OF WESLEY LIEBELER, ASSISTANT COUNSEL,  
WARREN COMMISSION**

Mr. CORNWELL. Thank you, Mr. Chairman. Mr. Liebler, basically what we want to do is ask you some questions about the manner in which the Warren Commission's investigation was conducted, the state of mind you and your fellow staff attorneys may have had in pursuing your work and the nature of any problems which you encountered in the process.

Before I do that, as a matter of background will you tell the committee what your professional experience was prior to joining the Warren Commission?

Mr. LIEBELER. I graduated from the University of Chicago Law School in 1957 and went immediately thereafter to the New York firm of Kater, Ledger & Milburn where I worked primarily in corporate litigation until the time I joined the staff of the Warren Commission.

Mr. CORNWELL. Who first contacted you with respect to employment as staff counsel for the Warren Commission?

Mr. LIEBELER. You mean from the Commission?

Mr. CORNWELL. Yes, sir.

Mr. LIEBELER. My recollection is that it was either Mr. Rankin or Howard Willens. I am not sure which. I think it was Willens who called me first.

Mr. CORNWELL. Had anyone contacted you prior to that?

Mr. LIEBELER. Yes.

Mr. CORNWELL. Who was that?

Mr. LIEBELER. Kenneth Damm of the University of Chicago law firm.

Mr. CORNWELL. What was the nature of the discussion with him?

Mr. LIEBELER. He told me I might expect a call from either Mr. Willens or Mr. Rankin and told me that Mr. Willens had called his colleague Mr. Oakes asking for a recommendation for someone for Commission staff and that Mr. Oakes and Mr. Damm, both of whom were classmates of mine, decided they should recommend that Mr. Willens contact me. I did receive a call from Mr. Rankin as they suggested I might.

Mr. CORNWELL. Will you describe for us in whatever sense you now recall it the nature of your first conversation with either Mr. Willens or Mr. Rankin, whoever it was that called you.

Mr. LIEBELER. I was simply asked if I would be interested in working on the staff of the Warren Commission. I said I would be. Mr. Rankin

or Mr. Willens asked me if I would come to Washington the next day or the day after and talk to them about it, and I agreed to do that and I did that.

Mr. CORNWELL. Upon arriving in Washington, whom did you speak to there?

Mr. LIEBELER. Mr. Willens and Mr. Rankin.

Mr. CORNWELL. What conversation occurred at that time?

Mr. LIEBELER. After talking with me and meeting me and observing me, Mr. Rankin asked me if I would be willing to join the Commission staff. I told him I would think about it and let him know in a few days. I did that, and I agreed subsequently to join the staff.

Mr. CORNWELL. Were you told anything at that time about the purposes of the investigation?

Mr. LIEBELER. I don't recall.

Mr. CORNWELL. Either through those conversations or through some other public or other source of information, what was your understanding as to the reason that a Presidential Commission had been formed as opposed to perhaps some other manner of dealing with the fact of the assassination?

Mr. LIEBELER. I don't have any recollection of my thoughts on that at that time except that my general notion was at that time and throughout the time I worked with the Commission that we were to ascertain the facts surrounding the assassination to the extent that was possible and to report on them to the American people in the form of a report of some kind.

Mr. CORNWELL. Do you recall any conversations on that subject matter with any particular persons in the very early stages of your work?

Mr. LIEBELER. No; not specifically on that subject.

Mr. CORNWELL. Do you recall any staff meetings at which the subject matter of the Commission's objectives were set forth and provided to you?

Mr. LIEBELER. I do not. I am under the impression there had been a staff meeting when that question was discussed but that occurred, as I recall, prior to the time I came to Washington.

Mr. CORNWELL. When approximately did you begin work?

Mr. LIEBELER. Some time near the end of January 1964.

Mr. CORNWELL. Had you prior to going to work for the Warren Commission had any experience with any of the Federal agencies, investigative agencies, FBI, CIA?

Mr. LIEBELER. I was interviewed by a CIA agent once when I was much younger.

Mr. CORNWELL. Did you form any impressions about them?

Mr. LIEBELER. I was impressed with them.

Mr. CORNWELL. Apart from that?

Mr. LIEBELER. No; no contact.

Mr. CORNWELL. When you first went with the Warren Commission to begin work, what was the nature of the assignment that was given to you as far as subject matter?

Mr. LIEBELER. I was assigned to work in the area of possible motivation that Lee Oswald might have had for having been involved in the assassination, and there was an outline of the work assignments that existed at the time that I came to work which I recall discussing with Mr. Willens at the time I received that assignment.

Mr. CORNWELL. To what extent if any did your assignment involve questions of conspiracy or possible conspiracy?

Mr. LIEBELER. Well, it did involve both that question and the question of possible psychological condition of Oswald. My basic responsibility and that of Mr. Jenner, who was working also in this area, was to determine to the extent we could anyone with whom Oswald had contact in any way in the United States prior to the time of the assassination. That did involve, of course, the question of whether or not he had been involved with anyone in a possible conspiracy to assassinate the President.

The question of conspiracy which involved persons out of the country was outside of our area.

Mr. CORNWELL. Was there anyone else besides you and Mr. Jenner who were assigned responsibility with respect to investigating possible involvement of persons in a conspiracy within the United States?

Mr. LIEBELER. I think that the whole Ruby issue would be involved in that also. Mr. Griffin and Mr. Hubert were assigned to that area, the Ruby area. Of course, the question came up during their work as to whether there had been any prior contact between Oswald and Ruby or contact with either of them, between them either directly or indirectly. Mr. Slawson was also involved to some extent in this question of domestic conspiracy because the domestic contacts and at least the Cuban and possible Mexican contacts ran into each other in the sense that we were trying to run down the possible contacts that had been alleged between Oswald and the Cuban groups, both in New Orleans and in Dallas, and that related at some point in time to Oswald's trip to Mexico which Mr. Slawson was primarily responsible for because Slawson was involved to some extent but not primarily. Other than that, I don't recall anybody was specifically assigned to that question.

Mr. CORNWELL. What contribution did Mr. Jenner make with respect to the investigation of Oswald's background and his conspiratorial relationships?

Mr. LIEBELER. The record will show that Mr. Jenner conducted testimony before the Commission, itself. He took a large number of depositions in Dallas and New Orleans. And subsequently my recollection is that he worked on a draft of some material that related to the Oswald involvement with the so-called Russian community in Dallas. My impression was that he worked primarily on this in the drafting process.

Mr. CORNWELL. When did you leave the Warren Commission?

Mr. LIEBELER. After the work was finished, some time I believe in October 1964.

Mr. CORNWELL. When did Mr. Jenner leave?

Mr. LIEBELER. He stayed until the end also I believe, close to the end.

Mr. CORNWELL. Did you consider your assignment there a full-time job?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. How many hours a week did you work?

Mr. LIEBELER. The pay records will show what I charged the Government for. Mr. Rankin sometimes didn't believe there were that

many hours worked. There were in fact many more. It was a 7-day-a-week job for large periods of time.

Mr. CORNWELL. Was that also true with respect to Jenner?

Mr. LIEBELER. In the latter part of the work of the Commission Mr. Jenner put in a lot of hours working on Commission matters. During the early stage of the investigation his participation was somewhat less.

Mr. CORNWELL. During what period of time was it somewhat less?

Mr. LIEBELER. My recollection is that when I started to work the first thing I had to do was read a very large number of basically FBI reports and trying to organize the material within my general area in such a way that I could decide what additional evidence had to be developed and whose depositions had to be taken. It was difficult for Mr. Jenner and I to work out a general relationship on that question at the time. Since I was a so-called junior staff member at that time, Mr. Jenner was not, I was quite unsure when I started as to how to handle the problem. I finally just decided to do my own thing and basically went ahead and did most of that original work, myself. Mr. Jenner and I never actually worked very closely together. He worked on projects and I worked on projects.

Mr. CORNWELL. I don't think you actually ever answered the last question which was when was it that the changeover occurred between Mr. Jenner's part-time activity and his full-time.

Mr. LIEBELER. My recollection is that during the early part of the Commission's work that Mr. Jenner was concerned, I believe he was interested in becoming president of the American Bar Association and I believe he spent some time on that issue. I suppose that the record will show when the Bar Association convention was held which is usually in the summer sometime. His interest rose sharply after the convention and he participated to a greater extent in the work of the Commission.

Mr. DODD. I presume he was not elected then?

Mr. LIEBELER. No.

Mr. CORNWELL. Mr. Chairman, may we mark for identification a memorandum dated August 27, 1964 from Mr. Liebeler to Mr. Willens and Mr. Redlich as exhibit 31?

Mr. PREYER. Exhibit 31 will be marked for identification.

Mr. CORNWELL. I show you that exhibit and ask you if you have had a chance to review that prior to coming here?

Mr. LIEBELER. Yes, I have.

Mr. CORNWELL. Would it be fair to state that memorandum deals generally with the subject matter of the adequacy of the work in the field of conspiracy as of August 27, 1964?

Mr. LIEBELER. This memo was written following a particular conference between Mr. Willens and Mr. Redlich and myself in which some very specific questions were discussed. It talks in general terms about the conspiracy question. It was motivated or it was a function of really a couple of particular issues that had arisen at that time.

Mr. CORNWELL. Conspiracy and what else?

Mr. LIEBELER. Well, they were parts of the conspiracy question in the sense that they involved the way the FBI and the staff had handled the fact of at that time a large number of unidentified palm prints

and fingerprints on the cartons found in the School Book Depository.

Mr. CORNWELL. With that statement, Mr. Chairman, may we admit exhibit 31 in evidence and may I ask specific questions?

Mr. PREYER. Without objection, exhibit 31 is admitted into the record.

[The document referred to, marked JFK exhibit No. 31 and received for the record, follows:]

JFK EXHIBIT No. 31

[Memorandum]

AUGUST 27, 1964.

To: Howard P. Willens, Norman Redlich.

From: Wesley J. Liebeler.

Subject: Conspiracy.

It has not been my practice to write memoranda for the record. I am constrained, however, by remarks made to me by both of you within the last two days concerning my responsibilities in respect of the investigation of a possible conspiracy, to state the following:

1. Both of you have recently made statements, in response to my criticism of the present state of affairs concerning conspiracy which indicate your belief that I am somehow responsible for same.

2. Those remarks are apparently based on the proposition that the question of a domestic conspiracy at least (ex-Ruby) was to be handled by those responsible for the so-called area III outlined in the "Tentative Outline of the Work of the President's Commission." While that has also been my general understanding for some time, examination of that outline indicates that the responsibility for the question of conspiracy is fragmented into several areas.

3. As I advised you both this morning, however, I personally cannot be held responsible for the present condition of the work on conspiracy. Both of you, Mr. Jenner and I conferred in my office sometime late in June at which time it was agreed by all of us I would assume responsibility for the section on personal motive (Chapter 7) and that Mr. Jenner would devote himself to certain questions relating to the possible existence of a domestic conspiracy. I understand he has been working on that since our conference.

4. By the middle of July it was thought that Chapter 7 was in such condition that I could work on other things. I was sent to New Orleans and Dallas to take depositions which, together with preparation and editing, took more than two weeks of my time. Since then I have been revising Chapter 7 and working on footnotes for it. I also wrote the section in Chapter 4 relating to the Irving Sports story and footnoted it.

5. I am more than willing, if able, to accept my full share of responsibility for the work of this staff. I cannot, however, leave myself in the position implied by the above-described oral statements made by both of you which I hope you both will admit, upon reflection, are false and unfair.

6. You have asked me what I think should be done at the present time in reference to our work on conspiracy. I gave you some of those suggestions orally this morning. After conference with Mr. Griffin, Mr. Slawson and I spoke with Mr. Rankin about that subject this afternoon. Mr. Rankin has asked me to set up a conference with representatives of the FBI to discuss the fingerprints on the cartons and the palmpoint problems. I will cover both subjects in memoranda to Mr. Rankin tomorrow. My comments on Marina Oswald will follow.

WESLEY J. LIEBELER.

Mr. CORNWELL. Paragraph 1 of the memo states that, "Both of you have recently made statements, in response to my criticism of the present state of affairs concerning conspiracy which indicate your belief that I am somehow responsible for same." In paragraph 3, "As I advised you both this morning, however, I personally cannot be held responsible for the present condition of the work on conspiracy."

What was the problem with the state of the work and the present condition of the work on conspiracy? What it was as of August 27, 1964?

Mr. LIEBELER. My recollection of that is that no one, no one person, had taken the responsibility of drafting a chapter of the report or a portion of the report dealing with that question separately from the ways in which it was more tangentially treated in the other work in the report. Part of the reason for that was that I had spent a fair amount of time, as this memo indicates, drafting what eventually became chapter 7 of the report which, while it looked at the question of the contacts that Oswald had had in the United States and his part in the assassination, it was really more of a psychological profile of Oswald rather than the kind of work it became clear that we did have to do which became chapter 6 of the report and which as I recall at that time was lagging behind the other work.

It was not in the same condition of development as the other work was. Chapter 7 was done and it had been done for some time. What eventually became chapter 6 was not that far along. I don't recall what condition it was in but I know it was not as far advanced as the other work of the staff. May I add that that question, if it becomes really pertinent, could be dealt with to some extent by looking through the files and finding the draft and noting the development of what became chapter 6.

Mr. CORNWELL. In a couple of places in the memo you phrase your criticism of the present state of affairs in terms of the work on conspiracy, both in paragraph 3 and again in paragraph 6. Does that reference refer only to the work in drafting the conspiracy chapter, or in fact were you dissatisfied on that date with the general work in unscrambling the facts and determining whether there had been a conspiracy?

Mr. LIEBELER. I think the basic thrust of the memo was addressed to the problem of pulling the material together in a draft more suitable for inclusion in the report. There were, however, at that time still some open questions that had not been satisfactorily dealt with in my mind. There was some question at that point in time as to whether or not we were going to be able to get additional investigations conducted that would satisfy myself as to the problems that existed in my mind at that time. As I say, that question was the question that was discussed at this meeting and that is what led to this, if I may characterize it, somewhat intemperate memo.

Mr. CORNWELL. Can you now recall any of the specifics of the types of investigative work found lacking as of August 27?

Mr. LIEBELER. The two specific questions that were discussed in the meeting with Mr. Willens and Mr. Redlich I believe, if I have the sequence straight in my mind, were the questions I referred to before, about the existence of unidentified fingerprints and palm prints on the boxes in the window in the School Book Depository and the question of the treatment of the palm print that had allegedly been lifted from the underside of the rifle barrel and identified as Oswald's. I have no independent recollection of the sequence of events but I know that it was about that time that this meeting occurred. By looking at some of the other memoranda I can refresh my recollection that it was almost exactly at that time, I believe it was that meeting I referred to in my memo of August 27.

During the course of the conversation I had argued to Mr. Redlich that the record could not be left in the condition it was in. There

had been no serious attempt to identify these other prints, as to the prints on the carton, and there was a serious question as to the chain of evidence as regards the palm print on the rifle barrel which I thought should be resolved. Mr. Redlich did not want to conduct any investigation into those matters. That led to a vigorous exchange between us. Mr. Rankin was later informed of that exchange and he, after discussing the matter with me, agreed to bring the FBI people back and discuss with them the continuance of the investigation, and it was done.

Mr. CORNWELL. May we mark for identification, Mr. Chairman, a memorandum dated September 4 from Mr. Liebeler to Mr. Rankin?

Mr. PREYER. That may be marked for identification.

Mr. CORNWELL. Mr. Liebeler, have you had a chance to review that document prior to coming here today?

Mr. LIEBELER. Yes, I have.

Mr. CORNWELL. Would it be fair to state that that document relates generally to the subject matter of an attached first draft of a proposed conspiracy chapter and also certain recommendations concerning Marina Oswald?

Mr. LIEBELER. Yes. It appears that I attached to this memo a first draft of a proposed section for the conspiracy chapter dealing with certain specific questions.

Mr. CORNWELL. May we at this time admit that document in evidence, Mr. Chairman.

Mr. PREYER. Without objection it is admitted into evidence.

[The document referred to, marked JFK exhibit No. 32 and received for the record, follows:]

#### JFK EXHIBIT No. 32

[Memorandum]

SEPTEMBER 4, 1964.

To: Mr. Rankin.

From: Mr. Liebeler.

I attach a first draft of a proposed section for the Conspiracy Chapter dealing with the testimony of Sylvia Odio, Evaristo Rodriguez, Dean Andrews and with the fact that one of the persons who helped Oswald distribute FPCC literature in New Orleans on August 16, 1963 has never been identified. Perhaps this draft can serve as a guide in questioning Marina Oswald, which I understand that you and Senators Cooper and Russell plan to do this coming weekend. While I have recommended that Marina Oswald be deposed at length concerning certain conflicts which have appeared in her testimony and other matters of interest to various members of the staff, in the absence of such an examination I recommend that Marina Oswald be questioned about the following:

1. All the circumstances surrounding her departure from New Orleans on September 23, 1963 with Mrs. Ruth Paine. As I have previously advised you, I spoke with Marina Oswald on the telephone on August 26, 1963 concerning, in part, that subject. Marina Oswald told me then that her husband had told her that he planned to leave New Orleans on the day immediately following the departure of Marina and Mrs. Paine. Oswald also told her, Marina said, that she should expect to receive an unemployment compensation check at Mrs. Paine's address. He said that check would be sent from Texas to his post office box in New Orleans and forwarded from there to Mrs. Paine's address. That would indicate that Oswald did not intend to remain in New Orleans until he received the check himself. It would also indicate that he had sufficient funds to go to Mexico City without waiting for the check.

All of this, of course, relates to Oswald's activities between September 23, 1963 and the time he crossed the border into Mexico sometime in the afternoon of September 26, 1963. I have previously discussed with you the apparent pattern of his movements in New Orleans which is indicated by the fact that he apparently traveled a total of approximately six miles through the city of New Orleans to

cash his unemployment compensation check when he could have done so by traveling only ten blocks. The details of that situation are set forth in the attached draft. Marina Oswald should be questioned about all aspects of that situation.

2. In connection with the above Marina Oswald should be asked questions designed to elicit any information or suspicions that she might have concerning the possibility that Oswald was in Dallas in late September, 1963 after he left New Orleans and before he went to Mexico. This subject, of course, involves the possibility that he may have made the acquaintance of some Mexicans or Cubans in New Orleans prior to the time Marina Oswald left that city. In that connection it should be noted that Sylvia Odio testified that the men that came to her apartment said they had just come from New Orleans and that they were on a trip.

3. Odio's testimony relates to some extent to that of Evaristo Rodriguez in that both persons described the unidentified person accompanying the person they thought to be Oswald as having a bald spot on the forehead of his hairline. Rodriguez testified that Oswald [was] in the Habana Bar in New Orleans sometime during August 1963, near the time Oswald was involved with his fracas with Bringuier, i.e., August 9, 1963. Marina Oswald should be questioned closely as to how her husband used his time during that period. For example, he was kept in jail for the night of August 9-10, 1963. Was Marina surprised when he did not come home or did she know where he was? Did he stay out late on other occasions? Did she see any indications that he was associating with other people? Did she see any evidence that he was drinking at all during this period?

I think Marina Oswald should be told upon her deposition that we have evidence that Oswald was associating with Cubans and Mexican type individuals and that she should be pressed vigorously on these points.

4. Marina Oswald should be questioned concerning the unidentified individual who helped Oswald distribute FPCC literature on August 16, 1963. Oswald may have told her, for example, that he had paid one or more individuals to help him distribute that literature. Marina may also have seen pictures of these other people helping him.

5. In connection with the testimony given by Dean Andrews, Marina should be questioned closely as to whether or not Oswald even consulted an attorney in New Orleans. She should be questioned what he told her about what he was doing to obtain a reconsideration of his undesirable discharge. She should be questioned what, if any, conversations they had about her becoming an American citizen. She should also be asked whether Oswald ever expressed any concerns over his own citizenship status. You might even ask her if she has ever heard of Clay Bertrand.

6. In short, I would like to have you question Marina Oswald, in detail, concerning any knowledge that she might have of any Cuban or Mexican contacts that Oswald may have had in the United States prior to the time he left for Mexico City. In that connection Marina should be asked what she knows about Oswald's apparent attempt to infiltrate Bringuier's organization in New Orleans. She has already testified that a Cuban came to their apartment in August of 1963 seeking information about Oswald's FPCC activities. My recollection is that Oswald was suspicious of that person and thought him to be either an anti-Castro individual or a representative of some intelligence agency. Oswald may have told Marina about his contacts with Bringuier in connection with the visit of the above mentioned Cuban.

She should also be questioned about any contacts of that sort that Oswald may have had after his return from Mexico City as well as any conversations she might have had with Oswald concerning a possible renewal of his FPCC activities.

In connection with the possibility that Marina may be familiar with the person who helped Oswald distribute FPCC literature on August 1963, I attach Pizzo Exhibits 453A and 453B. The unidentified individual is marked with an inked arrow in Pizzo Exhibit 453A. He is located in the center of the picture and appears to have some leaflets in his hand. That individual is marked with an inked numeral 3 in Pizzo Exhibit 453B in which he appears in the far left hand corner of the picture. These photographs should be shown to Marina Oswald to see if she can identify any of the individuals depicted therein.

Mr. CORNWELL. Does the very first sentence of that memo which reads:

I attach a first draft of a proposed section for the conspiracy chapter dealing with the testimony of Sylvia Odio, Evaristo Rodriguez, Dean Andrews and



with the fact that one of the persons who helped Oswald distribute FPCC literature in New Orleans on August 16, 1963 has never been identified.

Does that indicate that it was your draft of the chapter which was attached?

Mr. LIEBELER. Yes.

Mr. CORNWELL. That means that you ended up writing the conspiracy chapter which was at issue in the earlier memo, now exhibit 31, is that correct?

Mr. LIEBELER. No; it means that I prepared the first draft dealing with the questions that I described in that first sentence.

Mr. CORNWELL. The conspiracy work then that was at issue in exhibit 31 was broader than that or different than that?

Mr. LIEBELER. Yes; it was a broader issue than that but it included the problems that I discussed in the first sentence of exhibit 32. The discussion related to the question of drafting the entire chapter. I refer to the fact that on September 4 I produced a draft of part of the section, it was agreed that I should go ahead and draft some of that chapter, which I did.

Mr. CORNWELL. Why was it at this relatively late date—the report was finally published on September 28, is that correct?

Mr. LIEBELER. I don't remember.

Mr. CORNWELL. At any rate, why was it at this late date you were ultimately given the assignment to write the chapter when it was not an issue in your field of responsibility?

Mr. LIEBELER. I think there are two reasons for that. One, I had finished the chapter that became chapter 7 and that I was the person in the best position to draft this section of the conspiracy report because I had taken the testimony of the people who were involved in these questions listed in the first sentence of exhibit 32 and, of course, before taking that testimony had prepared myself to do so and was more familiar with that area than probably anyone else on the staff.

Mr. CORNWELL. By this time at least, however, Mr. Jenner was free from his campaign and was able to work on drafting the conspiracy chapter too, is that correct?

Mr. LIEBELER. Yes; that is true.

Mr. CORNWELL. May we mark for identification, Mr. Chairman, one page out of a book marked "Inquest," as exhibit 33.

I show you what has been marked as exhibit 33, being a photocopy of one page of the book "Inquest." That publication purports to quote you in connection with the work of the Warren Commission. I might state that that particular segment of the book relates to the Commission members work as opposed to staff work. It states, "Wesley Liebler, when asked what the Commission did, replied in one word 'nothing.'" Let me ask you two questions.

Does the book quote you accurately and if so what was the meaning of the statement?

Mr. LIEBELER. I have no recollection making the statement to Mr. Epstein but I don't deny that I made it.

Mr. CORNWELL. What was the nature of the Warren Commission's work as you perceived it and viewed it during your tenure as staff counsel?

Mr. LIEBELER. I think Mr. Willen's characterization on this same page is a more accurate characterization. What I had intended to

convey to Mr. Epstein was the idea that in terms of developing the investigation, the direction in particular of the investigation, and in drafting the report, the Commissioners themselves were not directly involved, and they were not.

Mr. CORNWELL. So, your general view then would be that similar to what is reported in the document Mr. Willens said and that is that the Commissioners were not in touch with the investigation at all times?

Mr. LIEBELER. As further explained in my previous testimony, yes.

Mr. CORNWELL. Mr. Chairman, with respect to that last exhibit I think the testimony perhaps speaks better than the exhibit, so I will not offer it, myself, into evidence.

I would ask that we mark exhibit 34 for identification, which is an August 28, 1964 memorandum from Mr. Liebeler to Mr. Rankin.

Mr. PREYER. It may be so marked.

Mr. CORNWELL. Have you had a chance to review exhibit 34 prior to coming here, Mr. Liebeler?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. Is it accurate to state that that is a memorandum written in connection with issues which were pending in August of 1964 concerning the palm print about which you have previously testified?

Mr. LIEBELER. Yes.

Mr. CORNWELL. May we admit exhibit 34 in the record, Mr. Chairman?

Mr. PREYER. Without objection, exhibit 34 is entered into the record.

[The document referred to, marked JFK exhibit No. 34 and received for the record, follows:]

#### JFK EXHIBIT No. 34

[Memorandum]

AUGUST 28, 1964.

To: J. Lee Rankin.

From: Wesley J. Liebeler.

Messrs. Griffin and Slawson and I raise questions covering the palmprint which Lt. Day of the Dallas Police Department testified he lifted from the underside of the barrel of the K-1 rifle on November 22, 1963. That story is set forth on pages 7-10 of the proposed final draft of Chapter IV of the Report, copies of which are attached.

We suggest that additional investigation be conducted to determine with greater certainty that the palmprint was actually lifted from the rifle as Lt. Day has testified. The only evidence we presently have on that print is the testimony of Lt. Day himself. He has stated that although he lifted the palmprint on November 22, 1963, he did not provide a copy of the lift to the FBI until November 26, 1963 (9 R 260-61). He also testified that after the lift he "could still see traces of the print under the barrel and was going to try to use photography to bring off or bring out a better print." Mr. Latona of the FBI testified with respect to the lift of the palmprint, that "evidently the lifting had been so complete that there was nothing left to show any marking on the gun itself as to the existence of such—even an attempt on the part of anyone else to process the rifle" (*Id.* at 24).

Additional problems are raised by the fact that:

(1) Mr. Latona testified that the poor finish of the K-1 rifle made it absorbent and not conducive to getting a good print;

(2) None of the other prints on the rifle could be identified because they were of such poor quality;

(3) The other prints on the rifle were protected by cellophane while the area where the palmprint had been lifted was not, even though Lt. Day testified that after the lift the "[palm] print on gun was their best bet, still remained on there," when he was asked why he had not released the lift to the FBI on November 22, 1963.

We should review the above circumstances at our conference with Agent Latona and Inspector Malley. The configuration of the palmpoint should be reviewed to determine, if possible, whether or not it was removed from a cylindrical surface. The possibility that the palmpoint or evidence of the lift was destroyed while the rifle was in transit should be reviewed with them. The exact condition of the rifle at the time it was turned over to the FBI Dallas office should be ascertained. Agent Latona should be asked if he can think of any explanation for the apparent conflict in the above testimony.

We should also:

(1) Determine whether or not Lt. Day had assistance when he worked with the prints on the rifle. If he did, we should obtain statements from those who assisted him.

(2) Lt. Day should be asked why he preserved the fingerprints on the rifle, which were sufficiently clear to make positive identification, and yet did not preserve the palmpoint, which was clear enough for that purpose.

(3) Lt. Day should also be asked why he removed only the palmpoint and should be questioned covering his recollection that he saw the palmpoint still on the rifle after he made the lift.

(4) Lt. Day should be asked if he took any photographs of the palmpoint on the rifle after the lift. He may have done so, since he did photograph the less valuable fingerprints, and the palmpoint on the rifle, according to his testimony, was still the "best bet" for identification. It is also significant that Lt. Day stated that he was going to attempt to get a better print through use of photography.

Mr. CORNWELL. This was a memorandum, is it correct, Mr. Liebeler, that you wrote in connection with the consideration by staff, particularly Mr. Rankin, of whether additional investigation should be conducted on the palm print about which you previously provided some information?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. Why was a memo like this written? What was the purpose of it?

Mr. LIEBELER. The purpose was to outline the kind of investigation that Mr. Griffin and Mr. Slawson and I thought should be conducted into this question. Mr. Rankin requested us to indicate to him, since we had pressed for an additional investigation, the kind of investigation that we thought should be conducted.

Mr. CORNWELL. So this was in response to a specific request from Mr. Rankin for this memo?

Mr. LIEBELER. Yes. Mr. Rankin requested this memo but he requested the memo only after Mr. Griffin and Mr. Slawson and I had raised this question about the condition of the record as regards the palm print.

Mr. CORNWELL. That had become a rather heated subject matter, is that correct, at that point?

Mr. LIEBELER. Yes, it certainly had.

Mr. CORNWELL. Were there generally problems of this nature encountered by the staff concerning matters which they felt required investigation and Mr. Rankin and Mr. Redlich did not?

Mr. LIEBELER. No.

Mr. CORNWELL. This is a very unusual event in your experience, is that correct?

Mr. LIEBELER. My recollection is that it was only these two items that this question ever came to a head on.

Mr. CORNWELL. The rest of the time such matters would be handled orally, is that correct?

Mr. LIEBELER. For the most part it wasn't a question. For the most part the individual staff members were free to take the deposition of

anyone they wanted to take, subject to Mr. Rankin's approval, which was never withheld and there was never any question raised about it, or to ask the FBI or other agencies to conduct additional investigation and that would be done by drafting a letter for Mr. Rankin's signature and forwarding it to Mr. Willens who would then presumably advise Mr. Rankin on the question.

I do not recall any case in which any previous recommendations that I had made in the form of requests to the FBI or other agencies were ever questioned or resisted and in fact since both in this case and in the palm print case I did eventually prevail on this issue I am able to state there is not a single case that any of my recommendations as to investigation were denied, that I can recall.

Mr. CORNWELL. Was that, to your understanding and within your ability to observe the workings of the Warren Commission, true with respect to other staff counsel?

Mr. LIEBELER. As a general proposition, yes. The only issue in which the question came up in another context, as I recall it, was when Griffin and Hubert were trying to establish how Ruby got in the basement of the police station, and there was also another issue involved with Griffin in which I believe he was advised to move on to other questions, only because, as I understand it, of the fact that there were other questions that had to be dealt with and it did not seem likely that these issues could be clearly resolved.

Mr. CORNWELL. In other words, your testimony as I understand it is basically that there was no atmosphere of restriction upon the investigation as the people who were actually doing the work saw it, in other words, people at your level were across the board given relatively free rein to follow the investigation where it led them in an attempt to secure the necessary evidence?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. May we mark for identification, Mr. Chairman, a memorandum dated September 2, 1964, from Mr. Liebeler to Mr. Willens as exhibit 35.

Mr. DODD. Mr. Chairman, may I interrupt at this point? Are we getting copies of these or should we have them?

Mr. CORNWELL. You should have copies of all of these.

Have you had a chance to review that memorandum prior to coming here?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. Would it be fair to state that the subject matter of that memorandum is the discovery of property remaining in the possession of Marina Oswald as of August 26, 1964?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. May we admit that exhibit as part of the record, Mr. Chairman?

Mr. PREYER. Without objection, the exhibit is admitted into the record.

[The document referred to, marked JFK exhibit No. 35 and received for the record, follows:]

JFK EXHIBIT No. 35

[Memorandum]

SEPTEMBER 2, 1964.

To: Mr. Willens.

From: Mr. Liebeler.

Re: Relevant property remaining in possession of Marina Oswald as of August 26, 1964.

I forward a proposed letter to the FBI along lines which I suggested in a conference with you and Mr. Redlich on August 27, 1964 and generally in accord with conversations between Inspector Malley, Mr. Rankin, Mr. Griffin and myself held on August 23, 1964.

I have previously expressed my opinion that it reflects adversely in the thoroughness of this investigation that Marina Oswald still had in her possession on August 26, 1964, material pertinent to our work, the existence of which material was not known to the FBI, this Commission, or any other investigative agency. As indicated in the report of Special Agent Heitman dated August 27, 1964, at Dallas, Tex., Marina Oswald discovered the materials mentioned in that report on or about August 17 or 18, 1964. They had been in a small brown suitcase that had been in her possession at Ruth Paine's residence. Marina Oswald told Agent Heitman that she remembered that she had the materials in question when I asked her in a telephone conversation on August 26, 1964, about Oswald's plans following her departure for Irving, Tex., with Ruth Paine on September 23, 1963. The proposed letter seems indicated under the circumstances.

Mr. CORNWELL. The first sentence in the second paragraph reads:

I have previously expressed my opinion that it reflects adversely in the thoroughness of this investigation that Marina Oswald still had in her possession on August 26, 1964, material pertinent to our work, the existence of which material was not known to the FBI, this Commission, or any other investigative agency.

What type of material was that, or was at issue there?

Mr. LIEBELER. My recollection is that there was a map of Mexico City on which had been made marks and notations of various kinds, a stub of a bus ticket covering transportation, I believe from Mexico City to Dallas, Tex., and a television guide in Spanish relating to the broadcast of television stations in Mexico City during the period of time, as I recall, that Oswald was in Mexico City.

Mr. CORNWELL. Would it be fair to state that this material then would have had an obvious relevance to many of the issues that the Warren Commission was in the process of considering?

Mr. LIEBELER. I think so.

Mr. CORNWELL. It was not obtained by you, the FBI apparently or the Warren Commission until approximately 30 days prior to the date the Warren Commission's report became public?

Mr. LIEBELER. That is correct.

Mr. CORNWELL. Was this in your view, based on your knowledge of what transpired at the time and your ability to reflect back on those events, typical or atypical of the FBI's investigation of this matter? I am talking about the assassination.

Mr. LIEBELER. I don't think it was typical of the FBI's work as a general proposition. It certainly was not typical of the work that the FBI did in response to the request that we made that they conduct their own investigation. I have no direct knowledge of the quality of the Bureau's work prior to the time that the Commission began to operate although that is reflected to a considerable extent of course in the reports that we did receive from the Bureau.

Obviously those reports cannot reflect sins of omission on the part of the Bureau.

Mr. CORNWELL. What explanation did you receive in connection with this discovery?

Mr. LIEBELER. From the FBI?

Mr. CORNWELL. Yes, sir.

Mr. LIEBELER. I did not ask the FBI for an explanation and they never offered me one.

Mr. CORNWELL. The reason I ask the question is I suppose there might be some chance that the evidence had been fabricated and did not even exist in November 1963. Is that correct? Did you even ask to see if they had checked this location earlier and found nothing?

Mr. LIEBELER. I don't recall making that request. I have a problem here to some extent because this memorandum says that I am forwarding a proposed letter to the FBI and I don't have that letter in front of me and I don't know what I said, I have no recollection of what it said. My recollection of my position at this time was that, I believe I had the feeling at that time that this whole question of the property inventory, if any, and the question of the way the Bureau handled the obtaining and forwarding of this property to the Commission should be looked at but it is not a strong recollection and I would like to see the letter if we have it.

Mr. CORNWELL. I apologize for the fact that we don't have it here today.

Mr. LIEBELER. If I may say, if this information or piece of paper had been in the possession of the Commission or the FBI prior to the time that they were obtained, it would have made the investigation into Oswald's trip to Mexico a great deal easier. But I don't believe there was anything in this information which was inconsistent with the conclusions that had been reached on that issue independent of the papers.

Mr. CORNWELL. I did not mean to suggest necessarily that the FBI had fabricated the evidence. I meant to ask you whether or not the possibility had occurred to you that Marina Oswald had fabricated the evidence and decided to give it to the FBI at this late date?

Mr. LIEBELER. My recollection is that these papers had notes on them that were written in Lee Harvey Oswald's handwriting. I am not certain of that but I think that is the case and that would handle that question.

Mr. CORNWELL. Was there, in your view, enough time to adequately complete the investigation in your field of responsibility?

Mr. LIEBELER. I would have to answer yes to that question with one exception that I can think of. I did not have any other investigation or line of investigation that I wanted to pursue and I don't know that anyone else on the staff did either by the time we finished drafting our report except for the fact that the FBI was still trying to either corroborate or discredit, to determine the truth or falsity of some testimony that had been given by Sylvia Odio to the effect that Oswald had been in her apartment in Dallas some time in either September or October 1963.

Mr. CORNWELL. Was Sylvia Odio's testimony initially within your field of responsibility?

Mr. LIEBELER. It is hard to answer that question. Her FBI reports were there and we all knew about them and they were the subject of continued discussion between Mr. Griffin and Mr. Slawson and myself because they related to work that all three of us were doing. It was really never decided who would take the primary responsibility for developing that problem until it finally fell on me because I happened to be in Dallas to take other testimony and so the three of us agreed that I would take her testimony.

Mr. CORNWELL. Essentially because you were there?

Mr. LIEBELER. Yes, and the fact that it was a question that was within this whole general area and one that I was familiar with and I had discussed with these other two gentlemen.

Mr. CORNWELL. The Sylvia Odio incident was never resolved to your satisfaction, was it?

Mr. LIEBELER. No, not really.

Mr. CORNWELL. Directing your attention again to exhibit 32, the memo written on September 4, which we have previously admitted into evidence, would it be fair to state that as of that late date there were still in your mind a long list of areas about which more information was needed for Marina Oswald?

Mr. LIEBELER. My recommendation in this letter was that she be asked about these questions, yes.

Mr. CORNWELL. In fact the staff has been rather concerned with what they thought was the superficial questioning of her from the very beginning, as far back as February, is that not true?

Mr. LIEBELER. Yes, that is true.

Mr. CORNWELL. In addition to the pressures I guess we would say to complete the investigation and get the report out in the matters that at least you felt required further attention even in September 1964, was there any problem with the rewrite processes, the processes of preparing the final report as of that date?

Mr. LIEBELER. I certainly thought so for a number of reasons.

Mr. CORNWELL. Mr. Chairman, may I mark for identification exhibit 36, a memorandum dated September 6, 1964, by Mr. Liebeler reading "Memorandum Regarding Galley Proofs of Chapter IV of the Report."

Mr. PREYER. The exhibit may be marked for identification.

Mr. CORNWELL. Have you had a chance to review that document prior to coming here?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. Would that in part at least reflect your concern with the rewrite processes?

Mr. LIEBELER. Yes.

Mr. CORNWELL. May we admit that document into the record, Mr. Chairman?

Mr. PREYER. Without objection the exhibit is admitted into the record.

[The document referred to, marked JFK exhibit No. 36 and received for the record, follows:]

## JFK EXHIBIT No. 36

## [Memorandum re Galley Proofs of Chapter IV of the Report]

SEPTEMBER 6, 1964.

From: Wesley J. Liebeler.

I set forth below comments on the galley proofs of chapter IV of the report, a copy of which I obtained from Mr. Redlich on September 4, 1964. Other comments and suggestions are set forth in the margin of the galley itself.

## PURCHASE OF THE RIFLE BY OSWALD

1. On galley page 30, query if the name "Hidell" was stamped on the membership application blanks of the New Orleans branch, FPCC.
2. The text near the top of page 30 gives the impression that the name Hidell was stamped on all of the New Orleans Chapter's printed literature. It was not. Oswald stamped his own name on some of it.

## OSWALD'S PALMPRINT ON THE RIFLE BARREL

1. Query if the palmprint provides additional evidence of ownership of the rifle as is stated. The most it does is show that Oswald had possession of the rifle at some time. It does not show that he owned it.
2. Second paragraph states that Lt. Day determined the wood, SR wooden stock was too rough to take prints "from visual examination." Day does not say that in his testimony. While it is a minor point, he just said that he noted it was too rough. For all I know he may have reached that conclusion by feeling the stock.
3. It may be noted here that the conclusion for the section on rifle ownership, that appears on galley page 32, states that the presence of the palmprint on the rifle shows that Oswald "had disassembled it." That conclusion is not warranted from the existence of the palmprint on the rifle. The conclusion that Oswald handled the rifle while it was disassembled is justified.
4. The palmprint section must be changed to reflect the latest findings of the FBI that the palmprint had to have been lifted from the barrel because of the marks that appear on the lift that correspond to those on the rifle barrel itself.

## FIBERS ON THE RIFLE

1. I think this section is written a little too strongly considering the record. For example, there is no footnote after the statement that the Commission found no credible evidence that Oswald used the rifle between September 23 and the assassination. Furthermore, even if he did not "use" it, he might very well have handled it at some time during that period. Also, Stombaugh was not able to estimate the period of time within which the fibers were placed on the rifle, but much of the language in the section is designed to bring one to the conclusion that they were put there on the day of the assassination, even though that is not said.
2. In the last sentence of the section, it is not the Commission's conclusion that provides proof, it is the fact that the fibers most probably came from Oswald's shirt. Also, does that show that he "owned" the rifle, or just that he or someone that wore the shirt had handled the rifle at some time?

## PHOTOGRAPH OF OSWALD WITH RIFLE

1. It is interesting to note that the conclusion to the ownership section, on page 32, states that "a photograph taken in the yard of Oswald's apartment showed him holding this rifle." That statement appears in the conclusion in spite of the fact that Shaneyfelt specifically testified that he could not make a positive identification of the rifle that Oswald was holding in the picture, and in spite of the fact that the Commission was not able to conclude, in the discussion of this subject on page 31, that Oswald was holding the assassination weapon in the picture.

## RIFLE AMONG OSWALD'S POSSESSIONS

1. I do not believe there is any real authority for the proposition that Oswald sighted through the telescopic sight on the porch in New Orleans. Marina Oswald first said she did not know what he did with the rifle out on the porch, and then



was led into a statement which might be thought to support the instant proposition. It is not very convincing.

2. On the top of page 32 it is stated that Ruth and Michael Paine "both noticed the rolled-up blanket in the garage throughout the time that Marina Oswald was living in their home." I am sure the record will not support that statement, a rather important one, too. I recall that there was a period of time before the assassination that neither of them saw the blanket. I have always had the opinion that there was a gap in the proof as to the rifle being continuously in the garage, one that probably could not be filled. It cannot be filled by ignoring it. The conclusion is even worse when it states that "the rifle was kept among Oswald's possessions from the time of its purchase until the day of the assassination." I do not think the record provides any real evidence to support that broad statement. The fact is that not one person alive today ever saw that rifle in the Paine garage in such a way that it could be identified as that rifle.

#### THE CURTAIN ROD STORY

1. The report states that Frazier was surprised when Oswald asked for a ride on November 21, 1963. I am not able to find anything in the record to support that statement.

2. The last paragraph of this section is misleading when it attempts to show the falsity of the curtain rod story by stating that Oswald's room at 1026 North Beckley had curtains, and does not take account of the fact that Frazier specifically testified that Oswald said he wanted the curtain rods to put in an apartment. This takes on added significance when we remember that Oswald was talking about renting an apartment so that his family could live in Dallas with him. That aspect of the problem should be specifically treated if we are going to mention the fact that his roominghouse had curtains.

#### THE LONG AND BULKY PACKAGE

1. The last sentence states: "Frazier could easily have been mistaken when he stated that Oswald held the bottom of the bag cupped in his hand, or when he said that the upper end was tucked under the armpit." On the very next page of the gallery, in the discussion of the prints that appeared on the paper bag, it is stated that the palmprint was "found on the closed end of the bag. It was from Oswald's right hand in which he carried the long package as he walked from Frazier's car to the building."

I am advised that the palmprint is right on the end of the bag, just where it would be if Oswald had carried it cupped in his hand. If we say in the discussion of prints that that print was put on the bag when he carried it to the TSBD (which we don't quite do) and if the print is where it would be if he carried it cupped in his hand, then we must face up on the preceding page and admit that Frazier was right when he said that that is the way Oswald carried it. If the print story is right and the implication left there as to when the print was put on the bag is valid, Frazier could not have been mistaken when he said Oswald carried the bottom of the bag cupped in his hand.

#### SCIENTIFIC EVIDENCE LINKING RIFLE AND OSWALD TO PAPER BAG

1. The section on fibers in the bag is very thin. The most that can be said is that there was a possibility that the fibers came from the blanket. The FBI expert would not even state that such was probable.

#### CONCLUSION

1. I am at a loss to know why the fact that Oswald apparently failed to turn out Ruth Paine's garage light is mentioned in the conclusion.

#### PALMPRINTS AND FINGERPRINTS ON CARTONS AND PAPER BAG

1. The problem of all the unidentified prints has already been discussed. The FBI has been requested to conduct additional investigation to attempt to identify those prints. The results of that investigation must be incorporated in the report.

2. This section emphasized the freshness of one palmprint on one carton. That palmprint was the only one of 28 prints that could be developed by powder as opposed to a chemical process. As a result it was held to have been placed on the carton recently, within from 1 to 3 days prior to the time it was developed. The

inference may be drawn from the present language of this section that all of the other prints, which could be developed only through a chemical process because the cartons had already absorbed them, must have been older than the palmprint. Thus, it could be argued that Oswald's other prints had to have been placed on the cartons at least a day before they were developed and perhaps as much as 3 days before. While there may be some reason within the realm of fingerprint technology why that is not so, it does not appear in the report.

Under those circumstances, the presence of Oswald's other prints, which must be treated *pari passu* with the prints of others on the cartons, seems to have very little significance indeed. This relates to the prints on one of the Rolling Readers cartons near the window, the existence of which is emphasized by stating that they "take on added significance" because of the work being done on the sixth floor. The report also states that the Commission placed "great weight on the fingerprint and palmprint identifications." I don't think we should say that in any event. We certainly should not until we deal with the problem of the apparent age of Oswald's other prints and the presence of all those unidentified prints.

3. The report states that it is "significant that none of the prints on the cartons could be identified as the prints of a warehouse employee." It also states that those employees "like Oswald, might have handled the cartons"—presumably in the ordinary course of business. It is significant. But not necessarily to the point that the report tries to make. The fact that only Oswald's prints appeared on the cartons could show that he was the sole warehouse employee that handled them—in the ordinary course of business. The fact that Oswald was the only employee whose prints appeared on the cartons does not help to convince me that he moved them in connection with the assassination. It shows the opposite just as well.

4. It is also difficult to tell just what happened to all of the cartons or who developed what prints. While it appears that all four cartons were forwarded to the FBI, some confusion is created by the later statement that the right palmprint on the box on the floor next to the three near the window was also sent to the FBI. Why was that necessary if the carton had already been sent? The use of the passive voice in the second sentence of the second full paragraph on page 35 of the galleys leaves open the question of who developed the prints.

#### EWITNESS IDENTIFICATION OF ASSASSIN

1. There is a duplication of a long quote from Brennan's testimony that also appears at page 15 of the galleys, the first page of chapter 3. It does not seem to be needed in both places. If left the way it is, the form as to omitted material should be standardized.

2. Following that quote it says that Brennan's description "most probably" led to the radio alert sent out to police in which the assassin was described. Can't this be more definite? One of the questions that has been raised is the speed with which the assassin was described, the implication being that Oswald had been picked out as a patsy before the event. The Dallas police must know what led to the radio alert and the description. If they do we should be able to find out. If they do not know, the circumstances of their not knowing should be discussed briefly.

3. On page 36 it says that at 1:29 p.m. the police radio reported that the description of the suspect in the Tippit shooting was similar to the description which had been given by Brennan in connection with the assassination. On page 46 it is stated that it was unlikely that any officer said anything like "Kill the President, will you?" The reason given is that the officers did not know "that Oswald was a suspect in the killing of the President." But they very likely had heard the police radio note that the description of the two were similar and they may have drawn their own conclusions. The statement on page 46 should be taken out or qualified.

4. There should be a picture of the inside of the Texas School Book Depository sixth floor showing the low window sills and a reference to that picture in connection with the discussion of Brennan's testimony that he saw the man standing.

5. Query if we need such a long paragraph on Euins' testimony merely to conclude that it is inconclusive as to the identity of the man in the window.

6. In the last sentence of the second to the last paragraph in the section it says that Altgens picture was taken about 2 seconds "after the shot which entered the back of the President's neck." We should say after that shot was fired or heard or something. The sentence is not a good one as it now stands.

## OSWALD'S ACTIONS IN BUILDING AFTER ASSASSINATION

1. I do not think the description of the Baker-Oswald sequence is sufficiently clear. I am confused as to how many entrance doors there are to the vestibule, even though after a close reading there appear to be only two, the one connecting to the second floor landing and the one connecting to the lunch room. It is also not clear whether Baker saw Oswald through the window in the vestibule/landing door, or whether that door was still open as is implied by Baker's testimony. Mention of the window previously, however, implies Baker saw Oswald through the window. It does not seem likely that Oswald would still have been visible through the window if the door had already closed, although that depends on how fast the door closes, which is something I would like to know. What kind of a stairway is it that someone coming up can see nothing at the top of the landing? Truly may in fact have seen Oswald if the latter had just come down the stairs from the third floor as Truly was coming up from the second.

I think additional effort should be made with the writing and a picture of the view coming up to the second floor and a diagram or other pictures of the landing and vestibule area would be a good idea.

2. The first sentence in the third from the last paragraph on galley page 38 leaves a false inference concerning Oswald's presence on the sixth floor. It should be rewritten along the following lines: "The fact that Oswald could not have come down in the elevators, the only other possible means of descent, is shown by their movements after the time Baker and Truly tried to use them to go up in the building."

3. In the same paragraph, the statement that both elevators occupy the same shaft is not clear. It would be better to say: "both elevators, which operate adjacently in the same shaft,"

4. Last paragraph on page 38 (galley), the testimony of the employees as set forth in that paragraph is also consistent with Oswald having been in Ethiopia at the time of the assassination, or with his having used the elevators to get down from the sixth floor. Since those employees did not see either Oswald or Dougherty, their testimony says nothing on the point under discussion. The whole paragraph should be cut.

5. The next two paragraphs, the first two on galley page 39, are a complete mystery to me. When I left the bottom of page 38 I was looking for additional testimony showing that Oswald came down the stairs and not the elevator. After two paragraphs of excellent analysis I am convinced that Victoria Adams either came down the stairs before or after Oswald did and it is clear that that is so because we know that Oswald came down the stairs and not the elevator. I still do not understand, however, how the fact that Victoria Adams came down the stairs before or after Oswald did shows that Oswald came down the stairs. If the idea is to show that Adams was not on the stairway when Oswald was, I am not convinced by the analysis or speculation in these two paragraphs. Furthermore, if that is the idea it is not clearly set forth. How about a first sentence like: "Victoria Adams testified that she came down the stairway, within about 1 minute after the shots, from the fourth floor to the first floor where she encountered two depository employees—Bill Shelley and Billy Lovelady. If Miss Adams was on the stairway at that time, the question is raised as to why she did not see Oswald...."

6. In the conclusion: I do not see how the Commission can possibly state that "fingerprint and palmprint evidence establishes that Oswald arranged the cartons in the window." That evidence establishes that at some time Oswald handled one of the three cartons in the window, as suggested above, probably prior to the assassination by at least 1-3 days. That evidence establishes with equal validity that perhaps about 20 other persons "arranged the cartons in the window."

## OSWALD'S MOVEMENTS AFTER LEAVING DEPOSITORY BUILDING

1. The description of Oswald's bus ride sequence is very confusing and wholly unable to stand by itself without a map. Even if we include a map, which I assume we will, the text should be clear enough to stand by itself. The basic problem is that there is no indication of the relationship of various intersections to each other. It should be simple enough to set forth the relationships between St. Paul and Elm, Field and Elm, and Poydras and Lamar.

2. There also seems to be a mistake in description of directions. I don't see how Oswald could walk west on Elm and board a bus that was heading back in the direction of the depository and which was also traveling west. Somebody had to have gone east. (Oswald.)

3. The second to the last full paragraph on galley page 40 is not very clear as to what all those buses actually do and what they are supposed to do. I have set forth suggested clarifying changes in the margin of the galley.

4. On galley page 41 the terms "lineup" and "showup" are used interchangeably. It should be one or the other throughout. I have always thought it was lineup.

5. There are direct quotes in the first paragraph on galley page 42 for which there are no footnotes. It is my understanding that there are to be footnotes for each direct quote and that there is to be uniformity on this point throughout the report.

#### DESCRIPTION OF THE SHOOTING

1. References here to what the Dallas police radio ordered Tippit to do should be qualified to indicate that a transcript of a recording of the radio communications indicates the material being set forth. This should be done at least until we have cleared up the problems with the transcript and recordings, if we have not already done so.

2. There are no footnotes at all in the last paragraph of this section.

#### EYEWITNESSES

1. There is more confusion between lineups and showups at the top of galley page 43.

2. As to any attempt to explain Mrs. Markham's description (so-called) of Oswald as having bushy hair by showing the world a picture of Oswald "taken at the time of his arrest." I suggest that even the slowest of readers would imagine that their hair might be in an uncombed state—which is the suggested explanation of the bushy condition—after they had fought with a dozen policemen in an attempt to resist arrest. In fact Pizzo exhibit 453-C, the evidence for this proposition, shows Oswald with cuts and bruises on his face. I don't think Mrs. Markham's testimony needs much comment and neither does her statement to Lane. Any attempt such as is presently in the report will merely play into Lane's hands and make the Commission look naive.

3. Query statement that Markham's identification was mostly from his face. I think she was all over the lot on that one.

#### MURDER WEAPON

1. Why don't we take a sentence or two and explain why the bullets fired from the revolver were smaller than the barrel? There is no way to tell from this report now and an obvious question is raised as to why.

2. There is an unclear sentence in the middle of the third paragraph of this heading which states: "Also, the bullets were mutilated." Which ones?

3. The paragraph dealing with the number of shots fired and the manufacture of the cases and the slugs seems to me to be an exercise in pedantry, and possibly subject to error. Is it not possible that a Winchester-Western slug could have been fired from a Remington-Peters case? Even if not, why leave ourselves open to question when it does not really matter how many shots were fired, as between four or five.

4. The last paragraph of this heading needs some footnotes, either in or out.

#### OWNERSHIP OF THE REVOLVER

1. The first sentence refers to "this type of revolver." I think it would be better to say "the type of revolver that was used to kill Patrolman Tippit."

#### OSWALD'S JACKET

1. The second paragraph of this heading needs some footnotes.

2. There are inconsistencies in the description of Commission exhibit 162. The same problem occurred above, when an exhibit was described sometimes as "exhibit —" and at others as "Commission exhibit —." A little thing, but why not do it right,

3. This conclusion to this heading reaches the crushing result that "Oswald disposed of his jacket as he fled from the scene of the Tippit killing." I submit that that is really not the conclusion we worked toward. Why not: "Those facts strongly support the finding that it was Lee Harvey Oswald who killed Patrolman Tippit and then fled through the parking lot adjoining Jefferson Boulevard, disposing of his jacket as he did so."

#### OSWALD'S ARREST

1. At first I was surprised to learn that Johnny Calvin Brewer knew that a patrolman had been shot when Oswald walked by his place of business, less than eight blocks from the point of the Tippit killing which Oswald apparently left as fast as he could.

2. Then I was surprised to learn that the police radio did not send out information about the suspect being in the Texas Theater until 1:45, about 30 minutes after the police first learned of the Tippit killing from Benavides over Tippit's radio. What were Oswald and Brewer doing during this 30 minutes? Oswald was strangely inactive during this period, considering all that he had done in the 45 minutes following the assassination.

3. While I know that I will be thought mad to suggest that some editing be done on this chapter, consider the following sentence that appears on galley page 46: "As Oswald, handcuffed, was led from the theatre, he was, according to McDonald, 'cursing a little bit and hollering police brutality.'" There are only 5 commas in that sentence. How about: "McDonald testified that Oswald was 'cursing a little bit and hollering police brutality' as he was led handcuffed from the theatre."

4. Here compare the note above concerning page 36 that the police radio had noted the similarity of the descriptions between the man wanted for the assassination and the man wanted for the Tippit killing, by the time Oswald was arrested at the theater. It could be, therefore, that some of the officers suspected that the man they were arresting was wanted in connection with the assassination.

#### STATEMENTS OF OSWALD DURING DETENTION

1. There are entirely too many subheadings under this general heading. None are really necessary. We reach the sublime when we have one whole heading for one short, four sentence paragraph. They should all be cut out and the whole discussion comprehended under the above general title.

2. In the paragraph on denial of rifle ownership appears the statement "small bore .22 rifle." That is redundant, since I presume we do not mean to distinguish from large bore .22 rifles. It should probably just read: ".22 caliber rifle."

3. The second to last sentence in that paragraph needs a footnote.

#### SHOOTING OF MAJ. GEN. EDWIN A. WALKER

1. There is no footnote after the sentence concerning the 15-year-old boy who saw two men leave the area.

2. Same after the statement that a friend of Walker gave information to the police about the two men snooping around. Also that statement is not correct. Walker gave the information to the police.

3. No footnote after statement re results of private investigation.

4. No footnote after statement that the note was in the "Book of Useful Advice."

5. The second full paragraph on page 48 assumes a lot of knowledge about Oswald's movements and about the Paines that the reader had not gotten anywhere yet, except in the first chapter narrative. A few extra words as suggested in the margin of the galley might improve things considerably. Furthermore, the first sentence needs a footnote, as does the entire next paragraph, which has not one footnote to its name.

6. In the paragraph on photographs, a footnote is needed after the first sentence. The second sentence must be changed because at present it implies that Oswald told Marina about the notebook or rather showed it to her when he returned the night after the attack. She stated in her testimony in July that she did not see what was in the notebook until 3 days after the attack and there is nothing in her early testimony that I know about to support the proposition now in the report.

7. Statement that Oswald apparently destroyed the notebook should be changed in order to reflect fact that he did destroy it, and at the suggestion of his wife.

8. Second to last sentence in photographs section must be changed to indicate that Oswald did not bury his rifle in some bushes, but rather that he may have hidden it there.

9. Query usage of "ballistics" in first paragraph of "Firearms Identification" section. Same as to last paragraph thereof.

10. Under "Corroboration by Marina Oswald" we learn for the first time about a postponement of the attempt to kill Walker. There is no mention of from when, what the circumstances of the postponement were, what happened to the rifle in the meantime, et cetera. It should be set forth, since there is no mention of it above, as I recall.

#### OSWALD'S RIFLE CAPABILITY

1. The purpose of this section is to determine Oswald's ability to fire a rifle. The third word at the top of page 50 of the galleys, which is apparently meant to describe Oswald, is "marksman." A marksman is one skilled at shooting at a mark; one who shoots well. Not only do we beg the question a little, but the sentence is inexact in that the shot, which it describes, would be the same for a marksman as it would for one who was not a marksman. How about: "The assassin's shots from the easternmost window of the south side of the Texas School Book Depository were at a slow-moving target proceeding on a downgrade virtually straight away from the assassin, at a range of 177 to 266 feet."

2. The last sentence in the first paragraph on galley page 50 should indicate that the slope of Elm Street is downward.

3. The section on the nature of the shots deals basically with the range and the effect of a telescopic sight. Several experts conclude that the shots were easy. There is, however, no consideration given here to the time allowed for the shots. I do not see how someone can conclude that a shot is easy or hard unless he knows something about how long the firer has to shoot, that is, how much time is allotted for the shots.

4. On nature of the shots—Frazier testified that one would have no difficulty in hitting a target with a telescopic sight, since all you have to do is put the crosshairs on the target. On page 51 of the galleys, however, he testified that shots fired by FBI agents with the assassination weapon were "a few inches high and to the right of the target \* \* \* because of a defect in the scope." Apparently no one knows when that defect appeared, or if it was in the scope at the time of the assassination. If it was, and in the absence of any evidence to the contrary one may assume that it was, putting the crosshairs on the target would clearly have resulted in a miss, or it very likely would, in any event. I have raised this question before. There is a great deal of testimony in the record that a telescopic sight is a sensitive proposition. You can't leave a rifle and scope laying around in a garage underfoot for almost 3 months, just having brought it back from New Orleans in the back of a station wagon, and expect to hit anything with it, unless you take the trouble to fire it and sight the scope in. This would have been a problem that should have been dealt with in any event, and now that it turns out that there actually was a defect in the scope, it is perfectly clear that the question must be considered. The present draft leaves the Commission open to severe criticism. Furthermore, to the extent that it leaves testimony suggesting that the shots might not have been so easy out of the discussion, thereby giving only a part of the story, it is simply dishonest.

5. Why do we have a statement concerning the fact that Oswald's Marine records show that he was familiar with the Browning automatic rifle, .45-caliber pistol and 12-gauge riot gun? That is completely irrelevant to the question of his ability to fire a rifle, unless there is evidence that the same skills are involved. It is, furthermore, prejudicial to some extent.

6. Under the heading "Oswald's Rifle Practice Outside the Marines" we have a statement concerning his hunting activities in Russia. It says that he joined a hunting club, obtained a license and went hunting about six times. It does not say what kind of a weapon he used. While I am not completely familiar with the record on this point, I do know for a fact that there is some indication that he used a shotgun. Under what theory do we include activities concerning a shotgun under a heading relating to rifle practice, and then presume not to advise the reader of the fact?

7. The statements concerning Oswald's practice with the assassination weapon are misleading. They tend to give the impression that he did more practicing than the record suggests that he did. My recollection is that there is only one specific time when he might have practiced. We should be more precise in this

area, because the Commission is going to have its work in this area examined very closely.

8. On the top of galley page 51 we have that statement about Oswald sighting the telescopic sight at night on the porch in New Orleans. I think the support for that proposition is thin indeed. Marina Oswald first testified that she did not know what he was doing out there and then she was clearly led into the only answer that gives any support to this proposition.

9. I think the level of reaching that is going on in this whole discussion of rifle capability is nicely shown by the fact that under the heading of rifle practice outside the Marine Corps appears the damning statement that "Oswald showed an interest in rifles by discussing that subject with others (in fact only one person as I remember it) and reading gun magazines."

10. I do not think the record will support the statement that Oswald did not leave his Beckley Avenue roominghouse on one of the weekends that he was supposedly seen at the Sports Drome Rifle Range.

11. There is a misstatement in the third paragraph under rapid fire tests when it says "Four of the firers missed the second shot." The preceding paragraph states that there were only three firers.

12. There are no footnotes whatsoever in the fifth paragraph under rapid fire tests and some rather important statements are made which require some support from someplace.

13. A minor point as to the next paragraph—bullets are better said to strike rather than land.

14. As I read through the section on rifle capability it appears that 15 different sets of three shots were fired by supposedly expert riflemen of the FBI and other places. According to my calculations those 15 sets of shots took a total of 93.8 seconds to be fired. The average of all 15 is a little over 6.2 seconds. Assuming that time is calculated commencing with the firing of the first shot, that means the average time it took to fire the two remaining shots was about 6.2 seconds. That comes to about 3.1 seconds for each shot, not counting the time consumed by the actual firing, which would not be very much. I recall that chapter 3 said that the minimum time that had to elapse between shots was 2.25 seconds, which is pretty close to the one set of fast shots fired by Frazier of the FBI.

The conclusion indicates that Oswald had the capability to fire three shots with two hits in from 4.8 to 5.6 seconds. Of the 15 sets of 3 shots described above, only 3 were fired within 4.8 seconds. A total of five sets, including the three just mentioned were fired within a total of 5.6 seconds. The conclusion at its most extreme states that Oswald could fire faster than the Commission experts fired in 12 of their 15 tries and that in any event he could fire faster than the experts did in 10 of their 15 tries. If we are going to set forth material such as this, I think we should set forth some information on how much training and how much shooting the experts had and did as a whole. The readers could then have something on which to base their judgments concerning the relative abilities of the apparently slow firing experts used by the Commission and the ability of Lee Harvey Oswald.

15. The problems raised by the above analyses should be met at some point in the text of the report. The figure of 2.25 as a minimum firing time for each shot is used throughout chapter 3. The present discussion of rifle capability shows that expert riflemen could not fire the assassination weapon that fast. Only one of the experts managed to do so, and his shots, like those of the other FBI experts, were high and to the right of the target. The fact is that most of the experts were much more proficient with a rifle than Oswald could ever be expected to be, and the record indicates that fact, according to my recollection of the response of one of the experts to a question by Mr. McCloy asking for a comparison of an NRA master marksman to a Marine Corps sharpshooter.

16. The present section on rifle capability fails to set forth material in the record tending to indicate that Oswald was not a good shot and that he was not interested in his rifle while in the Marine Corps. It does not set forth material indicating that a telescopic sight must be tested and sighted in after a period of nonuse before it can be expected to be accurate. That problem is emphasized by the fact that the FBI actually found that there was a defect in the scope which caused the rifle to fire high and to the right. In spite of the above the present section takes only part of the material in the record to show that Oswald was a good shot and that he was interested in rifles. I submit that the testimony of Delgado that Oswald was not interested in his rifle while in the Marines is at

least as probative as Alba's testimony that Oswald came into his garage to read rifle—and hunting—magazines.

To put it bluntly that sort of selection from the record could seriously affect the integrity and credibility of the entire report.

17. It seems to me that the most honest and the most sensible thing to do given the present state of the record on Oswald's rifle capability would be to write a very short section indicating that there is testimony on both sides of several issues. The Commission could then conclude that the best evidence that Oswald could fire his rifle as fast as he did and hit the target is the fact that he did so. It may have been pure luck. It probably was to a very great extent. But it happened. He would have had to have been lucky to hit as he did if he had only 4.8 seconds to fire the shots. Why don't we admit instead of reaching and using only part of the record to support the propositions presently set forth in the galleys. Those conclusions will never be accepted by critical persons anyway.

#### GENERAL COMMENT

1. The above was written without having the footnotes to the chapter, a considerable disadvantage when one would like to check the accuracy and precision of statements made in the text.

2. The placement of footnotes is not consistent within the chapter, nor with the general rule that there are to be footnotes after all direct quotes. Many times there are no footnotes where it appears to me that there should be.

3. Form as to omitted material should be checked. The form of citations to the appendix is not consistent with chapter 3 or internally.

4. I forgot to mention that some question might be raised when the public discovers that there was only one eyewitness to the Tippitt killing, that is, one person who saw Oswald kill him. All the rest only saw subsequent events. Mrs. Markham is nicely buried there, but I predict not for long.

Mr. CORNWELL. Who prepared chapter IV initially? Who first drafted that?

Mr. LIEBELER. Mr. Ball and Mr. Belin.

Mr. CORNWELL. Did you at the time work closely enough with Mr. Ball and Mr. Belin where you would have both become familiar with the facts within their area and also the quality of their work?

Mr. LIEBELER. That question has two parts. I was certainly familiar with the facts of their area because I had read most or all of the same FBI reports that they had read in outlining their area of investigation in my own efforts to prepare my own investigation.

I think I can say I had been able to form a judgment as to certain kinds of their work. But I was not in a position to judge the quality of their written work because I had never looked at it closely or examined it.

Mr. CORNWELL. Based on that last answer you would not be able to tell us whether or not their rough draft of this chapter in and of itself was a competent professional polished piece of work?

Mr. LIEBELER. No, I would not. I don't recall that I even ever read it.

Mr. CORNWELL. What basically, however, was the nature of the problems that you found with the galley proofs, the rewrite of chapter IV?

Mr. LIEBELER. Well, my memo of September 6 speaks to that question. It involves problems ranging from matters of form and location of footnotes to the problem that I thought was important at the time and that was that I thought that the text of that chapter was over-written in the sense that it made statements that could not really be supported by the nature of the underlying evidence.

Mr. CORNWELL. Let us simply very briefly go through that memo. I would like to ask you if you believe today your criticisms were ac-



curate? For instance on page 3 you very cryptically note near the bottom that a gap in the proof cannot be filled by ignoring it with respect to certain portions of the galley proof. On page 21——

Mr. LIEBELER. Do you want to take these one by one or do you want to lump them?

Mr. CORNWELL. We can simply look at them in bulk if you would like, whichever way you prefer.

Mr. LIEBELER. The reference on page 3 as to the question of whether or not it could be definitively established that the rifle that Oswald had ordered and received and was used to assassinate the President had actually been in the Paine garage the entire period of time after the Oswald return from New Orleans until the time of the assassination. I took the position that that could not be directly proved and I think that that position was correct. I still think that it is correct.

Mr. CORNWELL. On page 21 you note at the top: "The present draft leaves the Commission open to severe criticism. Furthermore, to the extent that it leaves testimony suggesting that the shots might not have been so easy out of the discussion, thereby giving only a part of the story, it is simply dishonest."

Was that your view of the report in its galley proof form?

Mr. LIEBELER. Yes, that was my view of the galley proofs as they existed at that time on this issue of the Oswald capability as a rifleman and the accuracy of the rifle.

Mr. CORNWELL. Also on page 21, bottom of paragraph 6, did you conclude that it was misleading to place information concerning the shotgun, possible use of the shotgun, under the heading of "Rifle practice" and then not advise the readers of the true facts of the distinction?

Mr. LIEBELER. Yes, I did.

Mr. CORNWELL. You note on page 23 near the bottom of the page that there was insufficient material provided on which the readers could base their judgment. Was that also a criticism that you felt was justified with respect to that final report?

Mr. LIEBELER. On that specific issue, yes, from the speed and the way the rifle could be fired.

Mr. CORNWELL. In paragraph 16, on page 24, at the very bottom, did you feel that the process of selecting what facts and information to rely upon seriously affected the integrity and credibility of the entire report?

Mr. LIEBELER. I used the words that it could do that. I believed that then as to the galleys, and I think that was a problem that we had in writing it and difficulties we had about that. The problem became apparent to me when I went through my own chapter after I had drafted it and wrote the footnotes for it. After I drafted my chapter, it had been rewritten and gone through several drafts, other people had changed it and things had been changed around over a period of time. It is absolutely impossible for a process like that to occur without ending up with sentences and statements in the report that simply you cannot find support for in the footnotes, in the testimony and the underlying evidence. It was an extremely painful process to go through all that evidence and try to conform as closely as possible the statements in the text to the actual evidence that was in the record.

That was part of the problem. I think also part of the problem was, as I said before, a tendency, at least in the galleys of chapter IV, to

try to downplay or not give equal emphasis to contrary evidence and just simply admit and state openly that there is a conflict in the testimony and the evidence about this question, but after reviewing the evidence the Commission could conclude whatever the Commission could conclude. I thought that would have been a better way to do it.

Mr. CORNWELL. What was done with all of your comments, the work product that you obviously spent a good deal of time preparing here which we have now marked as exhibit 36?

Mr. LIEBELER. I typed this memo, myself, so it was not distributed throughout the Commission files in the ordinary form, with different colored copies going to different places. My recollection is that I put a copy of it on Mr. Redlich's desk when I came back from Vermont that weekend and gave Mr. Willens a copy and I believe gave Mr. Rankin a copy. There was really no response to it for a considerable period of time. Then after the chapter had come back in page proof I reviewed it again. Mr. Redlich had already returned to New York. I was dissatisfied with the condition of the chapter even at that point. I went into Mr. Rankin's office and told Mr. Rankin that I thought there were problems. So Mr. Rankin said, I believe, get the memo and the galley proofs and the page proofs, and we sat down, the two of us, and started going through the chapter. Mr. Willens came in and observed what was going on and, it is my surmise, as a result of subsequent events he went out and called Mr. Redlich in New York and in the time it took Mr. Redlich to get from N.Y.U. to the airport and down to Washington. Mr. Redlich appeared in Mr. Rankin's office.

Mr. CORNWELL. It was Mr. Redlich's rewrite you were criticizing, is that correct?

Mr. LIEBELER. Yes. So, Mr. Redlich and Mr. Rankin and Mr. Willens and I then spent the rest of that day and long into the night going over this memorandum and the page proofs and my recollection is that we considered and discussed all the issues that were raised here, and probably more as well.

Mr. CORNWELL. Apart from considering what action was taken.

Mr. LIEBELER. The record will show that. I don't recall. My general recollection, my general impression was that my performance against Mr. Redlich was like UCLA's football team usually is against USC. But it really was not quite that bad. I won some and some of the changes were made. And some were not. There is a difference between the page proofs and final report and galley proofs, there is no question about that.

Mr. CORNWELL. There is some difference?

Mr. LIEBELER. Some difference, yes.

Mr. CORNWELL. May we mark for identification, Mr. Chairman, as exhibits 37, 38, 39, 40, and 41, memos respectively dated September 14, from Mr. Liebeler to Mr. Willens, concerning chapter VI; memo dated September 15, Mr. Liebeler to Mr. Willens concerning suggestions set forth in a letter from David A. Rothstein; memo of September 15, from Liebeler to Willens regarding a letter from Dr. Rome; a memo of September regarding chapter VI, and a memo dated September 16 regarding chapter VI.

Mr. PREYER. All of these exhibits are marked for identification only.

Mr. CORNWELL. Have you had a chance to review each of those exhibits prior to coming here today?

Mr. LIEBELER. Yes.

Mr. CORNWELL. Would it be fair to state that each of those exhibits relates also to your findings with respect to errors and overstatements, incorrect statements, which existed in the galley proofs and that you discovered during the rewrite process?

Mr. LIEBELER. No.

Mr. CORNWELL. Or suggested additions to the report?

Mr. LIEBELER. Yes, I think that is correct. But of course they will speak for themselves. But that is a generally correct characterization of them.

Mr. CORNWELL. May we then submit each of those exhibits into the record, Mr. Chairman.

Mr. PREYER. Without objection the exhibits are admitted into the record.

[The documents referred to, marked JFK exhibits No. 37, 38, 39, 40, and 41 and received for the record, follow:]

#### JFK EXHIBIT No. 37

[Memorandum]

SEPTEMBER 14, 1964.

To: Mr. Willens.

From: Mr. Liebeler.

The following are some general comments on that portion of chapter VI dealing with conspiracy beginning with "Investigation of Other Activities" on galley 237.

1. We have not conducted sufficient investigation to state that there is no evidence that FPCC and ACLU were aware that they were authorized to receive mail at P.O. Box 6225, or that mail was ever addressed to them there.

2. Same as to statement re three post office boxes being used for surreptitious receipts of messages. I would delete the whole idea.

3. The sentence re investigation of aliases preceding footnote 714 in the galleys is much too broad.

4. Query statement at top of page 238 that Oswald "commonly" used Hidell as name of others—he also used that name to get the rifle and revolver.

5. What investigation has been conducted "with regard to persons using the name of 'Lee.'" I think the statement following note 727 is too broad.

6. The sentence relating to chapter VII at the close of the discussion of aliases should read "Oswald's creation of false names and fictitious personalities is also treated in the discussion of possible motives set forth in chapter VII."

7. Ownership of second rifle:

a. We cannot say that all of Oswald's transactions in connection with firearms were undertaken under an assumed name, only his known transactions.

b. I think the degree of doubt about the authenticity of the repair tag is overstated.

c. First sentence in first full paragraph on page 259 is too strong and should be changed along the lines indicated in my copy of the galley.

d. The third sentence should also be qualified. The underlying report is not that strong.

e. The last sentence in that paragraph is not supported by the TV films we got from CBS. It should be deleted.

f. The second full paragraph has only one footnote. Furthermore, the last statement is incorrect. Whitworth and Hunter do not now say Oswald drove down the street and only Mrs. Whitworth said so before.

g. The statement that neither Mrs. Hunter nor Mrs. Whitworth could identify a picture of Lee Harvey Oswald is not so. Mrs. Whitworth did do so at 11 H 272. My draft stated that they could not "identify Lee Harvey Oswald standing with a small group of other different looking people."

8. Rifle practice:

a. Query if all the witnesses agree that the barrel had been shortened. (See note 775.)

b. Do we have evidence on the question of whether or not Oswald's rifle spouts fire. (See note 777.)

c. What is our authority for the nonexistence of the Cedar Hills gunshop. (See note 781.)

d. At note 794—Oswald could have been at Paine's and still have gone to the rifle range. Add: "and did not leave there to go to the rifle range."

9. Automobile demonstration: I think it is Stemmons Freeway, not "Expressway."

10. Alleged activities with Cuban underground organizations:

a. The title is inappropriate because Andrews and Pena do not talk about underground activities.

b. The title and the introduction are inappropriate because they strongly suggest that Oswald was an anti-Castro. The implication runs through Odio's testimony that he was an infiltrator. It would be better to start with a neutral sentence like: "The Commission has also considered testimony of certain persons that claim to have seen Oswald in the company of unidentified persons of Cuban or Mexican background."

c. What is the authority for the statement that Mrs. Odio claims that both of her parents are political prisoners of the Castro regime?

To go back for a moment to the second rifle section: In the third full paragraph it states, "On November 24, Ryder and Greener discussed at length the possibility" that Oswald had been there, but "Ryder did not mention the tag to his employer." I know of no evidence that Ryder and Greener talked on the 24th.

If they did not, the next sentence must be changed or cut.

The next sentence is a good example of what happens in the "rewrite" process. It says, incorrectly, that on November 25 Ryder told the FBI that Greener did not remember the tag, although he had not called the tag to Greener's attention. The original sentence said, correctly, that Greener "did not remember the transaction represented by the repair tag. . ."

The next sentence says the FBI was directed to Ryder by anonymous phone calls. Not so. They were directed to the Irving Sports Shop and would very likely have talked to Greener, but he could not be found by the agent on November 25, 1963, when he went to the shop.

*Back to Odio:*

d. Check correct name of JURE.

e. The paragraph on bus transportation starting "There is no firm evidence" should be completely rewritten. I do not think there is "convincing evidence" that Oswald was on the buses as stated. One sentence says he was apparently one of four passengers bound for a point beyond Texas. The next suggests that he bought a ticket in Houston for Laredo, which is in Texas. The McFarland testimony is given too much weight. I don't think Mexican immigration records show the time of day he crossed the border. Slawson told me he got the time of crossing from the scheduled arrival of the bus. Now we are using it to show that since he crossed at that time he had to be on the bus.

f. Since we have no direct evidence that Oswald boarded bus 5133 in Houston, the first sentence of the next paragraph ("Hence, the only time . . .") should be changed. That also obviates the necessity that he had to go from New Orleans to Dallas and thence too Houston.

There really is almost no evidence at all that he left Houston on that bus—and there is really no reason why we should suggest there is. The point can be made without saying that and to seem to rely on really weak evidence is to invite trouble.

g. Again—later in the same paragraph—more reliance on the McFarlands. Their affidavit is very weak—we should not fight it.

h. Then the single ticket from Houston to Laredo again—which probably could not have been Oswald if he were one of the four heading for points beyond Laredo.

i. Also the assumption that the Twiford call was a local call. Why speculate—make the arguments—he probably would not have called at all if he were not in Houston or going to be in Houston.

j. The conclusion that the evidence is persuasive that Oswald was not in Dallas on September 25 is too strong.

k. The story of Father McGhann (sp. ?) is overemphasized. We should state that Odio never told anyone else that Eugenio had been one of the men with Oswald. How can we conclude that McGhann would not have become confused when he was apparently in a rest home of some sort and we have never seen or spoken to him?

l. Since we have never taken testimony from Odio's other two friends on which people could base judgment as to their veracity, we should not rely too heavily on their statements, about which they have never been cross-examined.

m. The first two full paragraphs on galley 242 should come out. The "inconsistencies", if any, are minor. Furthermore, Sylvia's testimony is actually misrepresented when it is stated that she and her sister felt Oswald "looked familiar" when they saw his picture after the assassination. Sylvia testified that she was sure it was Oswald.

The paragraph about the psychiatrist is quite unfair. It states that Odio "came forward" with her story, whereas she did not come forward at all and was quite reluctant to get involved at all. Her story came to the attention of the FBI through a third person. The hearsay statements of "friends," concerning their personal opinion of a witness are thin stuff indeed. The whole paragraph is poor and should come out.

The Odio analyses should be based primarily on the apparent likelihood that LHO was elsewhere. These are problems. Odio may well be right. The Commission will look bad if it turns out that she is. There is no need to look foolish by grasping at straws to avoid admitting that there is a problem.

11. *Oswald not U.S. agent:*

a. Did CIA note his FPCC activities in New Orleans?

b. Why mention fact that LHO's name was not given to Secret Service—leave to chapter VIII.

c. Should not say Mrs. O. did not give any basis for her belief LHO was a U.S. agent—better to say any reasonable or credible basis. We should also add that the Commission has thoroughly considered all of her statements; that she was not foreclosed from giving any evidence she had and the Commission concluded that there was no real basis for her position.

d. Why do we mention the Ruby deal here—how does that relate to LHO's being a U.S. agent?

e. Have we really seen the full CIA file on Oswald?—Do we need a footnote to the last sentence in the first full paragraph on galley 243?

f. Who is going to attest that they have reviewed the complete Bureau files dealing with the Oswald investigation?

12. *Oswald's finances:*

a. The second paragraph is a little expansive. It certainly needs more than one footnote in any event.

b. Last sentence in fourth paragraph is ungrammatical.

c. Please let's take out "cheap and shabbily furnished" and other stuff of that sort! See galley and my previous comments on the draft for my suggestions.

d. I think we should cut the description of Oswald's wardrobe to the statement that it was also very modest.

e. The first full paragraph on galley 244 should be rewritten and shortened. I think the discussion of finances is too long and detailed. It is also too apparently precise to be readily believable.

f. To be somewhat facetious: If we are going to explain the other assistant in the FPCC distribution as a hired hand, we had better provide for him in the third full paragraph on 244.

g. We fall back into the first name treatment for Marina Oswald again.

h. Where do we get the hotel expenses of \$1.28 per day on the Mexican trip?

i. If Oswald did not cash his unemployment check at Hutch's Market, why do we mention it? I think it was cashed at an A&P store.

j. The whole discussion of Huchison's testimony should be limited to one paragraph in the rumors section.

k. Why do we fail to mention the Cuban or Mexican that one of the Western Union employees said was with the man Hambian thought was Oswald?

l. We should be more specific about the "other cities" in which WU has searched their records.

## JFK EXHIBIT No. 38

[Memorandum]

SEPTEMBER 15, 1964.

To: Mr. Willens.  
 From: Mr. Liebeler.

Pursuant to suggestions set forth in a letter dated September 13, 1964, from Dr. David A. Rothstein of the Medical Center for Federal Prisoners, I suggest the following following additions to chapter VII.

1. The second sentence in the second full paragraph on galley 67 should be omitted and the following should be substituted:

"Irving Sokolow, a Youth House psychologist, reported that:

"The Human Figure Drawings are empty, poor characterizations of persons approximately the same age as the subject. They reflect a considerable amount of impoverishment in the social and emotional areas. He appears to be a somewhat insecure youngster exhibiting much inclination for warm and satisfying relationships to others. There is some indication that he may relate to men more easily than to women in view of the more mature conceptualization. He appears slightly withdrawn and in view of the lack of detail within the drawings this may assume a more significant characteristic. He exhibits some difficulty in relationship to the maternal figure suggesting more anxiety in this area than in any other."

The footnote remains the same except for the deletion of an indication that the quote appears at page 1. Since CE 1339 is a short document no page numbers need be indicated. The third sentence of the paragraph under discussion should then commence a new paragraph which otherwise would remain the same.

2. On galley 71 a new paragraph should be inserted immediately following the first full quoted paragraph at the top of that galley. Since the material that Dr. Rothstein recommends that we add continues right on from the present paragraph at the top of galley 71, no indication of omitted material is necessary. The material to be added is as follows:

"This should answer your question, and also give you a glimpse of my way of thinking.

"So you speak of advantages. Do you think that is why I am here? For personal, material advantage? Happiness is not based on oneself, it does not consist of a small home, of taking and getting. Happiness is taking part in the struggle, where there is no borderline between one's own personal world, and the world in general. I never believed I would find more material advantages at this stage of development in the Soviet Union than I might of had in the U.S."

The asterisks should then be left in as they are in the galley because there is omitted material following the above quote and the quote starting "I have been a pro-Communist. . . ." The footnote remains the same.

3. Dr. Rothstein thinks we should indicate the approximate date of Marina's "liberation" by de Mohrenschildt. That could be done very simply by adding the words "sometime in early November 1963" following the word "apartment" in the sentence following footnote 250 in galley 74.

4. Dr. Rothstein thinks it is an overstatement to say that Oswald had never been able to obtain from his wife that respect, etc. He suggests, and I agree, that the second sentence in the paragraph following footnote 410 read:

"Oswald had difficulty in obtaining from his wife. . . ."

5. The doctor thinks that the fourth sentence in the paragraph following footnote 477 is too strongly worded. The sentence should be changed to read:

"He had not been able to establish lasting, meaningful relations. . . ."

While Dr. Rothstein has also made other worthwhile suggestions, I do not think they can be included at this point without seriously disrupting the present state of our galleys on chapter VII. I think the ones set forth above should be included however since they are worthwhile changes and can be readily made without disrupting the galley.

## JFK EXHIBIT No. 39

[Memorandum]

SEPTEMBER 15, 1964.

To: Howard J. Willens.

From: Wesley J. Liebeler.

Subject: Letter of Dr. Howard P. Rome, dated September 13, 1964.

Dr. Rome has sent a 12-page analysis of Oswald's reading disability which I recommend be included in the report as a Commission exhibit.

I also recommend that reference to the disability be set forth in the text by inserting the following as a new paragraph following the second full paragraph on galley 68:

"This misspelling of names, apparently on a phonetic basis, is cited by a psychiatrist consulted by the Commission as an example of a reading-spelling disability from which Oswald appeared to suffer. Other evidence of the existence of such a disability is provided by the many other misspellings that appear in Oswald's writings, portions of which are quoted below. The psychiatrist who has suggested the existence of this disability also stated his opinion that the frustration which may have resulted from it gave an added impetus to his [Oswald's] need to prove to the world that he was an unrecognized 'great man.'"

If the above is agreeable, it can be added by shifting only two footnote numbers.

## JFK EXHIBIT No. 40

[Memorandum]

SEPTEMBER 15, 1964.

To: Howard P. Willens.

From: Wesley J. Liebeler.

Subject: Chapter VI.

I set forth below my comments on the first part of chapter VI:

1. I do not think we should speak of "Proving a negative conclusion" as we now do in the second full paragraph on galley 189 since that might be thought to imply a prejudgment of the issue. It would be better, I think, to speak of the difficulties in developing evidence of any well executed conspiracy.

2. The last sentence in the third paragraph says that all of Oswald's known writings or other possessions which might have been used for code or other espionage purposes have been examined either by the FBI or the National Security Agency of both. The sentence does not indicate the purpose for which those writings were examined by those agencies. Even though it may be clearer by implication that they were examined to discover any code messages that might be in them, if that is the case I think it should be so stated.

3. The last sentence in the fifth paragraph of galley 189 says that the Commission has also considered whether any connections existed between Oswald and "those groups which, shortly before the assassination, were responsible for the propagation of hostile criticism of President Kennedy." I would assume that reference to right-wing group is intended, but that is not entirely clear since there were certain other groups that propagated hostile criticism of President Kennedy both shortly before the assassination and at other times. The Militant, the Journal of the Socialist Workers Party, was extremely critical of the Kennedy administration. I think that if right wing groups are intended by the sentence, that should be specifically stated and there should be no inference that other groups such as the Socialist Workers Party did not propagate hostile criticism of President Kennedy. While that inference is, I am sure, not intended, it might be drawn from present sentence.

4. The next paragraph, relating to the Ruby discussion, should indicate that the Commission has considered the possibility that Jack Ruby was part of a conspiracy to kill Lee Harvey Oswald. That is not mentioned in the present paragraph and is or at least should be a part of the discussion on Ruby.

5. It is a minor point, but we always refer to the window from which the shots were fired as the southeast corner window or a window in the southeast corner of the building. It would appear it would be more precise to say that the window is the eastern most window on the south side of the building or at least indicate that clearly at the beginning and state that the window will thereafter be referred to simply as the southeast corner window.

6. Another small point and perhaps one simply of taste, the stringing together of long clauses separated by semi-colons does not seem to be good writing technique. Periods are generally preferable since they make the sentences shorter and actually make the material easier to read and follow.

7. The second paragraph under the heading "Selection of Motorcade Route" refers to Dealy Plaza without any explanation of what it is. This has probably been done above. A short clause, however, describing it as the park area between Elm and Commerce Street immediately east of the triple underpass might be a good idea.

8. The second sentence in the third paragraph under the heading "Oswald's Presence in the Depository Building" is ungrammatical.

9. Another detail, but the word "company" following "Depository" in the fifth paragraph of this section is abbreviated "Co." It should be spelled out, I think, as should Texas and other such words as that.

10. The last paragraph in this section indicates that the Trade Mart was selected as the luncheon site on November 14, 1963. The newspapers did not indicate a final selection until November 16, 1963, if my recollection is correct. While these two things are not necessarily inconsistent we should be sure that the Trade Mart was actually first selected as the luncheon site on November 14.

11. In the last paragraph of the section entitled "Bringing Rifle into Building" it is stated that "neither women saw the paper bag or paper tape out of which the bag might have been constructed" it would be better to state, I think: "both women testified that they did not see the paper bag. . . ."

12. Under the caption "Accomplices at the Scene of the Assassination", I am still not able to understand, as set forth in paragraph 4, why the Commission considered probative in considering whether Oswald moved the cartons to the window, the fact that none of the warehouse employees who might have customarily handled the cartons left prints which could be identified. It may in fact be probative in considering that question, but if I am not yet able to understand why, after considering the question at some length, I have reason to believe that the public will have similar difficulties in understanding the reasons why. If it is in fact probative, it should be a relatively simple matter to set forth briefly the reasons why it is.

13. Query whether the prints were identified as those of an FBI "Agent". Inspector Malley told me that they were the prints of a clerk in a Dallas office who wrapped the boxes to be forwarded to Washington for fingerprint identification.

14. The next paragraph still bears the marks of a discussion that was appropriate before the fingerprints had been identified as those of an FBI agent or clerk and a member of a Dallas Police Department. I do not think the sentences set forth at footnotes 45-47 are really appropriate or necessary any longer, since the great bulk of the fingerprints have in fact been identified. The rest of that paragraph should also be rewritten to reflect more clearly the fact that most of the prints have been identified.

15. The discussion starting at the bottom of galley 191 and continuing through to the end of the section of accomplices at the scene is highly repetitive of material set forth in chapter IV. It would seem to me that the rather extensive treatment in chapter V could be substantially reduced by references back to chapter IV. Actually this makes about the third time that some of this stuff has been set forth. First to support the proposition that the shots came from the eastern most window, on the south side of the TSBD. Second, to deal with the identification and now the question of conspiracy. It should be shortened in chapter VI considerably. If the Rowland material is new, of course it should be retained.

16. Under the section captioned "Oswald's Escape," in the discussion of the testimony of Earlene Roberts concerning the police car, it is stated that "the Commission has established that there was no police vehicle in the area of 1026 North Beckley at about 1 p.m. on November 22." I do not think that statement is supported by the evidence we have and even if it appears to be so supported it is entirely too broad and leaves open too much possibility of error. It would be much better to say that investigation has produced no other evidence that there was any police car in the area of 1026 North Beckley, etc.

17. The last sentence on the section of Oswald's Escape is too broad when it states that investigation has produced no evidence that Oswald had pre-arranged plans for a means to leave Dallas after the assassination or that any other person was to provide him assistance. There is no footnote. I do not think we



can make those broad statements concerning investigations that have been made without supporting them in detail.

18. The statement in this section "Background of Lee Harvey Oswald" that study of the period from his birth "in 1939 to his military service from 1956 to 1959, has revealed no evidence which even plausibly suggests that Oswald was associated with any type of sinister or subversive organization during that period," is too broad and is inaccurate. There is testimony that Oswald wanted to join the Communist Party during the period that he lived in New Orleans from 1954 to 1956. That evidence does plausibly suggest that he might have been associated with a sinister or subversive organization.

There is also evidence that he wrote to the Socialist Party and while this may not be so strong a suggestion as the fact that he wanted to join the Communist Party, it is worthy of note.

There is also testimony by Delgado, one of his Marine Corps associates, that he was greatly interested in Cuba, discussed going to Cuba and in fact contacted the Cuban consulate in Los Angeles during the time he was stationed at Santa Ana.

The period covered by the above statement includes the time that Oswald was in Japan during which he might have contacted members of some communist organization there. If that ever happened, it would be highly unlikely that we would have any evidence about it. De Mohrenschildt said that Oswald had told him that he had met some communists in Japan and that they got him excited and interested and that is one of the reasons he went to the Soviet Union.

19. While it is probably of little consequence, I do not think it is necessary for the Commission to justify its investigation into the possible existence of a conspiracy involving the Soviet Union by stating that it does not suggest that the rulers of the Soviet Union believed that their political interest would be advanced by the assassination of President Kennedy. The facts in that regard speak for themselves.

20. At the top of galley 195 I do not understand the point about investigation concerning the possibility that Oswald was sent to Minsk unusually soon after he arrived. The statement appears without any warning and immediately raises the question whether or not he was sent to Minsk sooner than might be expected on the basis of information about other defectors. Perhaps the thought would be better expressed only in terms of investigation concerning the possibility that he was expected in the Soviet Union or had developed an undercover relationship without specific reference to the possibility that he had been accepted or sent to Minsk unusually soon.

21. The last sentence in the third full paragraph on galley 195, which states that the CIA has (which is, incidentally spelled out and is not abbreviated as is done in other places) contributed data on the normal practices and procedures of Soviet authorities in handling American defectors, would seem to require a footnote. That would be so if the CIA material is set forth in the record. If it is not, that fact should probably be indicated.

22. The sentence following footnote 151 is slightly ungrammatical in that the word "nor" following the first clause, should be "or." Furthermore, the last two sentences of that paragraph could be omitted and a sentence along the following lines substituted: "Oswald's arrogant and secretive character does not seem inconsistent with a suicide or feigned suicide attempt or with his failure to mention it to others."

23. The sentence which runs from the bottom of galley 195 and ends at the top of 196, dealing with the allegation that those who spoke with Oswald speculated that he may have received some instructions from the Soviet authorities, appears to need a footnote. In that connection, query whether there is any authority for the proposition set forth at footnote 169 that Oswald had read "communist literature without guidance while in the Marine Corps and before that time."

24. Reference is made in galley 196 to a 2½ month period that Oswald had to wait for disposition of his application after he arrived in the Soviet Union. The beginning of the section at the top of page 195 says the period was "almost 3 months."

25. Back to footnote 110; the material set forth at footnote 209 indicates that Oswald used 2200 rubles to pay his hotel bill whereas the material at 110 says that he apparently did not pay his hotel bill at all after November 30, 1959. The statement at 110 means that he did not pay his hotel bill by himself, but that it was paid for out of funds provided to him by the Russian Government.

26. The material at footnote 225 should reflect the latest testimony of Marina Oswald concerning her knowledge of Oswald's job. It should probably also say that Marina Oswald has testified that Oswald told her he operated a lathe, etc. As the statement now reads it might appear that she had first hand knowledge of what he was actually doing, which in fact she did not.

27. In the sentence following footnote 226 it is stated that "some of his acquaintances here . . .". It should probably read "some of his acquaintances in the United States . . ."

28. The sentence following footnote 245 seems to beg a question that should be discussed in this chapter. The sentence says that it seems unlikely that Soviet authorities would have permitted Oswald to marry and take his wife to the United States if they were contemplating using him "alone as an agent." One of the questions at hand is whether they did contemplate using him as an agent, either alone or together with Marina Oswald. The sentence as it presently stands, without any discussion of the possibility that Marina Oswald was an agent, seems to be circular.

29. At footnote 257 it says that Oswald unexpectedly appeared in Moscow on July 8, 1961. The following sentence states that Marina Oswald flew to Moscow "also without Soviet sanction." There has been no indication that Oswald's trip to Moscow was without Soviet sanction. Since it was, I believe, that should be indicated. If it was not, the "also" should be taken out in connection with Marina's statement. The first sentence in the next paragraph, of course, indicates that Oswald's travel was apparently without permission, but that should probably be indicated in the preceding paragraph at some point.

30. I think the information set forth in the several extensive quotes from CIA and State Department could be summarized in a much shorter form thus cutting the length of the chapter.

31. The sentence at footnote 270 uses Marina Oswald's first name only, something we have generally decided not to do and have not done in other places.

32. In the sentence following footnote 279, I believe the MVD colonel's name is misspelled. It should be Aksenov—A-k-s-e-n-o-v, or at least it was so spelled in Marina Oswald's latest testimony before the Commission.

33. At footnote 286 note should be taken of Mrs. Oswald's latest testimony. My recollection is that she testified that she was not aware of any interviews that Oswald had prior to his departure from the Soviet Union.

34. The last sentence on galley 199 which speaks of the Commission's awareness of "both interviews" and states that the way in which American authorities learned about those conferences affords additional evidence that they carried no subversive significance raises the question in my mind of how many other conferences Oswald and his wife may have had of which the Commission has no knowledge. That is a question that can never be satisfactorily dealt with. It is certainly raised, however, by the sentence just referred to which perhaps should be rewritten to avoid raising that question. Perhaps the Commission should face the proposition that it cannot really determine what the Oswalds did in the Soviet Union. Then, in the absence of any other evidence of a conspiracy involving the U.S.S.R. or Marina Oswald, the Commission has concluded that there were no such conferences and if there were they were not related in any way to the greatly subsequent event of the assassination.

35. The fourth sentence following the quote on top of galley 200 is very unclear and should be rewritten. Furthermore, the footnote with respect to that quote (No. 288) seems to be in the wrong place.

36. In the section on the Russian-speaking community, a little rewriting could be done. In addition the second sentence in the second paragraph which says that Oswald spent a "reasonably pleasant period during his grammar school years in Ft. Worth" should be changed simply to indicate that he went to grammar school in that city. It is questionable that there is authority to support the proposition that his stay there was "reasonably pleasant."

37. I do not understand the material set forth following the first sentence of the second paragraph, particularly the statement that there is no evidence that he had been in touch with any of his former "acquaintances" when he was in the Soviet Union. All that material could be stricken and the first sentence of the second paragraph could become the first sentence of the third paragraph. Another sentence could be added following that first sentence to indicate that Oswald's brother and mother lived in the Ft. Worth area. We could then go directly to the statement that upon his arrival Oswald did not know any members of the Russian-speaking community.

38. I do not believe it would be correct to state that it is not surprising that Oswald initiated contacts with the Russian group "in search of persons with whom his non-English speaking wife could converse." We have already seen in chapter VII that Oswald was not concerned about his wife's contacts with others. He apparently did not wish her to have them. He resented her Russian-speaking friends. There was testimony that he prevented her from learning English so that he could continue to practice his own Russian. The most likely reason for Oswald's contact with the Russian-speaking community was his desire to speak Russian himself. I do not think the statement here which seems to evidence a touching concern for his wife is consistent with the picture that has been painted of Oswald in chapter VII.

39. My recollection of the events by which Paul Gregory came to be tutored in Russia by Marina Oswald is different from that which is implied by the third paragraph. They were not consecutive. I believe that Gregory was out of town for some time during that summer and did not begin the Russian lessons until sometime after he returned, in the fall of the year. The inference to be drawn from the present structure of the sentence is that they begin almost at once, perhaps within a week after the conversation between Max Clark and Oswald. I'm quite sure that that is not correct. That inference is supported by the next sentence which starts "sometime later in August" which clearly indicates that the Russian tutoring lessons occurred sometime in early August which I do not believe to be the case.

40. I think we could do without the detailed descriptions of Bouhe and Meller, and simply say that the Oswalds went to a dinner party where they met George Bouhe and Mr. and Mrs. Meller, other members of the Russian community.

41. The sentence at footnote 324 is somewhat misleading in that it implies that Oswald was looking for work in Dallas all during the time that Marina Oswald stayed with Elena Hall. That is not correct, since Oswald began work at Jagers-Chiles-Storall almost immediately after he moved to Dallas in about the middle of October whereas it appears that Marina Oswald stayed with Elena Hall until late October or early November, as it says in the next sentence.

42. Query if it can be stated that "a quarrel" led to the November separation of the Oswalds, in view of George De Mohrenschildt's testimony about how he went and took Marina away. It would be simpler to state that the Oswalds were separated again in early November, 1962 during which time Marina Oswald spent approximately 2 weeks with Anna Meller and Mrs. Ford.

43. I would not be prepared to state that the severing of the relationship between the Oswalds and members of the Russian-speaking community was caused primarily "by personal animosity engendered by Oswald." I think it can be just as clearly said that the animosity was "engendered" by George Bouhe and other people who tried to take Marina Oswald away from her husband and who thrust their "help" on Oswald when he had clearly indicated that he did not want it. This subject is actually more appropriate for treatment in chapter VII where it has in fact been treated. It would be sufficient to say that relationships between the Oswalds and other members of the Russian-speaking community were terminated for personal reasons and let it go at that.

44. At the bottom of the paragraph that ends with footnote 327, Marina Oswald is referred to by her first name and Mrs. Ford's first name is incorrectly used, it is not "Kairina" but it is Katherine or "Kstya." Also the stars should be taken out of footnote 327 in accordance with policy not to use them in material quoted in the text itself. The next paragraph that ends with footnote 327 may be reduced to one sentence which would state that for all practical purposes there was no further contact between the Oswalds and the Russian community following Oswald's departure for New Orleans in the spring of 1963. The material that is now set forth is repetitive of material in chapter VII and greatly repetitive of material in the appendix. It is not necessary for the support of the conclusions of the conspiracy chapter.

45. The last full paragraph on galley 227 now starts to repeat materials that have been set forth in the first paragraph of that section. It has already been stated that Oswald came to Fort Worth on his return from Russia for reasons that had nothing to do with the presence of the Russian community in that city and there is no reason to repeat it now. Additionally, Marina Oswald is again referred to by her first name as she is also at footnote 337.

46. The whole section of the Russian-speaking community could be tightened very much and should be severely edited and rewritten. The accuracy and precision of the statements set forth should also be improved considerably.

47. Marina Oswald is again referred to by her first name only at footnote 341 and at several other places throughout the discussion that follows.

48. Query whether we have evidence to support the proposition that "particularly Marina" visited the de Mohrenschildts. I am not aware of the fact that Marina Oswald visited them on any great number of occasions without her husband being present.

49. After reading the remaining section on de Mohrenschildt I am constrained to remark that it really is essential that this material be substantially shortened and cleared up in every sense. It is very bad as it now stands and there is really no reason for all this to be in the text.

50. The first sentence in the second full paragraph states that the opening of the closet door "inadvertently" exposed Oswald's Mannlicher-Carcano rifle. Point 1: There is no footnote at the end of the sentence. Point 2: I do not know what evidence there is that the exposure of the rifle was inadvertent. Point 3: I do not know what evidence there is that that which was exposed, inadvertently or otherwise, was Oswald's Mannlicher-Carcano rifle.

51. The two paragraphs dealing with the rifle episode do not indicate the conflict in the testimony as to when the remark was made. My recollection is that someone testified that de Mohrenschildt made the remark as soon as he walked in the door. That does not appear in the discussion presently in the galley.

52. The paragraph which includes footnotes 391 and 392 is unnecessary. It is personally offensive to de Mohrenschildt. I do not think it is at all necessary to establishing the fact that de Mohrenschildt was not involved with the assassination, to describe him as "immature" and an "admirer of the opposite sex," "eccentric" or anything else.

I think the discussion of de Mohrenschildt and also of Paine should be rewritten and substantially shortened if not altogether deleted from chapter VI. I am unable to understand why such extensive time and space is devoted to de Mohrenschildt and Paine when Marina Oswald herself, the most obvious place to look for possible co-conspirator, is not discussed at all.

53. I'm not setting forth comments on the Paine material in the hope that it will be substantially rewritten or deleted from chapter VI. I cannot resist, however, noting the paragraph which includes footnotes 431-433. I am particularly struck by the sentence that "Oswald obtained a room in Dallas, where he found employment, but spent weekends with his family at the Paine home." I will always have visions of Oswald and the other TSBD employees packing their books in that long, narrow room at 1926 North Beckley. More seriously, however, the last sentence of the paragraph includes the statement "by the time the agents again came to Mrs. Paine's home." That clearly implies that there was more than one agent present at both interviews. My recollection is that Hasty was by himself on one of the occasions.

54. So far I have not found anything in chapter VI concerning William Kirk Coleman's story of two men who drove out of the area behind Walter's house immediately after the shot was fired at the general.

55. I have given all of my galleys to Stuart Pollack together with copies of this and other memoranda which I have given to you on chapter VI.

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#### JFK EXHIBIT No. 41

[Memorandum]

SEPTEMBER 16, 1964.

To: Howard P. Willens.  
From: Wesley J. Liebeler.  
Subject: Chapter VI.

The following comments relate to the discussion of Oswald's political activities upon his return to the United States which starts at about the middle of galley 230.

1. In the first paragraph of the discussion of the Communist Party, et cetera, the T on the word "the" in The Worker should be capitalized.

2. The term "as a matter of course" at footnote 505 implies the existence of evidence beyond that which exists in the record. In order to support that we would have to have evidence as to what the ordinary course of action would

be on the part of the Communist Party in response to a letter such as that sent by Oswald. Since we do not have that evidence I do not see how we can say that their response was "as a matter of course."

3. The same point might be made about the statement in the next paragraph that the organization was not especially responsive. In order to state that we would have to know how responsive they generally were in other situations. Since we do not, I do not see how we can make the statement.

4. In the sentence following footnote 510 it would be better to say that Johnson testified that he did not receive the letter until after the assassination, instead of making the flat statement, since the only evidence we have on that question is Johnson's testimony. This same point was raised in a discussion concerning chapter VII with Mr. Rankin and Mr. Redlich and it was agreed by all that the qualified statement would be preferable.

5. The next sentence says that Oswald wrote the Communist Party and the Hall Davis Defense Committee enclosing samples of his photographic work. He did write the Hall Davis Defense Committee but I believe the other letter enclosing samples of his photographic work was to The Worker and not to the Communist Party, although my recollection is not precise on that point.

6. The first sentence in the last paragraph on galley 230 should be qualified by stating "Johnson testified that the files of the Communist Party \* \* \*." Once again Johnson's testimony is the only evidence we have and the qualified statement would be preferable.

7. The sentence preceding the sentence covered by footnote 518 should have a footnote. In any event the nature of the evidence indicating that the files of the Young Socialist Alliance contain no reference to Oswald should be indicated. If it is somebody's testimony we should state that so-and-so testified that the files contained no such reference.

8. The Militant should have an initial capital T on the article in its name.

9. The sentence following footnote 523 says that the Commission has questioned persons who knew Oswald during every phase of his adult life and that none of them gave any indication that Oswald maintained a surreptitious relationship with any organization. There is no footnote in support of that sentence and the next sentence goes on to an entirely different subject. Obviously a footnote is needed.

10. The last sentence in the discussion of Communist Party, et cetera, activities says that there is no reason to believe that any material has been withheld by any of the organizations under discussion. I would omit that last clause ending the last sentence as follows: "The material that has been disclosed is in all cases consistent with other data in the possession of the Commission." There is no reason for the Commission to go on and make a statement that could very well arouse political controversy, especially when it does not contribute in any material way to the discussion.

11. The first sentence in the discussion on Fair Play for Cuba Committee indicates that Oswald "purportedly" acted on behalf of the FPCC. I do not know why that qualification should be stated. He obviously acted on behalf of FPCC in the sense that he was encouraged by the national organization in many of the activities in which he engaged.

12. The sentence preceding footnote 527 should be omitted since it simply does not seem to fit here.

13. The sentence preceding 529 is incorrect since Oswald did not ask the national organization for the circulars as described nor did he distribute them on at least three occasions. He had his "Hands off Cuba" materials printed in New Orleans at his own expense.

14. I would say that the FPCC chapter in New Orleans appeared to have been entirely fictitious.

15. The sentence following footnote 533 states "when the national office learned of Oswald's unauthorized activities, it terminated its correspondence with him." Technically they terminated correspondence with him with their last letter, at which time they did not know of his "unauthorized activities." In any event the sentence implies a causal connection between the two events which cannot under any circumstances be justified by the testimony presently in the record. The most that can be said is that V. T. Lee later testified that he was disappointed with Oswald, even though there is really no reason I see why he should have been at that time, and that Lee did not write any letters after a certain date. I know of no way in which a causal connection may be established between

those propositions. In any event a footnote for the sentence or the thoughts be expressed differently is necessary.

16. The reference to chapter VII in parentheses following footnote 534 should be moved up to the preceding sentence which should read "in fact these letters, which are discussed in greater detail in chapter VII, contained \* \* \*."

17. At the very bottom of galley 231 a footnote is needed for a reference to Mr. Steele's testimony that he never saw Oswald before and never saw him again after the distribution of FPCC leaflets on August 16, 1963.

18. I would add language at the top of galley 232 to indicate that a search had been made for the individual who helped Oswald and Steele distribute literature but that he has not yet been found. A parenthetical expression preceding the word "but" at the top of that page as follows would be appropriate: "in spite of an extensive search for him."

19. While the discussion of groups hostile to President Kennedy is generally well written, it is too long and contains material that has not the slightest conceivable relevance to the possible existence of a conspiracy to assassinate the President or to any other possible issue in this investigation. In addition, I suggest that the quote from Oswald's undated letter of November 1963 to the Communist Party be omitted, as it is set forth in chapter VII. If it is left in the two quotes should be made identical in form, which they are not now.

20. Some footnotes are needed in the second paragraph following the Walker quote.

Mr. CORNWELL. Again, Mr. Liebeler, what we have now admitted into the record is a rather voluminous quantity of additional comments concerning the galley proofs and the nature of the final report. What, if anything, was done with your comments in all of these memos?

Mr. LIEBELER. I am not able to answer that question from my own recollection. I have not gone through all of the memos to see which of the suggestions were adopted and which were not. But I have done that with respect to two of them. Exhibit 39 and exhibit 38, I find that for the most part the recommendations made in these memos are reflected in the final report.

Mr. CORNWELL. Which two memos again were those?

Mr. LIEBELER. Exhibits 38 and 39.

Mr. CORNWELL. Again did the implementation of your suggestions in those cases require lengthy discussions or were they inaccurate based on the memorandum itself?

Mr. LIEBELER. Since I don't have any recollection of them I assume they were adopted without any difficulty. I don't have any recollection that there was any difficulty with any of these suggestions.

Mr. CORNWELL. You implied earlier by your analogy to UCLA and USC that you lost more of those suggestions than were adopted, is that correct?

Mr. LIEBELER. I only said that about that conference in Mr. Rankin's office with Mr. Redlich and Mr. Willens on chapter IV.

Mr. CORNWELL. Does that analogy apply to the rest of the memos?

Mr. LIEBELER. I don't think so. I have not had time to go through these other memos and see whether the changes were reflected in the report or not. I have no recollection whether they were or not, but that can easily be done if somebody wants to do it.

Mr. CORNWELL. Let me ask you this. What if any motive was there for the general tone of the galley proofs that you found repeated fault with in these memos? Why was it written the way it was? Was it simply inadvertence? Was it pressure in an attempt to get the report together under a too restrictive deadline, or was there some other reason, the kinds of problems you found?

Mr. LIEBELER. I think there are different reasons in different cases. I have the impression from looking at these memos that the problem that I am addressing here in chapter VI and chapter VII are a little different than the problems I addressed in exhibit 36 which related to chapter IV. It appears to me that the kinds of problems raised in exhibits 37 through 41, I believe are more of the kinds of problems that will just come up on reviewing a draft or a set of galleys that will just creep into the work for the most part, whereas chapter IV was a little different question. I did say I thought there was overwriting to a great extent.

Mr. CORNWELL. The overwriting concept, of overstating the degree of proof, was one of the problems discussed with respect to chapter IV; is that correct?

Mr. LIEBELER. Yes.

Mr. CORNWELL. Let us look at the September 14 memo which I believe is exhibit 37. On page 2 do you not state that:

We cannot say that all of Oswald's transactions in connection with firearms were undertaken under an assumed name, only his known transactions.

b. I think the degree of doubt about the authenticity of the repair tag is overstated.

d. The third sentence should also be qualified. The underlying report is not that strong.

e. The last sentence in that paragraph is not supported by the TV films we got from CBS.

On the next page 3, under item 10. b., "The title and the introduction are inappropriate because they strongly suggest that Oswald was an anti-Castro."

On page 4 under "Odio," item e., "The paragraph on bus transportation starting 'There is no firm evidence' should be completely rewritten. I do not think there is 'convincing evidence.'"

On page 5, "The McFarland item is given too much weight."

Down there further, under paragraph f., "The point can be made without saying that and to seem to rely on really weak evidence is to invite trouble."

Item J. "The conclusion that the evidence is persuasive that Oswald was not in Dallas on September 25 is too strong."

Mr. LIEBELER. Yes; all these things are here, that is correct.

Mr. CORNWELL. The same kind of comments in chapter VI then that we found in chapter IV?

Mr. LIEBELER. There are some of them in here. This memo has many of them in here. My impression as I said before is I still have that impression that there was not the severe problem in these other chapters that there was in chapter IV. Obviously, that problem I thought was there in all of them, and I raised these questions about it.

Mr. CORNWELL. Did you receive any impression that the reason for writing the report, as you found it, overly strong, and of course in context that means I guess that the sole assassin in theory was stronger, the lack of a conspiracy may have been overstated? In that sense was it prompted by any consideration of the national or possible international repercussions of this report?

Mr. LIEBELER. I have no way of knowing that or answering that question. I think that the kind of thing that we observe here as much as anything else reflects a basic difference in judgment between some

of the other people on the staff who drafted these portions of the report about which I am commenting and myself. In some cases I think that the memos indicate that simply mistakes were made and that they should be corrected and I assumed that they were. I am almost certain that they were.

But that could be probed by looking at the report. I don't think there is any "explanation" for it other than the difference in attitude and approach between different people.

Mr. CORNWELL. May we mark for identification as exhibit 42, Mr. Chairman, a memo dated September 16 from Mr. Liebeler to Mr. Rankin, subject matter: "Quote from New Orleans Times-Picayune of September 19, 1963 concerning Fidel Castro's speech."

Mr. PREYER. That may be marked for identification only.

Mr. CORNWELL. Have you had a chance to review that memo prior to coming here?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. Would it be fair to state that that is one additional memo concerning the same general subject matter of what should and should not be included in the final report?

Mr. LIEBELER. Yes.

Mr. CORNWELL. May we admit that document into the record?

Mr. PREYER. Without objection, it is admitted into the record.

[The document referred to, marked JFK exhibit No. 42 and received for the record, follows:]

#### JFK EXHIBIT No. 42

[Memorandum]

SEPTEMBER 16, 1964.

To: Mr. Rankin.

From: Mr. Liebeler.

Re: Quote from New Orleans Times-Picayune of September 19, 1963, concerning Fidel Castro's speech.

We previously discussed the possible inclusion in chapter VII of the quote from the New Orleans Times-Picayune of September 19, 1963, concerning Fidel Castro to the effect that U.S. leaders would not be safe themselves if U.S. promoted attack on Cuba continued. You and Mr. Redlich took the position that we could not include the quote unless there was some evidence that Oswald had actually read that particular newspaper. I stated that the material was relevant and the possibility that Oswald had read it should be discussed. I was not, however, at that time able to indicate any other situation in which materials had been discussed on the possibility that Oswald had read it, in the absence of any specific proof that he had.

I now note, however, in reviewing the galleys of chapter VI, that an extensive discussion of the "Welcome Mr. Kennedy" advertisement and the "Wanted for Treason" handbill are included. The following statement appears in connection: "There is no evidence that he [Oswald] became aware of either the 'Welcome Mr. Kennedy' advertisement or the 'Wanted for Treason' handbill, though neither possibility can be precluded."

Our discussion of the possible inclusion of the Castro quote had obvious political overtones. The discussion set forth in chapter VI concerning the "Welcome Mr. Kennedy" advertisement and the "Wanted for Treason" handbill have similar overtones. One of the basic positions that you have taken throughout this investigation is that the groups on both ends of the political spectrum must be treated fairly. I have agreed with that proposition in general, even though we have disagreed at times on specific applications of it.

It appears clear to me, however, that if we are precluded from including the quote from the New Orleans newspaper concerning Castro's speech on the grounds that we have no evidence that Oswald actually read it, even though we do know



he read a great deal, the same must be true of the "Welcome Mr. Kennedy" advertisement and the "Wanted for Treason" handbill. The discussion in chapter VI actually admits that the "Welcome Mr. Kennedy" advertisement in the November 22, 1963, Dallas Morning News probably did not come to Oswald's attention. Under those circumstances, it would seem to me that fairness indicates either the deletion of the discussion of the advertisement and the handbill that is now set forth in chapter VI or the inclusion of the Castro statement in chapter VII.

Mr. CORNWELL. Would it be fair to state, Mr. Liebeler, that on the first page of that document you outline to Mr. Rankin two different types of newspaper articles, one of which would reflect a possible threat against the President by Mr. Castro, and another set of articles which would indicate possible threats by rightwing groups in the United States?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. Would it be fair to state that on page 2 you go on to state that:

Our discussion of the possible inclusion of the Castro quote had obvious political overtones. The discussion set forth in chapter VI concerning the "Welcome Mr. Kennedy" advertisement and the "Wanted for Treason" handbill have similar overtones. One of the basic positions that you have taken throughout this investigation is that the groups on both sides of the political spectrum must be treated fairly. I have agreed with that proposition in general although we have disagreed at times on the specific application of it.

In other words, would it be fair to state that in substance you had found an example where the report was to allow the inclusion of evidence if it reflected a possible right wing conspiracy, but it would be more sensitive to the problem if you included evidence concerning a possible Castro conspiracy?

Mr. LIEBELER. Yes; I think that is a correct statement, and I am prepared to offer, if you wish it, an explanation as to why that sort of thing occurred.

Mr. CORNWELL. Yes, sir.

Mr. LIEBELER. I have the very definite impression that the Chief Justice was extremely sensitive about some of the things people in Texas and in Dallas particularly had said about him. There was a considerable discussion about putting anything in the report or conducting any kind of investigation into the newspaper ads that had been taken in Dallas prior to the time that President Kennedy went to Dallas and about some handbills that had been distributed down there.

I took the position that there was no conceivable relevance between that activity and President Kennedy's assassination. As this memo reflects, one of the legal formulations of that issue became a part of the question of whether there was any evidence to suggest that Oswald had ever seen these newspaper stories or knew about the handbill, and if he had not, of course, there would not be any foundation at all for saying anything about it. This memo is an attempt to quite frankly either get the rightwing stuff out or put the Castro stuff in but not put the rightwing stuff in and keep the Castro stuff out.

In fact, this particular article from the Times-Picayune I do not believe was discussed in the report, but I may be wrong about that. I have not been able to find any reference to it. There is a considerable discussion, however, on pages 414 and 415 of the report about

the possibility that Oswald was motivated by sympathy for the Castro regime and other Communist materials that he read and was familiar with, so that that question was discussed in the report even though the specific article was not. The other material about these rightwing people was also included in the report. Both of them went in although not the specific Castro thing as near as I can tell. The reference to the New Orleans article was not included in the report.

Mr. CORNWELL. I wonder if part of your last answer inferred a particularly close relationship between Mr. Redlich and Mr. Rankin on the one hand and Chief Justice Earl Warren on the other. In other words, you seem to be suggest that Earl Warren's feeling about the rightwing attitude in Texas may have had an effect upon the decision or at least the preliminary decision to include the rightwing articles and omit the Castro articles.

Mr. LIEBELER. I don't have the impression that it had anything to do with omitting the Castro article. I have the rather clear impression that the Chief Justice requested that the investigation into the rightwing activities be conducted. I know that for a fact because they asked me to do it. I didn't do it. I wouldn't do it.

Mr. CORNWELL. Do you believe based on your experiences there that this type of selection process, and the process by which many of the points of evidence were overstated, was the result of Rankin's and Redlich's views of what Earl Warren wanted? Did this last exhibit represent a typical occurrence or an isolated occurrence?

Mr. LIEBELER. It wasn't the only time the question came up. That is certainly true. It seems to me there are two questions here though. This business of overwriting, as I characterized it, I don't have any reason to believe that that had any relationship to the Chief Justice's views on any of the issues. I don't have any reason to believe that. I have no knowledge that would lead me to believe that. Mr. Redlich and I have quite profoundly different views of the world on political questions, and that led to disagreements over this matter on several occasions.

Mr. CORNWELL. I am sorry I don't have it here to show you, but I would like to read for you what our research department says is the contents of a memorandum they have reviewed in the L.B.J. Library in Austin, Tex. The memo purports to reflect J. Edgar Hoover's statements to White House aide Walter Jenkins on November 24, 1963. It states Mr. Hoover's apparent thinking.

The thing I am most concerned about and so is Mr. Katzenbach, is having something issued so that we can convince the public that Oswald is the real assassin. Mr. Katzenbach thinks that the President might appoint a Presidential Commission of three outstanding citizens to make a determination. I countered with the suggestion that we make an investigative report to the Attorney General with pictures, laboratory work, et cetera, and the Attorney General can make the report to the President and the President can decide whether to make it public. I felt this was better because there are several aspects which would complicate our foreign relations if we followed the Presidential Commission route.

Were you aware of any belief at the level of the FBI, the head of the FBI, the Justice Department, the White House, perhaps Earl Warren, during the operation of the Warren Commission that the public needed to be convinced that Oswald was the real assassin and

that there were sensitive areas that had to be avoided in connection with foreign relations?

Mr. LIEBELER. No. I did not get that impression. I don't think anybody on the staff of the Commission thought it was their job to convince anybody that Oswald was the assassin. I think they felt their job was to find out who was the assassin. For better or worse we came to the conclusion, which I felt was correct, that Oswald was the assassin and that is what the report said. I don't have the feeling that there was ever any constraint placed on any investigation that I was involved in or anyone else that I know of on the Commission staff, either for reasons of the kind to which you now allude or for any other reason that didn't make sense in the context of the development of the work of the Commission.

I want to put that exception in because there were persons who felt that Griffin was spending too much time trying to find out how Jack Ruby got in the basement and things like that. On this other issue there was no such thing involved.

Mr. CORNWELL. In other words, your answer, as I understood it, is that you observed no restrictions upon your investigation or that of your fellow staff attorneys which you then or now would construe as being the product of this type of attitude?

Mr. LIEBELER. That is correct.

Mr. CORNWELL. Let me ask you, however, whether or not in your view it would have been possible for the facts to have been supplied to the Warren Commission by the investigative agencies in a manner to accomplish this type of constraint? Could they have tailored what they provided you in your view to accomplish that?

Mr. LIEBELER. In my view that could have been done by the Central Intelligence Agency. I do not believe that could have been done by the FBI.

Mr. CORNWELL. On what basis do you make the distinction?

Mr. LIEBELER. The FBI provided us with a piece of information and interview, the FBI reports. Those witnesses, those persons who were interviewed by the FBI were available to us. We took their depositions ourselves. The work the FBI did on the physical evidence, the ballistics work, the fingerprint work, the fair and fibers work, that sort of thing, in many, if not in all cases, were checked by independent criminal laboratories. We did not rely solely on the statement of the Federal Bureau of Investigation in that regard.

I do not believe because of those considerations that the Bureau could have essentially done that. It is true that apparently there were things that some people in the Bureau knew that they did not tell us but I don't think that any of those things had anything to do with the basic facts of the assassination.

As to the CIA, however, it is much more difficult. It was much more difficult for us to verify statements received from them. So, I think as a result of those factors it might have been possible in the case of the CIA. I want to emphasize, however, that I do not believe that was the case. But I think it might have been possible. I think the basic problem, the basic area where it could have been a possibility is that if the—we were faced with a number of leads that led to various kinds of Cuban individuals and Cuban groups that Oswald was claimed to have

associated with or been seen with. The Odio thing and a series of contacts in New Orleans, several in New Orleans.

In those cases it was very difficult or impossible to follow them down in the sense you could say absolutely with a high degree of certainty that there was nothing to them. It is possible I suppose that the CIA may have had information in its files reflecting its own activity and concerns with Cuba that, if provided to us, might have helped us keep up with some of these other things that we were pursuing on our own and with the help of the FBI. As I say, I have no reason to believe that is the case.

Mr. CORNWELL. Would that attitude, which would appear on the face of that one memorandum which I just read, have been consistent with what you observed to have happened during the rewrite process?

Mr. LIEBELER. Are we referring to exhibit 42?

Mr. CORNWELL. No. I am referring to the memorandum I read you a moment ago concerning what appears to have been Mr. Hoover's feeling that they needed to convince the American public that Oswald was the assassin and to avoid several aspects which might complicate foreign relations. Was that consistent with what was happening in the rewrite process?

Mr. LIEBELER. I don't know. Once you conclude on the basis of the evidence we had that Oswald was the assassin, for example, taking that issue first, then obviously it is in the interest of the Commission, and I presume everyone else, to express that conclusion in a straightforward and convincing way. Now the question, I think, that perhaps Mr. Redlich and I differed on from time to time was what was the most convincing way? Do you write the thing in a conclusionary sense or do you say: Well, here are the problems. And after looking at all this evidence and taking account of the conflicting evidence and differences, the Commission has concluded that this is the result.

If you were just going to publish the report and get rid of all the other evidence obviously you can state it in any kind of conclusionary fashion you want. But if you know that people are going to be looking at this work for years and years to come, as it has turned out they are, then it seemed to me the most convincing way to do it was to lay everything right out there and say, "Here are the problems, you don't have to look for them, the Commission looked at them and after considering them this is the conclusion we came to."

Mr. CORNWELL. One final exhibit, Mr. Chairman. May I have marked for identification a document or a memorandum dated April 15, 1964, from Mr. Goldberg to Mr. Rankin as exhibit 43?

Mr. PREYER. It may be marked as exhibit 43 for identification purposes.

Mr. CORNWELL. Did you have a chance to review that document prior to coming here?

Mr. LIEBELER. Yes, sir.

Mr. CORNWELL. Is it fair to say that the subject of that memo concerns a possible request from all the members of the staff for a historical memoranda outlining the nature of their work, the major problems they encountered, and soliciting their evaluation of the work of the Commission from various standpoints?

Mr. LIEBELER. That is what it says.

Mr. CORNWELL. May we admit that for the record, Mr. Chairman?  
 Mr. PREYER. Without objection, it is admitted into evidence.  
 [The document referred to, marked JFK exhibit No. 43 and received for the record, follows:]

## JFK EXHIBIT No. 43

APRIL 15, 1964.

Memorandum for : Mr. J. Lee Rankin.

From : Mr. Alfred Goldberg.

Subject : Historical memoranda by staff members.

Pursuant to our conversation of yesterday, I suggest that the members of the Commission staff be asked to prepare, prior to their departure from here, an account of their experiences with the Commission. Attached is a suggested draft of a memorandum to the staff.

APRIL 15, 1964.

Memorandum to : All members of the staff.

From : J. Lee Rankin, General Counsel.

Subject : Historical memoranda by staff members.

It is more than likely that this Commission will be the subject of future historical, legal, and political studies. We have an opportunity, and also an obligation, to help create as complete a record as possible of the work of the Commission. At some time, shortly before your departure from here, will you please prepare an account of your contribution to the work of the Commission. It would be helpful if you would also analyze and evaluate the work of the staff and the Commission in general. Please be as specific and comprehensive as possible. You may find the check list below of some assistance in preparing your memoranda.

1. How did you become associated with the Commission?
2. How were your functions and area of activity decided?
3. What actions did you take to carry out your assignment?
4. What were the major problems you encountered in carrying out your assignment?
5. What is your evaluation of the work of the Commission from the following standpoints?
  - a. Organization ;
  - b. Administration ;
  - c. Planning of work ;
  - d. Policies ;
  - e. Investigative support ;
  - f. Hearings and depositions ;
  - g. Organization and preparation of reports ;
  - h. Validity of findings.

Mr. CORNWELL. Prior to the time that I showed you that document in anticipation of your testimony here had you seen it?

Mr. LIEBELER. Not to my recollection.

Mr. CORNWELL. Was it to your knowledge, circulated among the staff and were those requests ever made?

Mr. LIEBELER. I don't believe so. I don't believe they were ever made.

Mr. CORNWELL. Did you ever write any memorandum of that nature, in other words, a memorandum giving your views on those subject matters?

Mr. LIEBELER. Not directly.

Mr. CORNWELL. Do you have any information which could give us an insight into why that memorandum was never distributed among the staff, if it was not?

Mr. LIEBELER. Well, I think if I had been in Mr. Rankin's position I would probably not have sent it out either.

Mr. CORNWELL. I have no further questions.

Mr. PREYER. Are there questions by members? Mr. Fauntroy.

Mr. FAUNTROY. Not at this time.

Mr. PREYER. Mr. Devine.

Mr. DEVINE. No questions.

Mr. PREYER. Mr. Dodd.

Mr. DODD. I have just two questions really.

You stated in regard to the rifle, the palm print, and I think on the boxes as well you had a bit of disagreement over whether or not those prints ought to be—was it verified or checked out? I wasn't sure what you meant. They had actually been run already once. There was some question of the absorption because of the wood. Had there already been a test on them?

Mr. LIEBELER. If I may, I will explain exactly what happened in both of those cases, it won't take very long.

I think particularly the point on the rifle barrel may be worthwhile. The Dallas Police Department had gotten to the rifle. Very shortly thereafter they sent it to the FBI for fingerprint analysis. The FBI reported there were no prints on the rifle. Four days later the Dallas Police Department forwarded to the FBI a lift of a palm print that they said had been taken from the underside of the rifle barrel. When they were asked, as they were, why they had waited 4 days to send this lift to the FBI or had not told the FBI that they had made this lift from the rifle, their reply was that even though the print had been lifted, that that lift had not removed the latent print from the underside of the rifle barrel and it was still there.

Well, the problem was that the FBI never found it there. It occurred to us that it was possible that in fact the palm print never came from the rifle. We only had the say-so of the Dallas Police Department to that effect and we weren't satisfied with that. We wanted the FBI to establish, if they could, whether that palm print in fact came from that rifle or not. At the time this question was raised no attempt whatever had been made to deal with that problem. Now after the discussion that Mr. Willens and Redlich and I had that was referred to in the testimony Mr. Rankin invited to his office the chief FBI fingerprint expert, Inspector Mally of the FBI, who was liaison with the Commission and I think Mr. Slawson and Mr. Griffin and Mr. Willens and Mr. Redlich and Mr. Rankin met with them. I suggested to Mr. Latona, their fingerprint expert, that there might be some distortion in the lift because it had been taken from a cylindrical surface, sort of a Mercator projection is here, put your hand on a light bulb and take the lift and lay it flat, it might distort the lift from what it might have been on the surface.

Latona went back and looked at the lift. He found that there were indications in the lift itself of pits and scores and marks and rust spots that had been on the surface from which the print had been lifted, and happily they conformed precisely to a portion of the underside of the rifle barrel and the FBI so reported to us. As far as I was concerned that conclusively established the proposition that that lift had come from that rifle.

Mr. DODD. To your knowledge why would not the FBI have been able to detect it?

Mr. LIEBELER. I have no explanation of that.

Mr. DODD. There have been all sorts of allegations about the numbers of various weapons kicking around. I don't know, this has been one of

the pieces of evidence they have used to corroborate the critics that allege——

Mr. LIEBELER. Not any more. There is nothing you can say about it. It clearly came from that rifle.

Mr. DODD. Why did Mr. Rankin object so strongly to going through that fairly simple process to make that determination? Did he ever give an explanation why?

Mr. LIEBELER. It wasn't clear that it was going to be that simple when we started out. That was an idea that sort of occurred to us as we went along. Our first approach was to think of how we could question the Dallas Police Department about what happened, why they had not forwarded the print with the rifle. This being late in the day, whenever it was, late August or September, Mr. Rankin was not terribly enthusiastic about having a couple of Commission lawyers go down to Dallas and start questioning the Dallas Police Department quite frankly because it would have raised all kinds of questions at that time as to what in the hell was going on, what are we doing going down and taking depositions from the Dallas Police Department 2 months after the report was supposed to be out?

I had some sympathy with that view and halfway thought we would have pushed that, we would have done that had it not been for the Bureau's ability to deal with that problem in another way and much more effective way.

Now on the cartons the problem there was that Oswald's prints had been identified on those cartons, they were cartons containing books that were in the corner of the window from which the shot had been fired and there were, I don't know, 20 or 25 or 28 other prints on the cartons that had never been identified. No serious attempt in my mind had ever been made to identify them. I first was troubled by the fact that at one point the draft of the report said that the Commission placed great weight on the fact that Oswald's prints were on those cartons. I had some difficulty with that proposition in view of the fact that we had not identified these other prints and really had not made any attempt to do so.

Mr. DODD. What eventually happened to that?

Mr. LIEBELER. What eventually happened was at that same conference—I was given the gift of tongues or something. As I walked out of the conference I heard someone say to Inspector Mally, "By the way, Inspector Mally, you might consider the possibility that those prints were put on those boxes by FBI agents." I looked around the room to see who had the temerity to suggest that and I found I said it myself. Unconsciously, I didn't realize I was saying that. Inspector Mally did consider that possibility and it turned out to be correct.

Mr. DODD. All those prints did come from the FBI people?

Mr. LIEBELER. They came from an FBI clerk in the Dallas office and from a detective in the Dallas Police Department except for one print that was never identified.

Mr. DODD. Also the palm prints on the gun that was FBI?

Mr. LIEBELER. That was Oswald's, yes.

Mr. DODD. I did want to ask you why you thought Gerald Ford was the best Commission member but I thought that was irrelevant.

Mr. MCKINNEY. It is irrelevant now.

Mr. PREYER. Mr. McKinney.

Mr. MCKINNEY. Just a question I have asked everybody appearing before the committee. It concerns the lack of communication between the CIA and the FBI over Oswald, the fact Oswald was a known defector from the United States. The CIA's debacle of the Bay of Pigs which we discussed with Mr. Slawson, none of our agencies at that particular time were in very good repute. There was a question as to our intelligence-gathering ability after the Bay of Pigs and after the Cuban missile crisis and one thing or another.

The FBI had problems. Do you feel as a junior counsel on this a little nervous about the fact that you had to depend, for all your information to essentially come from governmental agencies that had somewhat clearly goofed at least as far as keeping each other apprised of what Lee Harvey Oswald was at?

Mr. LIEBELER. I never had the feeling that we relied on Government agencies for our information. When we started we started with a bunch of FBI files, but we reviewed those so that we could conduct our own investigation. We did take the testimony of many, many witnesses. We had the reports of the examination of the physical evidence verified by outside sources, we did not rely on the FBI. So as to the basic facts of what happened in Dallas on that day not only did we not rely on the FBI work but the fact is that the Commission came to assume somewhat different conclusions than the FBI came to.

There was a preliminary FBI report that solved the problem as to what happened. Our conclusions were somewhat different from that. I don't think we relied on the FBI to the extent that people think we did.

Mr. MCKINNEY. Do you feel there was not enough time?

Mr. LIEBELER. Yes, to write the report. What we had planned to do originally—Mr. Rankin spoke to me about this in June or July—was that after the report was drafted, put into the condition it was eventually released in, he wanted two or three people and I was quite flattered by the fact that he asked me to be one of them to stay on and rewrite the whole report and polish it up. We simply never had time to do that. I was unhappy about that.

In terms of the investigation with the one exception that I mentioned I did not think that time was a particular problem.

Mr. PREYER. I have a couple of questions. One of the most troubling incidents is the Sylvia Odio incident where apparently there was so much unanimous agreement that she is a credible witness. Yet, some of her testimony seems rather improbable, measured against some of the other known facts. Do you have any suggestion, calling on your gift of tongues, that would give us any thoughts on how we might corroborate her testimony or challenge it? I assume one thing, if we could find out whether Oswald was in Dallas on that date it would be an important fact. But do you have any thoughts on how, if you had the time now and an opportunity—you mentioned you did not think you had gotten at the bottom of that—what would you do now to try to get to the bottom of it? What could we do?

Mr. LIEBELER. The first thing I would do is review the FBI on that question that I understand came into existence subsequent to the publication of the report and then I think I would want to find out, if I knew how to do it, whether the CIA has any information or had any informa-



tion about any of the people who were involved in that sequence of events. I don't believe that the committee will be able to eliminate the possibility that Oswald was in Dallas at that time any better than we did. We tried to do that. We had his location pinpointed rather well.

The FBI conducted an extensive investigation quite late in the game to see if they could produce any additional information about his whereabouts in New Orleans before he went to Mexico, unsuccessfully. While it would have involved travel by automobile or by airplane I think he could have been in Dallas at that time. I personally do not believe he was but he could have been.

Mr. PREYER. Did you ever talk to Ms. Odio personally?

Mr. LIEBELER. Yes, sir, I took her testimony.

Mr. PREYER. What is your impression of her credibility after you subjected her to questioning?

Mr. LIEBELER. I think she believes that Oswald was there. I do not think she would lie about something like that. But I also have the impression both from my own observations of the woman and from some knowledge of her background obtained from the FBI, that I would not regard her as a reliable witness on this question. I will be happy to discuss that at greater length. The staff I am sure will follow up on that matter.

She was having certain psychological and other problems at the time. I just don't think she accurately reported on what happened.

Mr. PREYER. I might ask one other question in another area. I understand that several of the Warren Commission members had a long day session with a number of psychiatrists and psychologists dealing in your area of what were the motives of Oswald and there has been some criticism that the Warren Commission report treated that day's findings in a somewhat selective manner. Do you have any comment about that? Were you at that all-day meeting?

Mr. LIEBELER. Yes, I was. My understanding and recollection of that was that that session was sort of a working session and a transcript was made of it and it was not published in the underlying hearings. I think it is available in the archives. I have seen a copy of it since then. I know it is available somewhere. I think that some people at the time thought we were getting a little too far into this business of trying to psychoanalyze a man who none of us had even seen. In the 13 years that have passed since that time I think that too now.

I did not think it then but I do now.

Mr. PREYER. There was more question of the weight of the evidence as to why you didn't come down very hard on that.

Mr. LIEBELER. That is right. Unlike some people we are not able to observe Members of the United States Senate at a distance and characterize the nature of their psychology.

Mr. FAUNTROY. I have two questions, Mr. Chairman. That is that there has recently been published a book called "The Making of an Assassin" by Ms. McMillan, referring to a 13-year-long writing of an account of the man through interviews with his wife Marina. I have not had an opportunity to read it, only reviews of the book. It suggests motives that may have emerged from that rather exclusive interviewing of Mrs. Oswald. Are you familiar at all with that work?

Mr. LIEBELER. No; I haven't seen it. I have not read the reviews of it or anything.

Mr. FAUNTROY. My second question is, is it not your testimony that the reservations that you had about the character of the Commission report, the language, the writing, additional questions that have been raised since, new information has come to light since, all these things notwithstanding, you feel that the Warren Commission was accurate beyond question?

Mr. LIEBELER. I think that the Commission's conclusion as to the identity of the assassin and as to the facts that occurred in Dallas on that day, that is to say there was only one person killing the President and it was Oswald and he used that rifle and so on, are correct beyond any doubt, beyond any plausible doubt. It is not possible to reach the conclusion that Oswald did not have contacts with other people, the knowledge of which would be relevant to this matter, about which the Commission did not learn, and the Commission of course never stated that there was no conspiracy. It only stated that it had not been able to develop evidence that suggested the existence of a conspiracy.

I debated this issue with Mark Lane at UCLA and many other critics. I don't have any reason to doubt the basic conclusions in the report including the conspiracy question, and even this business of the FBI supposedly destroying a note that Oswald left at the office and that sort of thing does not cause me to have any questions about that. To me it is perfectly clear what was going on in the Bureau at that time.

It was clear to most of us at the time.

Mr. FAUNTROY. So that your view is that he acting alone killed Kennedy?

Mr. LIEBELER. Yes, sir.

Mr. FAUNTROY. Thank you, Mr. Chairman.

Mr. MCKINNEY. Was it ever discussed by you or by others that there was a possibility that Lee Harvey Oswald could have been a CIA agent or informant or FBI informant?

Mr. LIEBELER. Yes, sir.

Mr. MCKINNEY. Did you think it would have been possible for the CIA and the FBI to keep this information away from the Commission?

Mr. LIEBELER. No.

Mr. MCKINNEY. Why?

Mr. LIEBELER. I think that that is the kind of issue on which it is quite conceivable that the only persons who would have knowledge of it if that were true would be Oswald who is dead and a very few, presumably as many as only one, but very few people within these organizations and I think that it is quite conceivable that if they wanted to withhold that information they could do so and we would not have any direct way of finding out. One of the ways that the Commission did approach that question was to examine Oswald's financial history and do a financial audit of it which hopefully would have, if there had been unaccounted revenues that he had spent, that would have lent credibility to the proposition that he had been in the employ of these agencies on the assumption that he was not doing it for nothing. The Internal Revenue Service people that worked for the Commission were able to account for all of the expenditures out of the income that he received or was known to have received during this period of time.

Mr. McKINNEY. Thank you, Mr. Chairman.

Mr. CORNWELL. Mr. Chairman, may I ask one additional question?

Mr. PREYER. Yes.

Mr. CORNWELL. What is your view with respect to the question of whether or not the withholding by the CIA from the Commission of information concerning the assassination plots did or did not substantially affect the factfinding process?

Mr. LIEBELER. I don't understand the question.

Mr. CORNWELL. Do you think it was significant? Would there have been things that the Commission would have done had it possessed that information?

Mr. LIEBELER. What information?

Mr. CORNWELL. About the CIA assassination plots against Castro.

Mr. LIEBELER. Fidel Castro?

Mr. CORNWELL. Yes.

Mr. LIEBELER. I think that if I had known that at the time that I would have been concerned to find out more directly whether the CIA had any information that might provide the Commission with leads on these other issues that we were looking at or issues that we never turned up. In my mind the fact, if it is a fact, and I don't have direct knowledge of that but I take it to be a fact, that the CIA was trying to arrange the assassination of Mr. Castro at the time, the withholding of that fact by itself I don't think is particularly significant to anything that the Commission did.

What I am saying is the fact that the CIA was attempting, if it was, to assassinate Castro, I don't understand what that has to do with Oswald or the Warren Commission investigation or anything of that sort. I think that the question of whether the CIA withheld evidence that would have provided leads to the Commission that might have connected Oswald to presumably Cuban contacts that we were not able to connect him with ourselves, that clearly would have been significant. The fact that the CIA was apparently attempting to assassinate Castro, might have provided a motive for them to withhold information if indeed they did, but the fact they were trying to assassinate Castro had nothing to do with the issue.

It seems to me that relates to the motivation of the CIA in a separate matter.

Mr. FAUNTROY. Mr. Chairman, may I ask one more question?

Throughout the course of your testimony you indicated there were some leads that you would like to have pursued had you had more time and that there were still some questions, albeit minor, apparently in your mind about those leads. I wonder if you could identify for me any outstanding question that you now have that you would like to have pursued although that pursuit would have led you, as you have concluded, to the same conclusion which the Commission reached, that Oswald, acting alone, without conspirators, killed Mr. Kennedy?

Mr. LIEBELER. I think the only question that would satisfy that description is the one that the chairman has already referred to and that is the Odio incident, at least from the standpoint of what the Commission staff would have done.

Because on these other questions we did all we could think of to do, to try to connect these allegations up to Oswald, and were not able to.

So in terms of the feeling that I had at the time that we didn't have time enough to follow these leads up that would only have been true with respect to the Odio incident. Now as far as what this committee might do or would want to do, I wouldn't think that would be confined simply to the Odio thing. I think if you obtain CIA materials that we did not get, for example, if that could occur, that it could be that material in the files could relate to others than Ms. Odio.

Mr. FAUNTROY. Thank you, Mr. Chairman.

Mr. PREYER. Thank you. We appreciate very much your testimony. You were just about the last man off the beach here, weren't you? Were there three of you left that mostly did the final writing?

Mr. LIEBELER. I don't know. There were more than that. Mr. Griffin and Mr. Slawson but Redlich was there almost to the very end and did an enormous amount of work on the report.

Mr. PREYER. The senior members began to drop off before the end?

Mr. LIEBELER. Many of them did. Mr. Jenner stayed on until the end. Mr. Ball did a large amount of work. Mr. Hubert also. I understand the fact that many of those senior members had advised Mr. Rankin that they really couldn't work full time when they were asked to come to the Commission.

Mr. Adams was the most prominent amongst those.

Mr. PREYER. Your testimony has been very helpful. We appreciate very much your being here with us.

Mr. LIEBELER. Thank you, Mr. Chairman.

Mr. PREYER. Pursuant to our rules the witness is offered 5 minutes at the conclusion of the questioning to make any statement that he cares to make about the case or to amplify any of his remarks in any way. The Chair would like to offer you your 5 minutes.

Mr. LIEBELER. Unfortunately I am going to accept part of that time.

My testimony and I am sure the testimony of other staff members and the files of the Commission obviously show the existence of very strongly held views on various issues and vigorous exchanges on those views. As I tried to indicate, however, all of the investigation that I wanted conducted was conducted. Much of the disagreement was about how the report should be written and, as I have said, my views on that issue prevailed sometimes and sometimes they did not and that is exactly what one would expect in that kind of situation.

As to the basic facts of the assassination relating to questions of the President's wounds, source of the shots and identity of the assassin, the physical evidence alone shows without doubt that Oswald was the assassin and that he fired from the sixth floor of the school book depository. The Commission pursued to the extent that it could all plausible leads suggesting the involvement of persons other than Oswald and it could not establish any facts that would seriously suggest the existence of a conspiracy to assassinate the President.

The staff was highly motivated and competent with no inclination or motive not to pursue the issues to the truth. The work of the staff of the Commission was not perfect.

When compared to the criticisms that have been made of our work or compared to the product of other human institutions and not to some ideal of perfection, we might ask ourselves, or you might ask yourselves whether you would have been likely to have done better at the time and when thought of in that way and when compared to those standards I think the Commission's work will pass muster very well.

As I have said, I have never doubted the nature of the conclusions of the report and I do not doubt them now. In spite of what has happened since the publication of the report I think that eventually it will stand the test of time.

Thank you very much.

Mr. PREYER. Thank you. We appreciate your comments and testimony.

The committee will recess until 10 o'clock in the morning.

[Whereupon, at 5:20 p.m., the subcommittee adjourned, to reconvene at 10 a.m. on Wednesday, November 16, 1977.]

