

# DID OSWALD TALK?

by Russ Burr

I first read the book *Oswald Talked*, (Pelican Publishing, 1995) by Ray and Mary LaFontaine when published in 1995. Myriad questions stemming from my first reading splintered off into even more surrounding this intriguing and controversial book. One point in dispute, in fact the cornerstone theme throughout *Oswald Talked*, became the focus of my questioning: Did Lee Harvey Oswald have the opportunity to be in or near a cell with John Elrod on Friday, November 22, 1963? In *Oswald Talked*, the LaFontaines chronicle their evidence supporting Oswald and Elrod being not only in the same cell but having conversation that Elrod says connects Oswald to Ruby.

Research I have done and interviews I have conducted counter a large part of this claim. What follows is the evidence I have gathered disputing the LaFontaines' precept that Lee Harvey Oswald had verbal contact with John Elrod while being held in the fifth floor jail cell at the Dallas Police Department on the fourth Friday in November, 1963.

In a recent discussion on the internet news group alt.assassination.jfk, I posed the following questions:

- 1) Has any Dallas police officer, living or dead, ever stated that Oswald spent time in a cell with another incarcerated individual while being held at the Dallas Police Department jail on the third Friday in November, 1963?
- 2) Has any Dallas police officer, living or dead, ever stated that Oswald was in the same cell as Elrod?
- 3) Who besides Elrod claims he was in the cell with Oswald?

In the process of trying to answer these questions, I developed a chronology of Oswald's movements beginning at approximately 2:00pm on 11/22/63 when he entered the DPD, until 12:05am on 11/23/63, at which time he allegedly was placed in his cell. I have based this chronology on statements made to me by Jim Ewell, Public Information Officer for the Dallas Sheriff's Department. Ewell was the *Dallas Morning News* reporter who covered the Homicide Office of the DPD during the time of the assassination. Consequently, he wrote most of the lead stories covering assassination for the *Dallas Morning News*. Ewell worked at the DMN from 1955 to 1981, so understandably, the operations of the Homicide and Robbery Division of the Dallas Police Department were quite familiar to Ewell based on his lengthy, on-the-job experience.

Ewell was good enough to get me in touch with James Leavelle, former DPD Officer who worked in the Homicide and Robbery Division and who played a part in both investigations into the deaths of the President and Officer Tippit. Leavelle had the tragic experience of being handcuffed to Oswald when Ruby shot Oswald. Leavelle was gracious enough to allow me to interview him on the phone twice.

This chronology is also based on excerpts from the WCR and the WC testimony of Captain Fritz and Sgt. James Leavelle as well as James Hosty's observations in his book, *Assignment Oswald*.

These series of events at the DPD were developed to see if it was conceivable that Elrod was in a cell (or within talking distance) with Lee Harvey Oswald.

In a previous exchange, Ewell shared with me that it was common practice to bring homicide suspects immediately to the Homicide Officer on the 3rd floor. And that is where Oswald went upon

his arrival at the DPD around 2:00PM.

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Mr. BALL. Where was Oswald being kept before you got there, what room was Oswald in?

Mr. FRITZ. When I got there he was in the front interrogation room at the end of the little hall.

Mr. BALL. Here is a map or a diagram drawn by Chief Curry. It is Commission Exhibit 701. Take a look at this, is that a diagram of the floor?

Mr. FRITZ. This would be my office right here.

Mr. BALL. That would be the entry to the homicide and robbery?

Mr. FRITZ. Homicide and robbery bureau.

Mr. BALL. This is your office?

Mr. FRITZ. My office opens right here.

Mr. BALL. Off of the hall?

Mr. FRITZ. Yes, sir.

At around 3:00pm, SA Hosty arrived to join Fritz, Bookhout and others in the interrogation. Based on Hosty's timetable, Oswald left the office at 4:05pm for the first lineup which was conducted at 4:45pm. It was at this lineup that Helen Markham identified Oswald. Mr. Leavelle, present at this lineup, stated that though Markham appeared shaken during questioning, she was very certain in identifying Oswald as Tippit's murderer.

In his book, *Assignment Oswald* (Arcade Publishing, 1996), Hosty states he sees Oswald being questioned in Fritz's office at 5:30pm. In his testimony to the WC Capt. Fritz stated:

Mr. BALL. At 6:30 you had another showup, at which time McWatters, Guinyard, and Callaway—do you remember those witnesses? Callaway is the car salesman, and Sam Guinyard is the porter at the used-car lot at the corner of Patton and Jefferson, and McWatters is a

cabdriver—no; is a bus driver.

Mr. FRITZ. We have the names; if those names are right, that is true.

At that time on this showup we put some officers up on the stage with him; officers stayed on the stage with him during the showup.

Mr. BALL. I point that time out as 6:30 because it appears that you started to question Oswald after you had the Markham showup sometime after 4:35, 4:40, 4:45. Did you question him steadily from then until 6:30, the time of the second showup?

Mr. FRITZ. I don't—I don't believe there was any time when I went through a very long period without having to step to the door, or step outside, to get a report from some pair of officers, or to give them additional assignments.

Mr. BALL. Where did you keep him; in what room?

Mr. FRITZ. In my office there.

Mr. BALL. He was in your office all the time?

Mr. FRITZ. Yes, sir; within there.

Mr. BALL. Between the two showups at 4:35 and 6:30, he was in your office all the time?

Mr. FRITZ. Well, I believe he was there all that time; let's see, 4:30 to 6:30; I don't remember him being carried out there any time.

Based upon this interchange between Ball and Fritz, it is reasonably safe to conclude Oswald was in Fritz's office and participated in two lineups from the time he was brought in at 2:00pm, til 6:30pm. We take up Fritz's testimony:

Mr. BALL. They were, you were more or less continuously questioning

"What follows is the evidence I have gathered disputing the LaFontaines' precept that Lee Harvey Oswald had contact with John Elrod..."

5th Floor



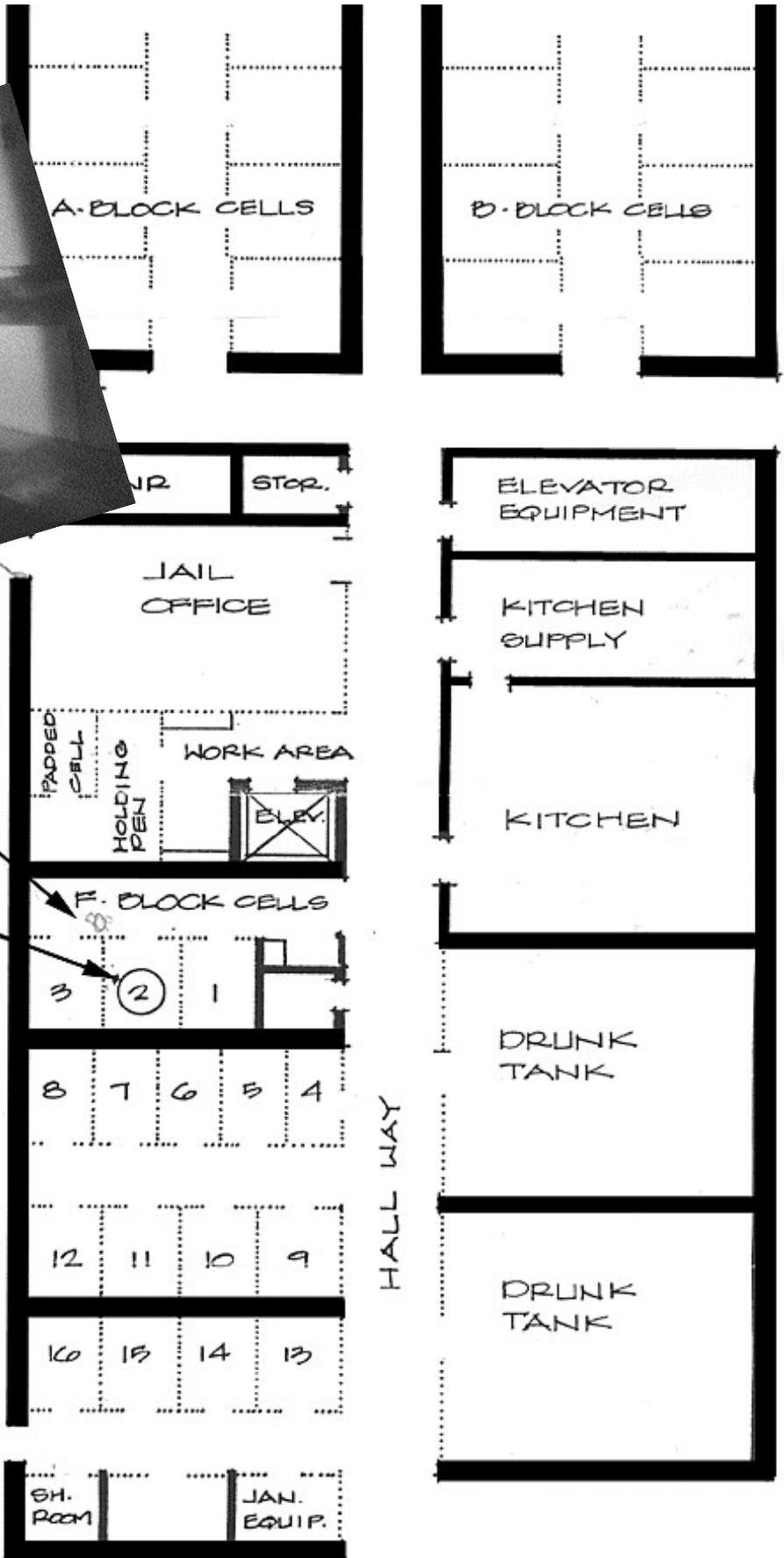
Photo showing DPD cell with solid walls between this cell and the other two in the area..

Oswald  
 WAS KEPT IN #2 WITH A CHAIR IN FRONT.

Chair for Officer

INSPECTION AREA

HALL WAY



Elrod shown on "Hard Copy" television show.

Jail diagram furnished by Jim Leavelle

through the afternoon, were you?  
Mr. FRITZ. Yes, sir.  
Mr. BALL. Now, at 7:10, he was arraigned in your office?  
Mr. FRITZ. Yes, sir.  
Mr. BALL. By arraign -- you mean he was informed of the charge against him?  
Mr. FRITZ. That is right.  
Mr. BALL. He wasn't asked to plea.  
Mr. FRITZ. Before a judge, before a justice of the peace, a magistrate.

The LaFontaines' note Lt. Thurber Lord observed Oswald alone in his cell at 6:30pm. However, based on Fritz's testimony, Oswald was in his second lineup at 6:30. On Lt. Lord's observation of Oswald alone in his cell at 6:30pm, the LaFontaines support Elrod's claim that Oswald was moved to another cell sometime during the afternoon of the 22nd:

Mr. BALL. Then your records show another showup at 7:50?  
Mr. FRITZ. At what time?  
Mr. BALL. 7:50, that is the third showup. Mrs. Davis—  
Mr. FRITZ. That would be showup No. 3.  
Mr. BALL. That is showup No. 3.  
Mr. FRITZ. Showup No. 3 was held for Barbara Jean Davis.  
Mr. BALL. And Virginia Davis.  
Mr. FRITZ. Virginia Davis.

And:

Mr. BALL. Now, during the evening, did you question him some more?  
Mr. FRITZ. Well, I am sure that I did. Let me see.  
Mr. BALL. It shows he was fingerprinted at 8:55.  
Mr. FRITZ. I probably talked to him a little bit more after that was fingerprinted at what time?  
Mr. BALL. 8:55. Or 9 o'clock, around 9 o'clock. Fingerprinted, at that time there was a paraffin test of the hands and face.  
Mr. FRITZ. I don't believe he was fingerprinted. I think we made the paraffin test in my office.  
Mr. BALL. There was a paraffin test.  
Mr. FRITZ. I allowed them to use my office right there to make a paraffin test.  
Mr. BALL. And your records show he was fingerprinted there, too.  
Mr. FRITZ. It is possible, I didn't stay there with him. He could have. I don't think they fingerprinted him at that time. I wouldn't see any need for it.

Finally:

Mr. BALL. Later that night you took him down to the showup room again, didn't you, when you had a press interview?  
Mr. FRITZ. No, sir; I didn't have a press conference.  
Mr. BALL. You didn't?

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1 to visit with the man and see what his situation was  
2 with regard to him having a lawyer. So, we then went  
3 through a door on the Third Floor and got into the  
4 elevator and went up to the Sixth Floor, and the Chief  
5 again asked me where I wanted to talk to him. I said,  
6 "Well, just any place."  
7 By that time we had gotten to a portion of the  
8 jail that was separated by bars, and a door. Beyond  
9 that door was three separate cells, and there was an  
10 officer seated outside one, and then we went through  
11 the first door and got to that point and Mr. Oswald  
12 was in the center of the three cells, no one being  
13 in the other two, and there was an officer seated out-  
14 side there. The Chief had the officer open the door,  
15 and he introduced me to Oswald, and told him my name  
16 and said that I was the President of the Dallas Bar  
17 Association and had come up to see him about whether  
18 or not he needed, or wanted a lawyer, and then the  
19 Chief stepped back and -- I don't really know how far  
20 away. He was at least -- he was far enough removed  
21 where I couldn't observe him or see him there in the  
22 cell. The officer stayed just right outside the door  
23 there. I reintroduced myself to Oswald and told him  
24 my name, and that I was President of the Dallas Bar,  
25 and that I had come up to see him about whether or

IRIS LEONARD **TOP SECRET**

*Statement concerning visit to Lee Oswald on Saturday, November 23rd from the legal deposition of H. Louis Nichols, president Dallas Bar Association 1963, taken on April 8, 1964. (Document found by John Armstrong and complete deposition was given to KAC by Gordon Winslow.)*

Mr. FRITZ. No.  
Mr. BALL. Did you give any instructions to the press conference?  
Mr. FRITZ. Yes, sir; the chief told me he wanted him brought down for a press conference, and I told my officers to take them down and I asked the chief to let me put it on the stage. I was a little bit afraid something might happen to him in front of that stage, someone in the crowd might hurt him, but he said no, he wanted him out there in the front, and I told him I would like to put him on the stage so that the officers could jerk him inside the Jail office if anything happened, but he said no, he wanted him in front, so I told the officers to take him down.

I went down later to see how everything was going but I couldn't



*Oswald being taken into a lineup. He is complaining that his clothing is different from the other men chosen for view.*

get in. The crowd had jammed clear back out into the hall.  
Mr. BALL. Do you know what time you sent him up to the jail?  
Mr. FRITZ. I have it here, I think—12:05; yes, sir.  
Mr. BALL. 12:05?  
Mr. FRITZ. Yes, sir.

It appears that Oswald never made it to a jail cell until 12:05am the next day, but this conflicts with phone records pointed out by the LaFontaines showing Oswald making a call from cell F2 during the 3 to 11 shift.

However, in my second phone interview with Leavelle,

he stated that it was common for suspects being held to already have their cell number assigned, and therefore it was conceivable that Oswald could have made a call during the 3rd Platoon (3-11PM) and have it recorded on the Prisoner Telephone Contact Form without ever having been in cell F-2.

In my first interview with James Leavelle, he confirmed the Homicide Division operating procedure that Ewell spoke of, i.e., suspects were generally brought to the Homicide Office. Leavelle confirmed Fritz's testimony that Oswald was brought immediately to Fritz's office in the Homicide Division. Leavelle dealt directly with the first two lineups, one at 4:45pm, the other at 6:30pm. He stated that he assumed that Oswald was in Fritz's office all of the afternoon and evening. He doubted, but didn't know whether Oswald could have been placed in a cell prior to 12:05am the 23rd.

But Leavelle also said that **Oswald was always isolated while he was in jail. ALWAYS.** He further stated that Oswald had an armed guard in front of his cell at all times. He said he was on the fifth floor jail in a area away from the other cells. He was placed in an seclusion area that contained three cells and he was placed in the middle. Leavelle stated there was no way to even see the cell from the main hallway of the 5th floor jail. He went on to say with certainty there were no other prisoners in the other two cells. In fact, he stated, that it wouldn't have mattered because there was no way for one cellmate to have talked to the another cellmate due to the cellblock design. His diagram from his files of the 5th floor jail shows exactly where Oswald was isolated and is included with this article.

Leavelle was certain of the fact that Oswald was always isolated while in his cell, particularly given the nature of this "high-profile" case. He said Oswald was suspected of having a possible hand in the President's murder by the time Fritz had arrived from the TSBD (around 2:15pm based on Fritz's testimony) and therefore the DPD took special precautions for him.

I finally asked him if the LaFontaines' had ever interviewed him. He said no.

Though it is always conceivable that Oswald could, for a time, been in a jail cell with someone else, the chronology, testimonies and statements presented makes it highly unlikely. It sounds as though Elrod was either mistaken about his cellmate or was telling tales.

In conclusion, I present a excerpt from the WCR p 198, that summarizes Oswald's movements that day and that seem to cut to the

heart of the issue:

### Chronology

1. The policemen who seized Oswald at the Texas Theatre arrived with him at the police department building at about 2:00pm and brought him immediately to the third floor offices of the Homicide and Robbery Bureau to await the arrival of Captain Fritz from the Texas School Book Depository. After about 15 or 20 minutes Oswald was ushered into the office of Captain Fritz for the first of several interrogation sessions.
2. At 4:05pm, he was taken to the basement assembly room for his first lineup.
3. While waiting outside the lineup room, Oswald was searched, and five cartridges and other items were removed from his pockets.
4. After the lineup, at about 4:20pm, Oswald was returned to Captain Fritz' office for further questioning.
5. Two hours later, at 6:20pm, Oswald was taken downstairs for a second lineup and returned to Captain Fritz' office within 15 minutes for additional interrogation.
6. Shortly after 7pm, Captain Fritz signed a complaint charging Oswald with the murder of Patrolman Tippit. Oswald was formally arraigned, i.e., advised of the charges, at 7:10pm, before Justice of the Peace David L. Johnston, who came to the Captain's office for the occasion.
7. After a third lineup at about 7:40pm, Oswald was returned to Fritz's office.
8. About an hour later, after further questioning, Oswald's finger and palm prints were taken along with a paraffin test (see app. XI) administered in Fritz's office, after which the questioning resumed.
9. At 11:26pm, Fritz signed the complaint charging Oswald with the murder of President Kennedy.
10. Shortly after midnight, detectives took Oswald to the basement assembly room for an appearance of several minutes before members of the press.
11. At about 12 :20am, Oswald was delivered to the jailer who placed him in a maximum security cell on the fifth floor.
12. His cell was the center one in a block of three cells that were separated from the remainder of the jail area. The cells on either side of Oswald were empty and a guard was nearby whenever Oswald was present.
13. Shortly after 1:30am, Oswald was brought to the Identification Bureau on the fourth floor and arraigned before Justice of the Peace Johnston, this time for the murder of President Kennedy.

*"But Leavelle also said that OSWALD WAS ALWAYS ISOLATED WHILE IN JAIL. ALWAYS."*

This seems to fit with what Leavelle told me, as well as the testimony of Captain Fritz. Further collaboration was provided by Gordon Winslow, who was gracious enough to send a document compiled by the HSCA titled, "Witnesses: Kennedy Assassination-Post Arrest:LHO." This document is a listing of police, district attorneys and federal authorities who had contact with Oswald following his arrest, along with a description of their activities regarding this contact. Of particular interest is G.R. Hill, a jail guard for the DPD. He searched Oswald around midnight following the press conference and made out the jail card. Leavelle told me that a jail guard usually makes out this card immediately prior to a new prisoner being placed in his cell.

Despite the many questions concerning the reliability and validity of the WCR, the chronology reflects what happened on 11/22/63. Did Oswald talk? It seems unlikely. More likely, Mr. Elrod talked to some one else (possibly John Thomas Masen) tied to Ruby and gunrunning schemes that were occurring in Dallas that summer and fall.