

you can be a good citizen, but the courts won't protect you on these things. This fellow that killed this man and woman out here—if you've got a minute?

Mr. HUBERT. Yes.

Mr. HODGE. Well, Captain Fritz' men came by with a shell, a Peters Wad Cutter, and that's this man and woman that got killed a few days ago out here and it has no concern with this case, but anyway, I checked my book and I found where I sold that man a gun and a box of ammunition, and they couldn't find nobody else that had that particular kind of ammunition, they said, so I called Captain Fritz and gave them that information and they went out and called me back in 2 hours and they said, "Boy, you're just as right as rain," and I give them a list of all the .45 automatics I had sold, and so they went out and picked up this bloody uniform and got a confession from him and he admitted everything and got the gun and the amount of ammunition that they found at the scene plus what was in the box, and so I cooperate fully with them, but you stick your neck out. Some of those characters—if this man gets out on bond, what's to keep him from coming down there and killing me? But I believe it's being a good citizen if you know anything, to come forth with it and tell it.

Mr. HUBERT. Now, do you know anything other than what you've said to me or anybody else that you would like to say about this matter?

Mr. HODGE. Everybody's got an opinion and it's talked around—of course—there's pro and con, but they all seem to think that—I have heard different ones talking and they seem to think that there is a connection there between those two, Oswald and Ruby, and that probably Ruby was—I guess you know about him, that they found a bunch of money—about \$10,000 in his apartment, and people talking say it's payoff money, but I don't know nothing. That's the first time I'd seen that Jack Ruby in 4 or 5 years and it didn't dawn on me who he was, and I just thought I'd just shut him up, and when he asked me that, I just said in a low voice, "They've got me arrested," and he said, "Oh, you fellows don't have Hodge arrested, do you?"

Mr. HUBERT. No; what I was trying to get at—is there anything you have not stated to anyone, any facts or knowledge that you have concerning Ruby or Oswald or the assassination of the President that you haven't told anybody that you want to take advantage of this occasion to say it?

Mr. HODGE. If there is, I don't recall what it is, because I've told you just straight down the middle of what had happened.

Mr. HUBERT. Well, I didn't know what you were leading up to awhile ago and perhaps it was nothing at all, but as I say, if there's anything you want to say, you could say it now, you know?

Mr. HODGE. Yes; and I would, but that's it.

Mr. HUBERT. All right, thank you, sir; very much.

Mr. HODGE. Thank you a lot. Thank you.

TESTIMONY OF DAVID L. JOHNSTON

The testimony of David L. Johnston was taken at 2 p.m. on June 26, 1964, in the office of the U.S. attorney, 301 Post Office Building, Bryan and Ervay Streets, Dallas, Tex., by Mr. Leon D. Hubert, Jr., assistant counsel of the President's Commission.

Mr. HUBERT. This is the deposition of David L. Johnston.

Mr. Johnston, my name is Leon Hubert. I am a member of the advisory staff of the general counsel of the President's Commission on the Assassination of President Kennedy. Under the provisions of Executive Order 11130 dated November 29, 1963, and the joint resolution of Congress No. 137 and the rules of procedure adopted by the Commission in conformance with the Executive order and the joint resolution, I have been authorized to take this sworn deposition from you. I state to you that the general nature of the Commission's inquiry

is to ascertain, evaluate and report upon the facts relative to the assassination of President Kennedy and the subsequent violent death of Lee Harvey Oswald.

In particular, as to you, Mr. Johnston, the nature of the inquiry today is to determine what facts you know about the death of Oswald and any other pertinent facts you may know about the general inquiry and about Jack Ruby and his operations, movements, and associates.

Now, I think you have appeared here today by virtue of a letter addressed to you by Mr. J. Lee Rankin, general counsel of the staff of the President's Commission, asking you to be present, is that correct?

Mr. JOHNSTON. That is correct.

Mr. HUBERT. What is the date of that letter, do you have it?

Mr. JOHNSTON. The letter is rubber stamped June 22, 1964.

Mr. HUBERT. And you received it when?

Mr. JOHNSTON. It was received in the U.S. Post Office, Dallas, Tex., on June 23, and had to be forwarded to the Post Office at Richardson, Tex., where it was received on June 24, and I received the same on June 24, 1964 at 12:10 p.m.

Mr. HUBERT. Under the rules of the Commission which you have probably complied with here, every witness has a right to a 3-day written notice before their deposition can be taken, counting from the date of the letter, but in any case the rules provide that a witness may waive the 3-day notice.

Mr. JOHNSTON. I will waive that at this time, if it's involved here: yes, sir.

Mr. HUBERT. Thank you. Would you rise and be sworn.

Do you solemnly swear that the testimony you are about to give in this matter shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. JOHNSTON. I do.

Mr. HUBERT. Will you state your name, please, sir?

Mr. JOHNSTON. I am David L. Johnston.

Mr. HUBERT. How old are you, sir?

Mr. JOHNSTON. I am 36; I believe.

Mr. HUBERT. What is your address?

Mr. JOHNSTON. My residence address is 100 North Dorothy in Richardson, Tex. My office address is in the County Government Center, 1411 West Beltline Road, Richardson, Tex.

Mr. HUBERT. What is your occupation?

Mr. JOHNSTON. I am the elected justice of the peace, precinct No. 2 of Dallas County, Tex.

Mr. HUBERT. Are you a lawyer too?

Mr. JOHNSTON. No, sir; I am not an attorney.

Mr. HUBERT. What term are you serving?

Mr. JOHNSTON. I am serving my second elected term, which expires December 31, 1966.

Mr. HUBERT. The term is for how long?

Mr. JOHNSTON. Four years.

Mr. HUBERT. You have been in that office for how long?

Mr. JOHNSTON. I took office January 1, 1959. Prior to that I was with the Dallas County Sheriff's Department for 9½ years.

Mr. HUBERT. Under Sheriff Decker?

Mr. JOHNSTON. Under Sheriff Decker; yes.

Mr. HUBERT. What are the general duties of the justice of the peace in Texas?

Mr. JOHNSTON. The justice of the peace in Texas has civil jurisdiction up to \$200 in civil matters; has misdemeanor jurisdiction as provided by the statutes for criminal offenses of a misdemeanor nature in which the fine does not exceed \$200 plus the costs. He is the acting coroner under our statutes. He is a magistrate. He can hold courts of inquiry, issue search warrants or any process relevant to a felonious act in the State of Texas.

Mr. HUBERT. How many such justices are there in Dallas County?

Mr. JOHNSTON. In Dallas County there are 10.

Mr. HUBERT. Is it based on geographical area division?

Mr. JOHNSTON. It is divided into precincts, but in criminal matters, the 10 have coextensive jurisdiction with the county and in some cases with the

State. Our warrants of arrest, for instance, are valid anywhere in the State of Texas.

Mr. HUBERT. Are you elected by the people of the precinct?

Mr. JOHNSTON. By the people of the precinct; yes, sir, and that's by the precinct level.

Mr. HUBERT. And that's a geographical area?

Mr. JOHNSTON. Yes, sir.

Mr. HUBERT. Now, prior to November 22, 1963, did you know Jack Ruby?

Mr. JOHNSTON. I have seen Jack Ruby, I did not know him personally—have never been introduced to him; no, sir.

Mr. HUBERT. Where had you seen him?

Mr. JOHNSTON. I've seen him in downtown Dallas. I saw him one night in front of the Vegas Club on Oaklawn. I have seen him around the courthouse.

Mr. HUBERT. People have pointed him out to you?

Mr. JOHNSTON. The night at the Vegas Club, an officer said, "That's Jack Ruby." That's all I can tell you there. Like I said, I've never met the man—I had never met the man until Friday night, November 22, or the early morning of November 23.

Mr. HUBERT. But he was a character apparently that people would point out to a man of your standing, that is to say, as being a character in the Dallas area?

Mr. JOHNSTON. Yes; this is possible. Like I say, I'm sure that there has been other occasions that I've seen the man. I just can't recall them at this time.

Mr. HUBERT. On the 22d or the 23d, at anytime when you did see him, you recognized the face and of course you recognized the name?

Mr. JOHNSTON. No, sir; I didn't recognize him as such. To clarify that, as stated in the report that I gave to the FBI—this is the card that Mr. Ruby handed to me after Mr. Oswald had been removed from the police detail room. He handed me this card and introduced himself to me as Jack Ruby. He was present in that room the whole time that Oswald was in the detail room, which was the late night of November 22 and the early morning of November 23, from approximately 11:30 p.m. until maybe 12:15 a.m.

Mr. HUBERT. Was that in the assembly room?

Mr. JOHNSTON. Yes, sir; in the detail room or the assembly room of the police department.

Mr. HUBERT. It is also used as the showup room?

Mr. JOHNSTON. Yes; it's used as the showup room and the showup screen was right behind where Oswald was standing and Ruby was standing—if this was the actual room, the showup room would be at my back now, which would be the south wall of this room. Oswald was standing in the aisleway here in front of the desk.

Mr. HUBERT. In front of the screen.

Mr. JOHNSTON. Ruby was in the same row back behind two tables with chairs in front of them. I was standing on the little podium with Mr. Henry Wade, the district attorney of Dallas County, and a couple of the Dallas police officers and I can't at this time recall who they were, but we were standing on the podium part and were about 10 feet from Oswald. Mr. Ruby was, I would say, from 18 to 22 feet out in front of us.

Mr. HUBERT. When did you first notice him there?

Mr. JOHNSTON. When he came up and introduced himself to me.

Mr. HUBERT. That was after Oswald had been removed?

Mr. JOHNSTON. That was after Oswald had been removed from the room. Chief Curry ordered him removed because the newspaper people started milling a little too much, which he told them he was going to do, and he removed him from the room.

Mr. HUBERT. But your thought was and is now that Oswald was in that room for approximately 30 or 40 minutes?

Mr. JOHNSTON. No, sir.

Mr. HUBERT. You said it was between 11:30 and 12:15?

Mr. JOHNSTON. Yes; it was between 11:30 and 12:15, but I would say that they had Oswald in that room less than 10 minutes.

Everyone was in there and set up. Chief Curry came in and told them

that they would have to remain still, that if they started milling or if they started moving he was going to remove the suspect, which when they did, he removed him.

Mr. HUBERT. How long were you in the room prior to the time Oswald was brought in?

Mr. JOHNSTON. I would say probably 10 minutes, maybe 15.

Mr. HUBERT. Did you observe Ruby during the time that you were in the room prior to the time Oswald came in?

Mr. JOHNSTON. I can say that he was in the room because I was watching everyone that was in the room.

Mr. HUBERT. But he actually didn't introduce himself until Oswald left?

Mr. JOHNSTON. Until Oswald had been removed; yes, sir.

Mr. HUBERT. Was he standing on a table or chair or something like that?

Mr. JOHNSTON. I believe that at one time he was either on a chair or the table. When I first noticed the man he was standing on the floor, and I believe towards the last he was up either on a chair or on a table.

Mr. HUBERT. Did he make any statement or make any kind of comment at all at any time?

Mr. JOHNSTON. Something like "It's horrible, isn't it horrible?" or something of that nature.

Mr. HUBERT. That was to you yourself?

Mr. JOHNSTON. To me and to Mr. Henry Wade, the district attorney of Dallas County.

Mr. HUBERT. That was after Oswald had been removed?

Mr. JOHNSTON. That was after Oswald had been removed. He came up shortly after one of the newspaper media had just finished interviewing Mr. Henry Wade. He was standing behind that person during the interview and when he finished that was when he introduced himself, both to Henry Wade and to me.

Mr. HUBERT. Then, did he make any comment?

Mr. JOHNSTON. Just this—"It's horrible" or "Isn't this awful" or something to that effect.

Mr. HUBERT. What was his general demeanor or attitude?

Mr. JOHNSTON. I personally would say that the man had control of himself, that he did not seem to me that he was away out in space or anything like that; he was coherent.

Mr. HUBERT. Did he seem to be grieving?

Mr. JOHNSTON. No, sir; at that time I don't think he was, other than this statement, as I said, that he made—"Isn't it horrible, isn't it terrible?"—something to that effect.

Mr. HUBERT. Would you judge that to be a commonplace statement of the day—that everybody was saying?

Mr. JOHNSTON. Yes; I certainly would.

Mr. HUBERT. Were you the justice of peace that arraigned Oswald?

Mr. JOHNSTON. Yes; I arraigned Lee Harvey Oswald—let me give you the sequence of them—that's the easiest thing to do. I brought the complete record and I have everything here. The first charge that was filed was for murder with malice of Officer J. D. Tippit of the Dallas Police Department in cause No. F-153, *The State of Texas versus Lee Harvey Oswald*. This complaint was filed at 7:05 p.m. on the 22d day of November 1963.

Mr. HUBERT. By whom?

Mr. JOHNSTON. By Capt. J. W. Fritz, captain of the homicide bureau, Dallas Police Department, was accepted by W. F. Alexander who is William F. Alexander, an assistant criminal district attorney of Dallas County, Tex., which was passed over to me at 7:05 p.m. The actual complaint was signed at 7:04 p.m. and I arraigned Lee Harvey Oswald at 7:10 p.m. on November 22, 1963, advising him of his constitutional rights and that he had to make no statement at all, and that any statement he made may be used in evidence against him for the offense concerning which this affidavit was taken, and remanded the defendant to the custody of the sheriff of Dallas County, Tex., with no bond as capital offense.

Mr. HUBERT. Is it within your jurisdiction to do that?

Mr. JOHNSTON. Yes, sir.

Mr. HUBERT. Where did that occur?

Mr. JOHNSTON. That was in Captain Fritz' office of the Dallas Police Department.

Mr. HUBERT. Who else was present?

Mr. JOHNSTON. Mr. Bill Alexander—William Alexander—an assistant district attorney; Captain Fritz—these are—if I can remember them—either two or three of the other homicide detectives; at least one Federal Bureau of Investigation agent, and which one I couldn't say at this time because we were just all in and out of there, and I'm almost sure it was one of the FBI agents, and which one, I couldn't say at this time because we were just all in and out of there, and I'm almost sure there was one of the FBI agents in the room and possibly a Secret Service agent.

Mr. HUBERT. Had you been called specially for this arraignment or did you happen to be there?

Mr. JOHNSTON. I was first called to handle the issuance of the search warrant involving the residence at 1026 North Beckley.

Mr. HUBERT. Did you issue that search warrant?

Mr. JOHNSTON. Yes; and not only did I issue the search warrant, I was requested by the officers to go with them and also Assistant District Attorney Bill Alexander was in on that search also, which turned out to be the room in which Lee Harvey Oswald had been living on North Beckley. I was present when that search was made and also seizure of the things that were in his room.

Mr. HUBERT. Under Texas law is a man charged with murder required to be brought before a committing magistrate, such as you, right away?

Mr. JOHNSTON. This can be done immediately forthwith before the magistrate or a reasonable period of time—within a reasonable period of time of the filing.

Mr. HUBERT. What occurs at such time—at such a proceeding?

Mr. JOHNSTON. In this particular incident, the complaint—the affidavit—was read to the defendant, Lee Harvey Oswald, at which time I advised him that this was merely to appraise him of his constitutional rights and what he was charged with.

Mr. HUBERT. This was not a court proceeding?

Mr. JOHNSTON. This was not the examining trial; no, sir. It was not the examining trial.

Mr. HUBERT. It did not call for a plea?

Mr. JOHNSTON. It required no pleadings whatsoever; no, sir. This was merely to appraise him of what he was charged with and to advise him of his constitutional rights.

Mr. HUBERT. Did he make any comment upon that at all?

Mr. JOHNSTON. Yes, sir; but I can't recall what it was. At this particular time he made some remark. Also at the second arraignment for the murder of President Kennedy, when he was brought through the door at this time, he said, "Well, I guess this is the trial," was the statement that he made then, but I don't remember what he said at the arraignment regarding Officer Tippit.

Mr. HUBERT. Now, let's pass to the arraignment concerning President Kennedy, and I wish you would dictate into the record the same information you did as to the first one.

Mr. JOHNSTON. All right, sir. This was the arraignment of Lee Harvey Oswald for the murder with malice of John F. Kennedy, cause No. F-154, *The State of Texas versus Lee Harvey Oswald*. The complaint was filed at 11:25 p.m., was accepted by me at 11:26 p.m. It was filed at approximately 11:25 p.m. by Capt. J. W. Fritz, homicide bureau of the Dallas Police Department, and was accepted by Henry Wade, criminal district attorney, Dallas County, Tex., and was docketed as cause No. 154, F-154 at 11:26 p.m.

Shortly after this is when the defendant was taken to the detail room or the assembly room.

Mr. HUBERT. What happened at this arraignment—was it the same as before?

Mr. JOHNSTON. He was not arraigned at this time. He was then arraigned after he was removed to the detail room where the press was allowed to have their first interview with the defendant, with Lee Harvey Oswald.

Subsequently in a conference between Captain Fritz, Mr. Wade, and two or three of his assistants and myself, and Chief Curry—it was decided to go ahead and arraign him and that arraignment was held at 1:35 a.m., November 23, 1963, in the identification bureau of the Dallas Police Department, and once again I appraised him of his constitutional rights, read the affidavit, and advised him again that I remanded him to the custody of the sheriff, Dallas County, denying bond as capital offense. He was also told at both of these instances that he would be given the right to contact an attorney of his choice.

Mr. HUBERT. Did he ask this at either of these occasions?

Mr. JOHNSTON. Yes, sir; that was one of the first things he said—that he wanted this man from New York of the Civil Liberties Union.

Mr. HUBERT. He said that to you?

Mr. JOHNSTON. Yes [spelling] A-b-t; however that's pronounced. He said he would like to have this gentleman and I told Oswald when he made that statement that he would be given the opportunity to contact the attorney of his choice.

Mr. HUBERT. Whose duty was it to see that he was given that opportunity?

Mr. JOHNSTON. The telephone would be made available to him to make any call he wished to make and that would have been advanced to him through the normal routine. He possibly could have been given this permission at the city jail and also had he ever made it to the county jail, here again he would have been given the opportunity to contact a lawyer.

Mr. HUBERT. In any event, you made it clear to him that he had a right to contact a lawyer?

Mr. JOHNSTON. That he had a right to be represented by counsel, that he had the right to make a telephone call to contact any person of his choice, and the assault to murder complaint, alleging the assault to murder of John B. Connally in cause No. F-155, *The State of Texas versus Lee Harvey Oswald*, this complaint was filed by Lt. Robert E. McKinney of the forgery bureau of the Dallas Police Department. This complaint was filed in my office at Richardson, Tex., at 6:15 p.m., on November 23, 1963, and the defendant was not arraigned in this case because he was already being held for two capital offenses. He would have been arraigned in this probably the following week had he lived.

Mr. HUBERT. Can you tell me how Ruby was dressed at the time you saw him?

Mr. JOHNSTON. As well as I can remember, the only thing I can say is a white shirt with a tie and a dark suit.

Mr. HUBERT. Did he have an overcoat on?

Mr. JOHNSTON. He either had the overcoat on or he had it over his arm. He did have an overcoat on.

Mr. HUBERT. What color was it?

Mr. JOHNSTON. I would say dark, is the best I can remember. He had on a hat also.

Mr. HUBERT. The time you spoke to Ruby was, as you have indicated, after Oswald had been taken from the assembly room and then Ruby came up and introduced himself to you and to Wade. Did you have any conversation with him at all?

Mr. JOHNSTON. I don't remember exactly what was said by myself or Ruby, but I do remember that it closed with—when he had given me his card and he says, "Come by and see me sometime at the club", and that was the closing statement that was made to me by Ruby.

Mr. HUBERT. Did you thereafter see him?

Mr. JOHNSTON. No, sir; only, I saw the incident of the shooting on the television, but I could not identify the man from the television picture.

Mr. HUBERT. When you saw him, did he have any kind of identification tag on?

Mr. JOHNSTON. A tag or anything; no, sir. There was nothing visible that I saw. Now, if I remember correctly, as I say, he may have had his overcoat over his arm—one arm or the other. He possibly could have had something on that overcoat, but I do not recall seeing any type of identification tag or an ID holder or anything hanging down that would show that he was a member of the press or an officer or anything else.

Mr. HUBERT. Now, he handed you his card and you said that at the time, he introduced himself to you and Mr. Wade. You have handed me here a 4-

page document on yellow legal-sized paper, lined, did you mean for me to have this?

Mr. JOHNSTON. You can read that if you want to—that's the only copy I have—no; I believe I do have a copy of that. I have furnished the FBI with a copy of this also. Here is a copy of it which I will be glad to give you and that's a photostatic copy made by me.

This is my report that I wrote up starting on Monday morning after all of these incidents had occurred. If I might answer—you also asked me if I was called—I was asked by Assistant District Attorney William Alexander when we were leaving the property on North Beckley to please come on to Captain Fritz' office at the Dallas Police Department for the purpose of being present to be able to accept a complaint and issue warrant, which was done.

Mr. HUBERT. When was that request made of you? I think the arraignment was at 7:05?

Mr. JOHNSTON. Yes, sir; and I think I could tell you approximately the time he asked me to, if I can find the time I have written in here when it was filed. I would say it was around 5 o'clock in the afternoon when he asked me—this search warrant was filed at 3:55 p.m. on November 22, and I also have a copy which I will give you of the officers' names who I personally know were involved in the investigation, officers whom I had contact with both at the Dallas Police Department and at the sheriff's office; to clear this up also, about how I came into this thing—my first contact—I was attending the luncheon, when one of the sergeants of the Dallas Police Department came to my table and asked me to please come with him, and I was then informed of what had happened, and was asked to go immediately to Parkland Hospital, and upon arriving there found Judge Theron Ward, the justice of the peace, Precinct 3, from Garland, handling the inquest on President Kennedy. They did not know Judge Ward and that's the reason they had called me, not knowing he was already there.

Mr. HUBERT. You have handed me a photostatic copy of the document I referred to a moment ago as being a 4-page document on yellow, legal-sized lined pads, and you are retaining the original, but have furnished me with a photostatic copy of it.

Mr. JOHNSTON. Yes, sir.

Mr. HUBERT. I have marked that document for identification with this deposition as follows: "Dallas, Texas, June 26, 1964, Exhibit No. 1 of the deposition of David L. Johnston," and I have signed my name. That's on the left margin of the first page, and I have placed my initials in the right lower corner of the second, third, and fourth pages. I notice that on the third page in the middle, there is a reproduction of a Carousel Club card and I state for the record that I have examined the original card which is attached to the third page loosely, and that the picture on the photostatic copy is identical, except that it doesn't show the color, the vertical lines being in sort of an orange color.

Mr. JOHNSTON. This is the card that was handed to me also, sir.

Mr. HUBERT. Yes, as I understand it—that was the card that was handed to you by Jack Ruby, and you have testified about that a little while ago. You also handed me a photostatic copy of another document which I have marked for identification: "Dallas, Texas, June 26, 1964, Exhibit No. 2 of the deposition of David L. Johnston," and I have placed my name under that on the left margin and on the second page in the lower right-hand corner I have placed my initials. I see that this is a photostatic copy, because I am examining it with the original, the original being on yellow legal-sized lined paper, and I compare them and state for the record that the photostatic copy which I have marked for identification is identical with the original which I now return to you.

Now, you stated that Exhibit No. 2 is a list of the people you know who had something to do with the examination in causes F-153, 154, and 155, is that correct?

Mr. JOHNSTON. That's correct, sir.

Mr. HUBERT. How did you obtain this information?

Mr. JOHNSTON. Part of these I took at the actual time, which was on November 22 and November 23. Some of them I had to obtain from the reports.

Mr. HUBERT. You mean the names?

Mr. JOHNSTON. The names of the officers; yes, sir.

Mr. HUBERT. Did you take any statements from these people?

Mr. JOHNSTON. From the officers—no, sir.

Mr. HUBERT. You just made up a list of people?

Mr. JOHNSTON. Yes; now some of these officers, of course, I have talked with in regard to this at the time the investigation was being made.

Mr. HUBERT. Is this part of your function as a justice of the peace, to do this?

Mr. JOHNSTON. Yes, sir.

Mr. HUBERT. Those are official records, I take it?

Mr. JOHNSTON. Yes, sir.

Mr. HUBERT. How long did you say you talked to Ruby altogether on this occasion on the 22d?

Mr. JOHNSTON. Three to five minutes.

Mr. HUBERT. After that you didn't see him any more?

Mr. JOHNSTON. No, sir; of course, I left the Dallas Police Department to go to my residence somewhere between 4 and 5 a.m. on the morning of November 23 and did not return to the Dallas police station at any subsequent period from then until the following Tuesday or Wednesday before I returned. I was called about an hour after the shooting of Oswald and put on standby notice, pending whether they could contact Judge Pierce McBride, justice of the peace, precinct 1, place 2 of Dallas County or Judge Davis, precinct 1, place 1. This man was in custody at the time he was shot, and under our rules of criminal procedure in the State of Texas, a prisoner dying while in custody—you are supposed to first try to contact the justice of the peace in whose precinct that particular death occurs. This is because he was incarcerated or in custody, and they subsequently did contact Judge McBride, who handled the inquest on Lee Harvey Oswald. I was on standby notice to handle this, but in this particular instance, they did get hold of Judge McBride.

Mr. HUBERT. I think you said that the press interview of Oswald in the assembly room at which you were present came to an end because the press seemed to be violating the condition which Chief Curry had laid down for the interview?

Mr. JOHNSTON. Yes, sir. Not drastically, but there was enough movement—my sincere feeling in this thing is that Chief Curry did everything that was humanly possible to do to protect Oswald, that his statement to the press before Oswald was brought in—to “get in position, stay there, do not move, do not try to stand up, when you do I'm going to remove him,” and as soon as this started—the milling got a little bit too much—I mean—he didn't call their hand—there were a bunch of them kneeling and that's a pretty uncomfortable position and he held some of them there for a pretty good while before they brought Oswald in, but when they started moving and attempting to stand up, which I think was just merely to stretch their legs and so forth, he took Mr. Oswald immediately out of that detail room.

Mr. HUBERT. Do you know whether any security precautions were observed in searching or “frisking” as the phrase is, the people who were allowed in the assembly room?

Mr. JOHNSTON. No, sir; to my knowledge there was none of that went on. However, there were at least—in that room, there were at least 50 or 60 officers.

Mr. HUBERT. And how many newspapermen?

Mr. JOHNSTON. Federal agents, local police officers, possibly one or two deputy sheriffs, the district attorney, two of his assistants, there were two or three private attorneys—private practicing attorneys that were in that room, there were three or four of the police department stenographers that were in that room, and possibly other than the press there may have been one or two other citizens—couldn't say for sure.

Mr. HUBERT. How many were present?

Mr. JOHNSTON. I wish I could answer that.

Mr. HUBERT. I gather from what you say that there must have been nearly a hundred people in that room?

Mr. JOHNSTON. There was every bit of a hundred people in that room.

Mr. HUBERT. Were the policemen armed?

Mr. JOHNSTON. Yes, sir; all of the officers as far as I know, other than the plainclothesmen—the uniformed officers all had their sidearms on. I'm sure the majority of the detectives had their sidearms on.

Mr. HUBERT. When you first went in, was the room empty or were there people in the room?

Mr. JOHNSTON. No, sir; because the sequence of this was that after Oswald was charged, Chief Curry, Captain Fritz, Henry Wade, and myself went to the door—Captain Fritz was the first to speak and he advised the press that we were going to move to the detail room or the assembly room, that Oswald had been charged with the murder of President Kennedy, and that they could go to the detail room in the basement, and that Chief Curry would then give them instructions, and then Chief Curry spoke to them and then Mr. Wade spoke to them, because there were several members of the press there that wanted a statement from Henry Wade before they moved away from that door. Then the hall was vacated, I would say, to the extent that there were only maybe 15 or 20 people left standing in that hall.

Mr. HUBERT. Everybody went downstairs?

Mr. JOHNSTON. Everyone went downstairs, and in order to let you know this, and I'm sure that others have stated this—it was almost a human impossibility to get down the hall to the homicide office. They finally had to bring uniformed officers in and stationed two uniformed officers at each door of the forgery bureau, the homicide bureau, the auto theft bureau, and the burglary and theft bureau so that people could be maneuvered down there to get in and out of these offices for other routine business. That's how packed it was with newspaper people in that hall.

Mr. HUBERT. There were television cameras there too?

Mr. JOHNSTON. They had two live television cameras set up there, they had one of these portable tape deals with a sound system on it and everything, right in front of the door.

Mr. HUBERT. So what happened is that after it was announced that there would be this interview granted, they all went down to the room?

Mr. JOHNSTON. They went downstairs to the room, and when I arrived there, I would say about 11:35 or 11:40, somewhere right along in there, the room was nearly full at that time with newspaper media.

Mr. HUBERT. So you don't know whether they observed any security precautions in checking people?

Mr. JOHNSTON. No, sir; they did not check me when I went through the door.

Mr. HUBERT. But you went in with Curry?

Mr. JOHNSTON. No, sir.

Mr. HUBERT. You went in alone?

Mr. JOHNSTON. No, sir; I went in alone.

Mr. HUBERT. There was no one one at the door checking?

Mr. JOHNSTON. There was some uniformed officers there. Now, I'll say this in all fairness to them—maybe some of them knew me, I don't remember, because I can't recall the officers names that were out there.

Mr. HUBERT. You had no identification on you?

Mr. JOHNSTON. No, sir. Of course, I've been an officer here a long time and also 6 years as justice of the peace.

Mr. HUBERT. You were a police officer prior to that time?

Mr. JOHNSTON. Nine and a half years as deputy sheriff of Dallas County.

Mr. HUBERT. Can you tell us what pressures, if any, were exerted by the press on Chief Curry to grant this interview? Did you hear them say anything or murmur or do anything at all?

Mr. JOHNSTON. Yes, sir; but as far as trying to tell you what any of them said verbatim—this was the main thing—

Mr. HUBERT. I don't mean verbatim, I just want to see if I can get the atmosphere of it.

Mr. JOHNSTON. There were many remarks made. Each time any one of us would go out the door from the homicide bureau, "When are we going to see Oswald? When are you going to let us talk to him?" Yet, Oswald was taken in and out of that room some five or six times while I was there. He was taken to the restroom. He was taken to get a drink of water.

Mr. HUBERT. When that was done with him, did he have to pass through this crowded area?

Mr. JOHNSTON. Yes, sir; those newspaper people—he certainly did.

Mr. HUBERT. Did they make any remarks to him or ask him questions?

Mr. JOHNSTON. They were asking questions—yes, sir; “Did you do it? Did they get the gun? Was that your gun?” Everything imaginable—that’s what your newspaper people were calling to him as he would go out of there. Every time I would leave to get a drink or get a cup of coffee or anything, it was the same thing. “What’s happened? Tell us what’s going on? Has he said anything? Has he admitted anything?”

Mr. HUBERT. Was there real pressure brought in the sense that the press was being denied any rights or that they thought that Chief Curry was curbing their rights as press people?

Mr. JOHNSTON. I think maybe to a degree some of the press might have thought they were being curbed, because they were not being allowed into the homicide office. It is a small office. It consists of an entrance office, the lieutenant’s office and the captain’s office, and an interrogation room, and a small office with a detective’s desk. There were some 25 or 30 officials that were in this office and it was pretty crowded. You couldn’t have let the press in. I think personally that pressures were put on Chief Curry by the news media.

Mr. HUBERT. In what way? Do you remember anything significant along that line?

Mr. JOHNSTON. Well, I think the chief bent over backwards to them, giving them every opportunity he could within reason to allow them to get their stories and to get their pictures and to get their live television. They even moved a live camera down to the detail room or the assembly room.

Mr. HUBERT. Was it used there?

Mr. JOHNSTON. Yes, sir; it was in operation when I walked in that room.

Mr. HUBERT. It was televised?

Mr. JOHNSTON. Yes, sir. Now, whether they taped it, whether it was live at that point—they had a live camera there set up.

Mr. HUBERT. In the room?

Mr. JOHNSTON. In the room—just inside the doorway of the assembly room, because you had to step over the cables to it to get into the assembly room.

Mr. HUBERT. Did you ever hear any such remarks like this one, “Well, we knew what Oswald looked like a few hours ago, but since he’s been in the hands of the Dallas police several hours, we don’t know what he looks like now.”

Mr. JOHNSTON. No, sir.

Mr. HUBERT. Or some side remarks like that?

Mr. JOHNSTON. I saw Oswald the first time and I imagine it was around 6 o’clock, and I was in Captain Fritz’ office with him at this arraignment. I have now seen pictures—the first pictures that were made of him. I have seen him there and seeing him during that evening and early the next morning, I saw absolutely no change other than maybe a little tiredness—no physical change in his appearances.

Mr. HUBERT. I did not mean to infer at all, let me get that straight, that any force was used.

Mr. JOHNSTON. Yes; I understand. I know what you mean.

Mr. HUBERT. But—I was saying to you that we have some information that the press, in an effort to get an interview, started making such accusations?

Mr. JOHNSTON. I did not hear any of these.

Mr. HUBERT. You did not?

Mr. JOHNSTON. No, sir. I’ll say this again in all fairness to the officers that were involved in this thing, with knowing the seriousness of this incident, the international importance of it—that Chief Curry and his subordinate officers made every effort to allow Lee Harvey Oswald to be seen by the press—to see that the man was not being physically abused, that he wasn’t being tortured in any way. I saw none of it personally myself. That would have been out of the realm of reasonableness. He was spoken to in a normal, calm voice by the officers who spoke to him, and I just can’t see it any other way except that

Chief Curry tried every way he could, with the national and international importance of this thing, to allow the press to make its coverage of it.

Mr. HUBERT. You never saw any indication of maltreatment of Oswald at all?

Mr. JOHNSTON. No, sir; none whatsoever in the period of some 7 or 8 hours that I was connected with it.

Mr. HUBERT. Oswald made no such accusations in your presence?

Mr. JOHNSTON. No, sir. As I say, the only thing he said was when he was brought in for the arraignment on President Kennedy, and he says to me, "Is this the trial?" I said, "No, sir; I have to arraign you again on another offense." And, there was some seven or eight officer witnesses to that arraignment and an assistant district attorney, and that assistant district attorney at that time was Mr. Maurice Harrell [spelling] H-a-r-r-e-l-l.

Mr. HUBERT. I believe that is all, sir. I'm obliged to ask you these questions to end it up: I don't think that we have had any conversation that has been off the record?

Mr. JOHNSTON. No, sir.

Mr. HUBERT. Nor any conversation prior to the beginning of this deposition?

Mr. JOHNSTON. No, sir.

Mr. HUBERT. So that all that has passed between us has been recorded?

Mr. JOHNSTON. That is correct, sir.

Mr. HUBERT. Thank you very much. I appreciate your coming down.

Mr. JOHNSTON. I hope that some of it might help shed a little light.

Mr. HUBERT. I'm sure it will. I'm sure they have copies of the affidavits?

Mr. JOHNSTON. Yes, sir; I'm sure they have. Those were turned over to the FBI, however, no one from the Commission has ever asked for those.

Mr. HUBERT. Could we make copies of those affidavits?

Mr. JOHNSTON. Yes, sir.

Mr. HUBERT. Then, I will mark the copies for identification. Mr. Johnston, you will furnish for me certified copies—you have shown me the originals of the affidavits, F-153, F-154 and F-155. We are going to have photostatic copies made of those. The originals will be returned to you, and when the photostatic copies are brought back to me, I will mark them for identification as follows, to wit: F-153 will be Exhibit No. 3 of the deposition of David L. Johnston, F-154 will be Exhibit No. 4 of the deposition of David L. Johnston, and F-155 will be Exhibit No. 5 of the deposition of David L. Johnston, which will be marked by me for identification after you leave, but these will be photostatic copies of the originals which will remain in your possession.

Mr. JOHNSTON. Yes, sir.

Mr. HUBERT. Thank you very much, sir.

Mr. JOHNSTON. I could do this—make copies now?

Mr. HUBERT. Let's discuss this a little bit more before you leave—you think you can get the copies made and just bring them to the office here and hand them to me this afternoon?

Mr. JOHNSTON. Yes, sir; and I will take these affidavits over to the company across the street myself and bring them back for you.

Mr. HUBERT. All right. That will be fine.

Mr. JOHNSTON. I'll do that now.

TESTIMONY OF STANLEY M. KAUFMAN

The testimony of Stanley M. Kaufman was taken at 9 a.m., on June 27, 1964, in the office of the U.S. attorney, 301 Post Office Building, Bryan and Ervay Streets, Dallas, Tex., by Mr. Leon D. Hubert, Jr., assistant counsel of the President's Commission.

Mr. HUBERT. This is the deposition of Stanley M. Kaufman.

Mr. Kaufman, my name is Leon D. Hubert. I am a member of the advisory staff of the general counsel on the President's Commission. Under the provi-