

14 The Murder of Officer Tippit

The Eyewitnesses

IN seeking to determine the circumstances surrounding the death of Officer J. D. Tippit, the Commission reached only one conclusion which was a logical consequence of the evidence that Tippit was shot to death near the intersection of East 10th Street and Patton Avenue in the Oak Cliff section of Dallas early in the afternoon of November 22.^{1*} Conclusions as to the identity of the killer² and the exact time the shooting took place³ were reached only after the Commission had departed from the inferences that the evidence justified.

The Commission believed it to be as certain that Oswald killed Tippit as that he killed President Kennedy, but the Commissioners and their agents were here more remiss than elsewhere in securing the testimony of key witnesses. The statements of 13 persons are said by the Report to form the basis of its reconstruction of the Tippit killing and the flight of Tippit's assailant.⁴ However, only two of the 13 saw the shooting.⁵ For most of its story the Commission relied exclusively on one witness who was often bemused and, when not bemused, unreliable.⁶ It overlooked at least ten witnesses⁷ and some were also overlooked by the FBI.⁸ That agency purportedly 'conducted approximately 25,000 interviews and reinterviews of persons having information of possible relevance to the investigation'⁹ and located people who had known Jack Ruby over 30 years ago,¹⁰ but it inexplicably omitted to question an eyewitness to the Tippit shooting.^{11†}

* See map section at end of text.

† On August 21, 1964, the FBI denied in a letter to the Commission that it knew of the existence of a witness whose evidence I had discussed at public lectures.¹² Not to be known of by the FBI! That must constitute a degree of oblivion Dante never conceived. The witness in question—Acquilla Clemons—offered evidence which is discussed later in detail.

At approximately 1.15 p.m. on November 22, the Commission stated

Tippit was driving slowly in an easterly direction on East 10th Street in Oak Cliff. About 100 feet past the intersection of 10th Street and Patton Avenue, Tippit pulled up alongside a man walking in the same direction. The man met the general description of the suspect wanted in connection with the assassination. He walked over to Tippit's car, rested his arms on the door on the right-hand side of the car, and apparently exchanged words with Tippit through the window. Tippit opened the door on the left side and started to walk around the front of his car. As he reached the front wheel on the driver's side, the man on the sidewalk drew a revolver and fired several shots in rapid succession, hitting Tippit four times and killing him instantly.¹³

The Commission claimed that 'at least 12 persons saw the man with the revolver in the vicinity of the Tippit crime scene at or immediately after the shooting',¹⁴ but it was able to present the testimony of only two who said they had seen the shooting.^{15*} They were Domingo Benavides¹⁷ and Helen Louise Markham.¹⁸

Benavides was not called before the Commission.¹⁹ His deposition was taken by a Commission lawyer in Dallas on April 2, 1964.²⁰ He said that he was driving a small pick-up truck west on 10th Street toward Patton Avenue on the afternoon of November 22 and that his car was only one length from Tippit's when the shooting occurred.²¹ As we have seen, he testified that after the shots he remained hidden in his truck for a few minutes.²² He watched the gunman take a few steps, remove one shell from his revolver and drop it on the ground, take five or six steps, throw another shell away and then disappear around the corner of a house.²³ He remained a few minutes longer in the truck, he said, because he thought the murderer might have gone 'in back of the house or something'.²⁴

Only then did Benavides get out of his truck and walk over to Tippit.²⁵ He apparently tried to contact the police on the radio in Tippit's car, but whether he was able to get through or not remains unclear.²⁶ However, the Commission's case against Oswald required that the radio report which was 'received shortly after 1.16 p.m.'²⁷ should have been transmitted over

* A third witness, William Scoggins, was within 100 feet of Tippit's car at the time of the shooting, but his view of the gunman was obscured by a row of hedges.¹⁶

Tippit's radio immediately after the shooting occurred. Therefore, after Tippit was shot, according to the Commission, 'Benavides rushed to Tippit's side'²⁸ and 'promptly reported the shooting to police headquarters over the radio in Tippit's car'²⁹ Yet Benavides said that he 'didn't want to get out and rush right up. He might start shooting again.'³⁰ If Benavides was right—and we have no reason to believe otherwise, for there is no other information about his conduct besides his own—then the Commission was wrong.

In his testimony before Commission counsel, Benavides, the witness nearest to the Tippit murder,³¹ stated that after November 22 he had seen pictures of Oswald on television and in the newspapers,³² yet he steadfastly refused to identify Oswald as the murderer.³³ The Commission itself had to admit that the witness best in a position to describe the killer could not be used against Oswald.³⁴ In an adversary proceeding, such as a normal trial, or in an impartial hearing, Benavides might well have been an important witness for the defense in proving that it was not Oswald who murdered Tippit.

Furthermore, the Dallas police never took Benavides to a lineup at which Oswald appeared,³⁵ and it would be of interest to know why. Captain Fritz testified that 'we needed that identification real quickly';³⁶ he rushed a 'quite hysterical' woman,³⁷ whom the police, he said, 'were about to send' to the hospital,³⁸ from out of a police first-aid room to peer at Oswald.³⁹ But the man who according to the Commission first notified the police of the shooting⁴⁰ was not brought to a lineup.⁴¹ What could Benavides have said to the Dallas police that caused them not to show him the lineup? What could he have said other than that he was not certain he could identify the killer? The Commission did not explain why Benavides was not required to look at a lineup, except to say, 'When questioned by police officers on the evening of November 22, Benavides told them that he did not think that he could identify the man who fired the shots. As a result, they did not take him to the police station.'⁴² Yet the purpose of a lineup is precisely to resolve such doubts.

The failure of Benavides to identify Oswald left the whole of the Commission's case in the hands of Helen Louise Markham, who testified in Washington on March 26, 1964.⁴³ The Commis-

sion adjudged her testimony reliable,⁴⁴ but that was hardly surprising. The case against Oswald for the murder of Tippit depended on her—there was no one else. The Commission took trouble to select fragments from her testimony which appear to substantiate Oswald's guilt,⁴⁵ but it ignored many statements made both by her and by others which invalidated or discredited her testimony

The Commission claimed that Mrs Markham 'identified Lee Harvey Oswald as the man who shot the policeman' at a lineup on November 22⁴⁶ and that 'in testimony before the Commission, Mrs Markham confirmed her positive identification of Lee Harvey Oswald as the man she saw kill Officer Tippit.'⁴⁷ Captain Fritz—who 'needed that identification real quickly'⁴⁸—testified that the lineup was hurriedly arranged at 4.30 that afternoon,⁴⁹ less than three and a half hours after Tippit's death and less than that after Oswald's arrest.⁵⁰ Mrs Markham was 'quite hysterical' when she arrived at police headquarters.⁵¹ Her state and the atmosphere in the lineup room are best described by the record of her testimony⁵²

Q. Now when you went into the room you looked these people over, these four men?

Markham Yes, sir.

Q. Did you recognize anyone in the lineup?

Markham No, sir

Q. You did not? Did you see anybody—I have asked you that question before*—did you recognize anybody from their face?

Markham From their face, no.

Q. Did you identify anybody in these four people?

Markham I didn't know nobody

Q. I know you didn't know anybody, but did anybody in that lineup look like anybody you had seen before?

Markham No. I had never seen none of them, none of these men.

* Counsel wished to remind Mrs Markham that when he had prepared her for her testimony, before a record of her answers was made, the matter had been discussed. To prepare a witness for testimony may be acceptable where adversary and hostile cross-examination is expected, and it is also a legitimate way of preventing repetition and irrelevant conjecture. The record of the Warren Commission, however, reveals no such cross-examination and was burdened to such a degree by repetition and irrelevance that the initial preparation seems to have been for the purpose of leading the witness to give an appropriate answer.

Q. No one of the four?

Markham No one of them.

Q. No one of all four?

Markham No, sir.⁵³

At this point counsel, a teacher of criminal law and procedure at the University of Southern California and a member of the U.S. Judicial Conference Advisory Committee on Federal Rules of Criminal Procedure,⁵⁴ asked a rather leading question.⁵⁵ Mrs Markham said that she recognized no one at the lineup;⁵⁶ counsel tried five times for a more acceptable answer.⁵⁷ Then, departing a little from the legal procedure he teaches, he next asked his friendly but disconcerting witness, 'Was there a number two man in there?'⁵⁸ Mrs Markham replied, 'Number two is the one I picked.'⁵⁹ Counsel began another question 'I thought you just told me that you hadn't—', but Mrs Markham interrupted to answer inexplicably, 'I thought you wanted me to describe their clothing.'⁶⁰

Counsel then inquired

Q. You recognized him from his appearance?

Markham: I asked—I looked at him. When I saw this man I wasn't sure, but I had cold chills just run all over me.⁶¹

A mystical identification at best. However, the Commission was satisfied that its lawyer had at last obtained the right answer. 'Addressing itself solely to the probative value of Mrs Markham's contemporaneous description of the gunman and her positive identification of Oswald at a police lineup, the Commission considers her testimony reliable.'⁶²

On March 2, 1964, three weeks before she testified,⁶³ Mrs Markham and I talked on the long-distance telephone.⁶⁴ She stated that Tippit's killer was a short man, somewhat on the heavy side, with slightly bushy hair.⁶⁵ When I appeared before the Commission two days later, I recounted the substance of my conversation with Mrs Markham, including her description of the killer.⁶⁶ I believe the Commission was perturbed, its only identifying eyewitness had clearly described a man other than Oswald as Tippit's murderer. Oswald was of average height, very lean and had thinning and receding hair.⁶⁷ Mrs Markham was called to Washington.⁶⁸ Having been warned by the FBI, the Secret Service and the Dallas police not to tell anyone about what she saw on

November 22,⁶⁹ she swore to the Commission that she had never spoken to me.⁷⁰ Repeatedly in her testimony, she denied that she and I had talked⁷¹ and that she had described Tippit's killer as short, or on the heavy side, or having somewhat bushy hair to me over the telephone or to anyone else.⁷²

The Commission asked me to return to Washington at the end of June 1964.^{73*} When I insisted again that Mrs Markham and I had talked,⁷⁵ my word was questioned by the Commission in the presence of the press.^{76†} I therefore invited the Commission to

Submit my testimony and Mrs Markham's testimony to the U.S. Attorney's office, and bring an action against both of us for perjury. And then at that trial I will present documents in my possession, and we will see who is convicted.⁹⁰

The Commission knew that Mrs Markham had not told the truth and was understandably reluctant to accept my challenge. I, on the other hand, was confident of proving that the telephone conversation had taken place, for, as I informed the Commission,⁹¹ I had a tape recording of it. Had the Commission been motivated by an authentic desire to know the truth, surely it would have directed me to give the tape recording up. I was eager to furnish

* I was in London, and I agreed to return on the condition that I be allowed to examine the alleged assassination rifle.⁷⁴

† A direct statement made to me by the Chief Justice received much publicity: 'we have every reason to doubt the truthfulness of what you have heretofore told us'.⁷⁷ Rankin had just demanded that I violate a confidence and reveal the name of my source of information about a meeting attended by Ruby and Tippit⁷⁸ (see Chapter 20); but the Chief Justice's reference seemed also to embrace the question of Mrs Markham, as that was the only other matter discussed by us that day.⁷⁹ Intemperate remarks, once begun, succeeded one another. Rankin said to me, 'Do you realize that the information you gave in closed session could have an unfavorable effect upon your country's interests in connection with this assassination and your failure to disclose the name of your informant would do further injury?'⁸⁰ The Chief Justice added that I had 'done nothing but handicap us'.⁸¹ Next he began to develop an entirely different inquiry. He asked if there was 'money collected at that meeting—at those meetings that you had'.⁸² He demanded the name of the chairman of the Citizens' Committee of Inquiry—myself—and asked, 'Who else belongs to it?'⁸³ I had answered all the Chief Justice's questions, of course;⁸⁴ to this question I replied, after naming several Committee members,⁸⁵ 'I did not know that I was going to be questioned about the makeup of the Citizens' Committee. Otherwise, I would have brought the entire membership list.'⁸⁶ The Chief Justice paused. Perhaps he recalled some of his own judicial opinions condemning similar behavior on the part of Congressional committees. 'I didn't intend to ask you, he then said, 'but we are trying to get information about these different things that you considered vital in the assassination of the President.'⁸⁷ I was within moments excused as a witness,⁸⁸ one of the few witnesses to be excused without thanks.⁸⁹

this evidence, but I was reluctant to break the law, for to make and divulge a recording of a telephone conversation may be a violation of the Federal Communications Act. I had made the recording; if I divulged it by presenting it voluntarily to the Commission, I could be tried in a court of law. It seemed to me that there were two ways the Commission might secure the tape while guaranteeing me a reasonable chance of not being prosecuted. One was for the Chief Justice to assure me that he would oppose prosecution;* the other—the more straightforward—was for the Commission simply to direct me to surrender the tape. I received no such assurance from the Chief Justice, and the Commission refused to do the latter. The Commission made it plain that if I did give up the tape, I should be doing so voluntarily and should therefore be liable to prosecution.

I did not present the tape at once. Congressman Ford had implied that I could not verify the testimony I had given;⁹⁷ the Chief Justice had said he thought that I had lied;⁹⁸ in effect, I had been warned by the Commission not to present this evidence. The Bar Association of the City of New York, having read a newspaper report of the Chief Justice's words and accepted them, instituted preliminary proceedings to discover why I had lied. Once I gave the tape up, I should not only be liable to prosecution by the federal authorities, I should also invite further reproof from the Bar Association for sending the tape to the Commission in the absence of a direction. Nevertheless, within a few days I sent the tape recording to the Commission.†

Confronted with physical evidence corroborating my testimony, the Commission recalled Mrs Markham on July 23, 1964.¹⁰¹ Although counsel questioned her extensively, she continued to

* I wrote to the Commission requesting that the Chief Justice do this. The letter I received from Rankin in reply only speculated as to the legal consequences of my act. Before the Commission, Rankin began developing information that was of no relevance to the Commission but that might be useful in a future action against me. He asked if I personally made the recording,⁹² when I made it,⁹³ how I made it,⁹⁴ if anyone else were present when it was made⁹⁵ and where it was made.⁹⁶

† With the tape I sent a letter to the Chief Justice, asking him merely to state that after he heard the recording he no longer doubted the truthfulness of my words. My letter has not as yet been acknowledged. Although the press reported that I refused to make the tape available to the Commission—which strictly speaking is not so—with the exception of *The New York Times*, it failed to report that the tape was sent almost immediately thereafter. Despite the record, some publications—including the *New York University Law Review*, which claimed to have made a comprehensive study of the Report⁹⁹—continue to declare that I failed to send it.¹⁰⁰

deny that she had ever spoken to me.¹⁰² Counsel then told her that 'we have a tape recording of a conversation that purports to be a conversation between you and Mark Lane on the telephone'¹⁰³ A tape recorder was found and the tape was played.¹⁰⁴ After a part of the recording had been played, Mrs Markham began to shake her head.¹⁰⁵

Q. What do you mean to indicate by that

Markham I never talked to that man.

Q. Is that not your voice on the tape?

Markham I can't tell about my voice, but that man—I never talked to no woman or no man like that I'll tell the truth (raising right hand) and those words that he's saying—that's nothing like the telephone call I got—nothing.¹⁰⁶

The recording continued to play.¹⁰⁷ Mrs Markham was heard to assert that the man who killed Tippit was short, a little on the heavy side, with somewhat bushy hair.¹⁰⁸ She began again to shake her head.¹⁰⁹

Markham This man—I have never talked with. This lady was never on the telephone. This man that called me like I told you, he told me he was from the city hall, the police department, the police department of the city hall.

Q. Well, now, do you remember having this conversation with somebody?

Markham Yes, I do, but he told me he was from the police department of city hall and he had to get some information¹¹⁰

Commission counsel pressed Mrs Markham for a more lucid reply

Q. Do you remember specifically that when the telephone calls [sic] started, that this man told you he was from the city hall of the police department?

Markham Yes, sir, yes, sir, right.^{111*}

* Let us note here that our conversation on the tape recording—Markham Deposition Exhibit 1¹¹²—begins as follows:

Lane : Mrs Markham?

Markham : Yes.

Lane : My name is Mr Lane. I'm an attorney investigating the Oswald case.

Markham : Yes.¹¹³

The transcript reveals that no mention of 'city hall' was made and that I at no time professed to be from the Dallas—or any other—Police Department.¹¹⁴

As the interrogation continued, Mrs Markham's statements became more confused.

Q. Now, did he tell you he was from the police department?

Markham Yes, sir

Q. Now, on this tape recording right here, this man is asking you what the police did.

Markham I know it.

Q. And he said they—the police took you and took your affidavit.

Markham That man—I have never talked to that man. I talked to a man that was supposed to have been from the police department of the city hall.

Q. Do you recognize this as the voice of the man you talked to?

Markham No, it is not.

Q. This is not the same voice?

Markham No.

Q. How do you explain the fact that the woman's voice on this tape recording is your voice?

Markham I never heard that.

Q. You never heard the man's voice before?

Markham And I never heard this lady's voice before—this is the first time.

Q. Do you have any doubt in your mind at all that the lady's voice on the tape now is your voice?

Markham It is my voice, but this man told me he was from the city police.¹¹⁵

The Commission, and the Chief Justice also, conceded that they no longer had any reason to doubt my testimony—at least insofar as it related to Mrs Markham. The Commission concluded, 'During her testimony Mrs Markham initially denied that she ever had the above phone conversation. She has subsequently admitted the existence of the conversation and offered an explanation for her denial.'¹¹⁶ However, one must ask—what explanation? The two sentences just quoted constitute the whole of what the Commission had to say in extenuation of Mrs Markham's perjury¹¹⁷

When Mrs Markham admitted she had not told the truth in

denying her original conversation with me, she asked, 'Well, will I get in any trouble over this?'¹¹⁸ Counsel replied, 'I don't think so, Mrs Markham. I wouldn't worry about it. I don't think anybody is going to cause you any trouble over that.'^{119*} A witness who had persisted in false statements was thus assured by Commission counsel that she had no need to worry, while I, who had challenged the Commission's theories in a responsible fashion, was harshly admonished and threatened with prosecution.

Mrs Markham made a number of statements to me about the Tippit killing that are totally contrary to the version of the Commission. For example, she emphatically denied to me that she had described the physical characteristics of Tippit's slayer to the police at the scene of the crime.¹²⁰

Lane Now, did you tell the officers at the police station when they questioned you the description of the man who shot Tippit?

Markham I told them that at the scene of the murder.

Lane Yes. Did you—you told the officers the description?

Markham Yes, sir

Lane Did you say that he was short and a little bit on the heavy side and had slightly bushy hair?

Markham No, I did not. They didn't ask me that.

Lane They never asked you his description

Markham Yes, sir, asked what he was wearing.

Lane Just what he was wearing?

Markham Yes, sir

Lane But they never asked you how he was built or anything like that?

Markham No, sir ¹²¹

However, the Commission maintained that Mrs Markham supplied the police with a description of the gunman that was broadcast at 1.22 p.m.;¹²² the wanted man was described as 'about 30, 5' 8", black hair, slender'¹²³

Mrs Markham also said to me that after the shooting, to which

* See Appendix X.

she claimed to have been the only witness,¹²⁴ she remained for a while with the dying policeman before anyone else arrived.¹²⁵

Lane. How long would you say it was after the shooting until the first person came out?

Markham About 20 minutes before.

Lane. Twenty minutes before anyone came out?

Markham: Yes, sir.¹²⁶

That is contrary to the testimony of every other witness all of them stated that just after the shooting a large crowd of spectators quickly gathered in the 400 block of East 10th Street.¹²⁷ It is further disproved by the physical evidence of the Dallas police radio transcript, which records a call—made either by Bowley or Benavides—reporting the shooting of Tippit at 1.16 p.m.,¹²⁸ and also by the indication in the same transcript that the ambulance arrived at the scene at 1.19 p.m.¹²⁹

Mrs Markham claimed that Tippit stayed alive for some time after the shooting and that she had an abortive conversation with him as he lay dying on the ground.¹³⁰

Lane And you went over to Officer Tippit then?

Markham Yes, sir

Lane Did you have a chance to talk to him?

Markham Yes, sir

Lane And did he say anything?

Markham Yes, sir, he tried to talk to me. He could not talk, get it plain enough for me to see, you know, to hear him.

Lane Yes.

Markham. And I was trying to hear him. He knew I was there I was there when they put him in the ambulance. I saw him, that was the last I saw him alive. Yes, sir¹³¹

However, the Commission's version was that the killer fired several shots at the policeman, 'hitting Tippit four times and killing him instantly'¹³²

Mrs Markham told me that just before Tippit was shot, his killer leaned into the open window of the patrol car and conversed with the officer.¹³³ 'He had to have the window rolled down because, see, he leaned over in the window,' she said.¹³⁴ When she

testified before the Commission, Mrs Markham specified that the right front window was the one to which she had referred.¹³⁵

Markham I saw the man come over to the car very slow, leaned and put his arms just like this, he leaned over in this window and looked in this window.

Q. He put his arms on the window ledge?

Markham The window was down.

Q. It was?

Markham: Yes, sir¹³⁶ And the man went over to the car, put his hands on the window—

Dulles The window was open?

Markham Leaned over like this.

Dulles Let me see. Was that on the right-hand side of the car, or where the driver was?

Markham: It was on the opposite side of the car

Dulles Opposite side of the car from the driver, yes.

Markham Yes. The window was down, and I know it was down, I know, and he put his arms and leaned over . . .¹³⁷

Mrs Markham appears to have been in error. Two other witnesses—Virginia Davis, who arrived at the car moments after the shooting,¹³⁸ and Sergeant W. E. Barnes, who reached the scene shortly thereafter¹³⁹—testified that the window was closed, or ‘rolled up’¹⁴⁰ Barnes, assigned to the ‘crime scene search section’ of the Dallas Police Department,¹⁴¹ also took photographs of the vehicle at the scene¹⁴² which reveal that the window was closed.¹⁴³

Thus, in each instance Mrs Markham’s testimony was inconsistent with the known facts or the Commission’s conclusions or both. The Commission was therefore constrained to be very selective in its use of her testimony. The criteria it employed for that selection, however, appear less related to the immanent worth of the testimony and the consistency with which it was offered than to the Commission’s disposition to accept only that which seemed to lend credence to its findings.

In one area—the time at which Tippit was shot—Mrs Markham was consistent. Within four hours of the homicide¹⁴⁴ she signed an affidavit for the Dallas police in which she swore that it had occurred ‘at approximately 1.06 p.m.’¹⁴⁵ Subsequently she made

the same statement to the Commission¹⁴⁶ and still later she told interviewers, both in private and on a network television broadcast, that she was certain the slaying took place at 1.06 p.m. While repetition need not be synonymous with accuracy, its absence is suggestive of flawed testimony

As we have seen, if Tippit was killed at 1.06, it could not have been by Oswald. The Commission tacitly agreed that this was so 'This would have made it impossible for Oswald to have committed the killing since he would not have had time to arrive at the shooting scene by that time.'¹⁴⁷ The Commission decided that Mrs Markham was wrong. 'In her various statements and in her testimony, Mrs Markham was uncertain and inconsistent in her recollection of the exact time of the slaying.'¹⁴⁸ In support of this contention, the Commission cited her own testimony,¹⁴⁹ in which Mrs Markham is seen to continue to fix the time at approximately 1.06 p.m.¹⁵⁰

Helen Markham related a unique account of the Tippit killing and its aftermath. She alone saw the assailant approach the scene from the west;¹⁵¹ another witness said he came from the east.¹⁵² She saw the man lean into an open window of the police car;¹⁵³ two witnesses and a photograph indicated that it was closed.¹⁵⁴ She screamed hysterically as she rushed to the fallen officer;¹⁵⁵ a witness situated between her and the patrol car never noticed her until long afterwards.¹⁵⁶ Tippit tried to speak to her after the shooting;¹⁵⁷ the Commission found—and the other eyewitnesses agreed¹⁵⁸—that he was killed instantly.¹⁵⁹ She was alone with him in the street for 20 minutes;¹⁶⁰ all other testimony indicates that a crowd of spectators gathered quickly and an ambulance arrived shortly thereafter.¹⁶¹ When the police arrived they never asked her for the physical description of the killer;¹⁶² the Commission cited her as the prime source of the description dispatched on the police radio almost immediately.¹⁶³ Later she described the slayer as short, a little on the heavy side and with somewhat bushy hair;¹⁶⁴ Oswald possessed none of those characteristics.¹⁶⁵ When taken to a police lineup she saw Oswald glare at her;¹⁶⁶ he was behind a one-way nylon screen and could not possibly have seen her.¹⁶⁷ She made a 'positive identification';¹⁶⁸ she testified before the Commission that she had never seen any of the four men prior to the lineup.¹⁶⁹ She denied having spoken to me on the tele-

phone;¹⁷⁰ a transcript of our conversation is among the Commission's published evidence.¹⁷¹

Mrs Markham evidently was near the corner of 10th and Patton during the early afternoon of November 22. Whether she arrived after the shooting, saw Tippit's body and picked up bits and pieces of conversation which she later repeated remains a matter of conjecture. She was rushed to police headquarters to identify Oswald before she was emotionally prepared for that experience.¹⁷² When she arrived there at approximately 2 p.m., according to Detective James R. Leavelle, she was 'suffering from shock'¹⁷³ the witness was in such a state of shock she had been unable to view the lineup'¹⁷⁴ Captain Fritz brought ammonia to her in the police first-aid room¹⁷⁵ because, as he later explained, 'we were trying to get that showup as soon as we could because she was beginning to faint and getting sick'¹⁷⁶ Thus while Leavelle felt that the witness was emotionally unfit to view the lineup, Fritz was unhappy that it was taking so long to arrange it.

It is understandable that the Dallas police, faced with the assassination of the President and the murder of an officer in their streets within 45 minutes, reacted without sufficient sensitivity to the rights of the witness and the defendant. Such breaches happen too frequently in more sophisticated cities, and with less provocation, one might add. That Mrs Markham acquiesced when rushed precipitately by the police into a role for which she was not prepared is likewise explicable. Every defense lawyer knows, however, that these excesses often sort themselves out at the trial as the jury, once informed of the context, is able to evaluate the witness and his testimony intelligently. Here there was no trial, except that which the Commission granted. For the Commission then, which ultimately transformed a sordid police station scene into a cornerstone of its historic Report, no words in mitigation seem appropriate.