

## EXECUTIVE SESSION DEPOSITION

FRIDAY, JULY 28, 1978

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON THE ASSASSINATION  
OF PRESIDENT JOHN F. KENNEDY OF THE  
SELECT COMMITTEE ON ASSASSINATIONS,  
*Washington, D.C.*

Deposition of Howard P. Willens, called for examination by counsel for the committee, pursuant to notice, in the offices of the Select Committee on Assassinations, room 3501, House Annex No. 2, Second and D Streets SW., Washington, D.C., beginning at 9:15 a.m., when were present: G. Robert Blakey, chief counsel.

Mr. BLAKEY. We will go on the record.

Would you swear the witness.

Whereupon, Howard P. Willens, was called as a witness by the committee and, having been first duly sworn by the notary public, was examined and testified as follows:

By Mr. BLAKEY:

Q. Mr. Willens, would you state your name and address for the record.

A. My name is Howard P. Willens, W-i-l-l-e-n-s. My home address is 4242 Mathewson Drive NW., Washington, D.C.

Q. Mr. Willens, I would like for the record to thank you for returning and sharing with us some of your time on what I know is a very busy schedule.

Let me recall for the record that you appeared before the Kennedy subcommittee on November 17, 1977. At that time did you have occasion to read our rules?

A. Yes; I did.

Q. You know then that this deposition is voluntary.

A. Yes.

Q. And that you have a right to counsel.

A. Yes.

Q. And a right to transcript, et cetera.

A. Yes.

Q. We appreciate your coming back and helping us out.

In your appearance on November 17, 1977, the committee discussed with you your biography, your assignment with the Commission, the organization of the Commission, staff selection, staff performance, the various pressures that were present in the operation

of the Commission, its procedures and methods of investigation. I understand you had an opportunity now to review that testimony, is that correct?

A. Yes; I have reviewed the transcript.

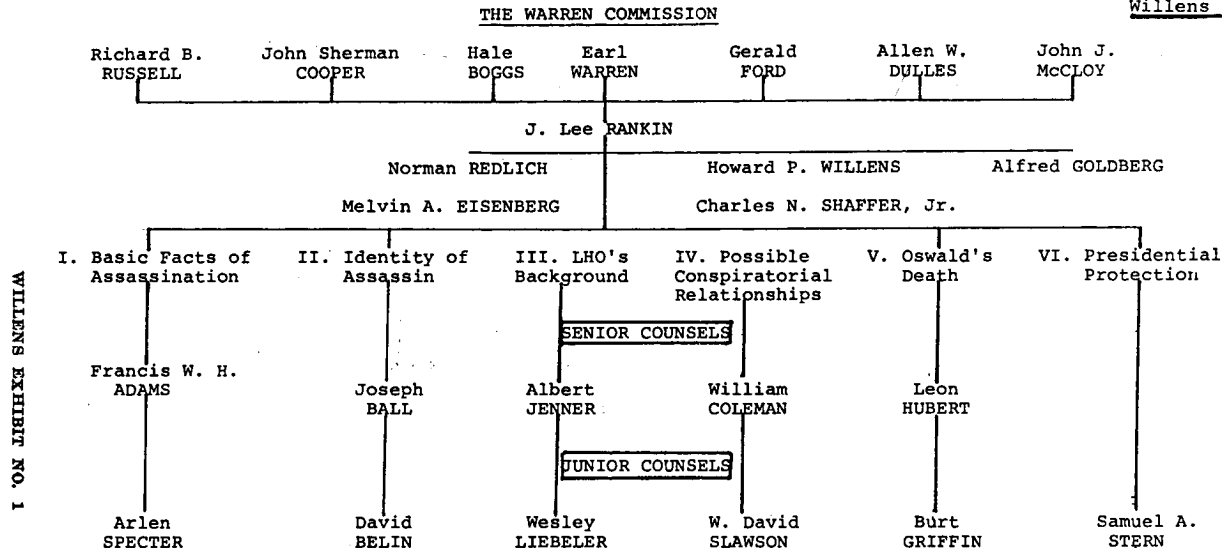
Q. Is there anything that you would want to change or clarify or add to that testimony other than grammatical corrections?

A. Yes. I have submitted for you certain minor editorial suggestions with respect to that transcript. At the conclusion of today's deposition I would like to make a brief statement for the record regarding the work of the Warren Commission and this committee. It is my understanding that your rules permit such a statement to be made by a witness and I am confident that in any event you would afford me that courtesy.

Q. That presents no problem.

Mr. Willens, when you appeared before the committee on November 17 I showed you what was then marked JFK exhibit No. 66 and is now marked Willens exhibit No. 1.

[Willens exhibit No. 1 was marked for identification.]



LIAISONS

Jim Davis - assigned from State Dept. to consult with W C about approaching USSR  
 Ted Sorensen - White House  
 Adam Yarmolinsky - Defense Department  
 James J. Malley - FBI  
 Thomas Kelley - Secret Service  
 Abram Chayes - State Department  
 H. Miller - Justice Department  
 R. Helms - CIA

Q. I show you what has now been marked Willens exhibit No. 1. It is a retyped version as you can see of JFK exhibit No. 66. Does that chart now accurately reflect the broad organizational outlines of the Commission?

A. Yes; I believe this chart is a generally accurate portrayal of the organization of the Commission.

Q. Thank you.

Mr. Willens, at page 8-108 of your testimony on November 17 I asked you about the various possible pressures that operated on the work of the Commission. Specifically I talked about the need perhaps to allay public fear, to bring about a smooth transition in the National Government, issues of international concern and the concern perhaps that the work of the Commission might become a McCarthy type of witch hunt. You commented at that time generally on the pressures that operated to shape the Commission's work. I wonder if I could ask you specifically to comment on each of these four elements.

Did any outside source in any way put any pressure on you, and by you I mean the Commission and the Commission staff, to allay public fear?

A. I am not sure I understand the question, Professor Blakey. The concerns you have listed were indeed concerns that were in the minds of many persons following the assassination of President Kennedy. The question, it seems to me, is not whether any one of these concerns in fact existed but whether it operated in any significant way to influence the Commission and its staff to conduct an investigation or reach conclusions differently than would be the case in the absence of such a concern. Although I acknowledge the existence of this concern, therefore, I do not believe that it operated to circumscribe our efforts in any way that affected either the scope of the investigation or the substance of our findings. Perhaps if you want to ask me a further more specific question regarding this particular concern, I can be more responsive.

Q. Let me see if I understand your answer. Are you indicating that each of these four concerns were at least present in 1963-64 in the general atmosphere in which the Commission operated?

A. Yes; I believe so although I think your approach proceeding with them individually is sound and it may be useful to continue doing that.

Q. Well, let me ask you specifically then. Can you recall any incident involving an outside source in which an effort was made to pressure the work of the Commission, and I don't use that in a pejorative sense, to act in such a way as its work and its final report would allay public fear? Can you recall any specific incidents in which that pressure was put on you?

A. No; I do not recall any incident involving an outside source that operated in the way you have described.

Q. How about from inside the Commission, either the Commission itself or the Commission staff? Can you recall any incident in which staff members or Commission members expressed this concern and based on that concern made an effort to shape the Commission's work?

A. No; I do not recall any such incident. There was a discussion widely in the media at the time regarding this and the other concerns you have identified. Speaking from my own knowledge alone I recall some occasional discussion among members of the staff with respect to these widely publicized concerns. We recognize these concerns and we respected their legitimacy. We did not, however, believe that our investigation or findings should be influenced by them other than trying to do the most conscientious and thorough investigation whose conclusions hopefully would serve to allay some of the concerns you have identified.

Q. What about the concern of effecting a smooth transfer of national power? Was there any pressure outside the Commission on this question or based on this consideration?

For example, did the White House or anyone associated with the White House ever convey to the Commission a concern that its work go smoothly in order that the transfer of power from President Kennedy to President Johnson would go smoothly?

A. I am not aware of any such a communication from the White House to representatives of the Commission. I believe by the time the Commission in fact was in the process of conducting its investigation that much of the earlier concern regarding a smooth transition had been allayed by the developments of the months of December and January. I am sure you recall, however, that there were some allegations involving President Johnson that were before the Commission and there was understandably among all persons associated with this effort of a desire to investigate those allegations and satisfy the public, if possible, that these allegations were without merit.

Q. Were you aware of any inside pressures stemming from this concern?

A. No.

Q. Were you aware of any pressures dealing with issues in international relations that bore on the Commission from an outside source?

A. Of the various concerns you have mentioned, this is the one about which I have the sharpest recollection. I do remember from discussions preceding my designation to assist the Commission and subsequent to my beginning work with the Commission involving this particular concern. As I mentioned in my testimony before the subcommittee, there was considerable speculation and apprehension arising from the fact that the apparent assassin of President Kennedy had lived for several years in the Soviet Union and had married a citizen of the Soviet Union. As a result of these and other facts there was considerable concern whether the assassination was organized or promoted by any foreign power and even if it had not been a part of a foreign conspiracy whether allegations to that effect would have a detrimental impact on the relationships between the United States and certain important foreign powers. Having said that, however, I believe that this particular concern did not deter us from trying to conduct such limited investigation as we could into the possibility of a foreign conspiracy.

Q. In addition to the concerns stemming from Mr. Oswald's relationship to the Soviet Union, was there any concern expressed from

any outside source dealing with Mr. Oswald's at least expressed admiration for the Cuban Government?

A. Yes. I would say really that there was almost an equal attention being given to the hypothesis that Oswald's participation in the assassination was prompted by or a part of a conspiracy originating in Cuba or with supporters of Cuba.

Q. Can you recall any specific incident involving an outside source bringing to the Commission either the Soviet concern or the Cuban concern?

A. Well, these concerns were being pressed upon the Commission from several different sources. First the investigative agencies and certain executive departments, in particular the Department of State, were bringing to the Commission their concerns with respect to these possible foreign entanglements in the assassination. In addition, the media were full of allegations and speculations regarding these possible foreign relationships with Oswald. Apart from these as sources, I don't recall any more specific or pointed source that either was necessary or did in fact serve to present these allegations or concerns to the Commission.

Q. I believe the record would show that the two principal agencies that you dealt with in an investigative capacity would be both the FBI and the CIA, is that correct?

A. Yes.

Q. In general, how did the Commission perceive pressures from the FBI on the question of international concerns? Was it to find a Soviet conspiracy or to find a Cuban conspiracy or in the national interests to be careful in investigating that an international incident occurred? I don't want to put words in your mouth but you understand my question.

A. I do not remember any pressure from the FBI tending in either of those two directions. For the most part I believe the record will reflect that the investigation of the Commission directed at possible foreign entanglements was conducted through the CIA rather than the FBI. On the other hand, the FBI carried the major burden with respect to investigating, as I remember, Oswald's affiliations with various Cuban groups to the extent those occurred within the United States. So the FBI did have a substantial investigative commitment in exploring that particular possibility of foreign entanglement. I do not remember the FBI treating this particular area of investigative concern with any greater or lesser concern or aggressiveness than characterized other areas in which the Bureau carried the major investigative responsibility.

Q. What about the CIA, did they pull or tug you in any direction in this area?

A. It is hard to speak about the activities of the CIA now in view of the disclosures that have been made during the past several years.

Q. I am really asking you from the perspective of one who was centrally involved with the investigative agency or of putting requests to them and receiving them, did you perceive at that time that the Agency was pulling or pushing the Commission in any one particular direction?

A. I recall two reactions at the time. First, I remember that the Agency was especially sensitive with respect to its investigative tech-

niques and sources and that they certainly wanted to encourage us not to make requests or more importantly make disclosures in the report that might hamper the further utilization of their investigative sources and methods.

Second, my recollection is that some of the responsible officials at the CIA were very experienced and aggressive investigators with a very substantial interest in satisfying themselves whether there was any illicit or conspiratorial involvement by a foreign government in the assassination of President Kennedy. In essence, my judgment at the time was that they were thoroughly motivated to apply their best efforts to learn what the true facts were regarding foreign involvement in the assassination although they recognized that their ability to satisfy anyone on this score was rather limited.

Q. Specifically, did you perceive at any time on the basis of those people you came in contact with at the agency that they were pressing or advocating a Cuban based conspiracy to assassinate President Kennedy?

A. No; I did not have an impression based on my contacts that they favored any particular explanation of a foreign entanglement. I had rather the sense that they considered almost every possibility of sufficient seriousness to be explored by them if not by us.

Q. In your judgment had they had that pet theory, do you think you would have felt the pressure?

A. I think that they would have felt free to set forth their hypothesis to us if they thought it might influence us or if they felt it was not being given sufficient consideration by us. In retrospect though it is hard to recall any very likely substantive discussions with CIA officials regarding their hypotheses or the investigative avenues that we at the Commission would most profitably pursue. I have the feeling now, and this is probably based on more recent things, that the Agency was largely conducting its own inquiries separate from those of the Commission and sharing with the Commission only such results as they felt were absolutely required.

Q. You were the person on the Commission who had the greatest contact with the investigative agencies, both in receiving and transmitting investigative requests, weren't you?

A. I did have major responsibility in preparing and submitting investigative requests to the investigative agencies. As I indicated earlier, I did typically review proposed investigative requests, discuss them with the responsible staff members and pursue any differences of views on the subject by presenting the proposed request to Mr. Rankin for his final disposition. I did also meet at regular intervals with representatives of the investigative agencies. Other members of the staff, however, did have very substantial exposure and contact with members of the investigative agencies, especially those members of the staff engaged in some of the more technical work focusing on the physical evidence.

Q. But apart from Mr. Rankin himself you would have been the only staff member who had a perspective as broad as the Commission's mandate in dealing with the various agencies, is that correct?

A. I think that is generally correct. My only caveat arises from my uncertainty as to what Mr. Rankin and the Commission might have

been doing independently with the agencies that I was not aware of.

Q. So at least then from your perspective if either the agency or the FBI was trying to sell a pet theory of the Cuban involvement or the Soviet involvement, do I understand you correctly that you were not aware of any particular selling job being done on you?

A. That is correct. This line of questioning has been limited to theories relating to foreign entanglement and I am purporting now to discuss whether those agencies had any institutional interest in the investigation that they may have been trying to protect or further by trying to influence the work of the Commission.

Q. Mr. Willens, for example, it has been alleged at least in the press most recently that the Cuban Government has taken the position that the CIA was at that time attempting to lay the blame for the assassination on the Cuban Government and I am asking these questions most pointedly to ascertain from you who I would suppose to be one of the persons in a position to know or to have felt that pressure if it existed in 1963-64. Do I understand you then to say that if it existed you didn't see it?

A. In the sense of a strong and decided effort by the CIA to influence us to believe there was a Cuban conspiracy, my answer is that I do not recall any such pressure. I do recall the CIA personnel being keenly interested in the possibilities of either a Soviet or a Cuban involvement in the assassination. I recall also some considerable disquiet about the Oswald trip to Mexico City shortly before the assassination.

I am not sure that the agency then or perhaps now feels that all the questions with respect to that trip have been adequately resolved. To that extent I want to suggest that they were committed to investigating these matters, I believe, but that they did not have any special bias that came through to me at least in conversations I had with officials of the Agency.

Q. I believe in your November 17, 1977, testimony you indicated that the principal person through whom the Agency interacted with the Commission was Mr. Helms, is that correct?

A. Yes; that is correct. He did have two deputies whose names were mentioned in my earlier testimony who also participated in this effort.

Q. Can you recall anything in Mr. Helms' conduct that then you interpreted or now that you might in retrospect interpret as an effort to sell Cuban-based conspiracy to the Commission?

A. It seems now to be a matter of public record. The CIA in the years preceding the assassination of President Kennedy had in place plans to explore ways of assassinating Castro. It seems also to be a matter of public record that the Agency did not in fact disclose these activities to representatives of the Warren Commission or, to put it more precisely, I am not aware that any such information was communicated to the Warren Commission.

Q. We can come back to that specific topic a little later.

A. Yes; but I am suggesting, and the reason I raise the question now is that this failure would have cut against any effort by the CIA really to focus our attention on involvement by the Cuban Government because it would have naturally raised among representatives of the Commission a question as to the basis for that hypothesis by the CIA and some further questioning regarding the information in the Agency's possession relating to Cuba.



Q. Did you perceive at the time any effort to push you away from looking into possible Cuban involvement or a Soviet involvement by the Agency?

A. No. Let me just add that the record of the Commission's investigative activities will show the kind of investigative reports that we received from the CIA and it may be that this committee with the benefit of the last 14 years and other techniques may conclude that the Agency did in fact communicate information to us designed to minimize our concern about a foreign involvement.

Q. But at least you weren't aware in 1963 that there was an effort to direct your attention elsewhere?

A. I do not remember any such effort.

Q. All right. I have asked you the questions about outside pressures involving the Agency. You mentioned the State Department. Can you recall any effort by any of the people associated with the State Department; for example, Mr. Chayes indicated to you concerns by the Department of State of an international character?

A. My recollection is that the Department of State emphasized only the need to deal with such allegations carefully and responsibly. As I recall, there was considerable discussion regarding the substance and style of the communication to be addressed to the Soviet Union relating to the work of the Commission.

Q. Can you tell us more about that specific contact and the role of the State Department in shaping it?

A. I do not have a very specific recollection. My belief is that we consulted with the State Department on more than one occasion regarding the kind of inquiry to be addressed to the Soviet Union and the likelihood that any such request would be honored by the Soviet Union.

Q. Can you recall the State Department's position on the likelihood that it would be honored?

A. I believe that the Department of State had some preliminary indication that a request for factual information with respect to Oswald from the Soviet Union would be honored. Beyond that, however, I don't recall whether we were encouraged not to ask particular questions or discouraged from the entire effort.

Q. For example, do you recall making a distinction or discussing a distinction between public record information and I suppose I would call it police information? By public record information I mean a marriage certificate, application for a visa. By police information I mean internal reports of the KGB dealing with interviews or surveillance of Lee Harvey Oswald.

A. I don't remember that distinction but it certainly sounds now as though it makes considerable sense and might well have been discussed.

Q. Do you recall in fact that the form of the request seemingly called for only public record information?

A. I do not have that specific recollection of the request that was actually made.

Q. Do you recall getting anything other than public record information with signatures that you could not read?

A. No; I do not have a recollection of receiving anything other than the material such as you have described.

Q. Was it ever brought to your attention or to the other staff members or Commission members at least to your knowledge that there existed police information in the Soviet Union dealing with Lee Harvey Oswald?

A. I do not remember.

Q. Do you recall any situation in which Mr. Helms discussed with you—by you I mean either the Commission or you being a staff member—that Lee Harvey Oswald was apparently subjected to police surveillance in the Soviet Union and that the Soviet Union had that information?

A. I do have a recollection of either knowing or assuming that to be the fact. I do not recall what the source of my knowledge or assumption was. Of course Mr. Helms may have had conversations with members of the Commission, in particular Mr. Dulles, that explored the kind of problem in detail other than in any conversation in which I participated.

Q. Can you recall anything of this character influencing the way in which the State Department requested the request should be made?

A. I may not be reconstructing this appropriately. My sense is that we recognize that only certain kinds of information could be obtained through formal diplomatic channels and that other perhaps more relevant or meaningful information could be obtained only through channels available to the CIA. We were trying to utilize both avenues to the best effect. I believe that the CIA had the responsibility for utilizing what sources and methods it had in those days to obtain such information as it could.

Q. What I am really specifically worried about now is the form of the Commission's request and certain responses of the Soviet Government seemingly operated on the level of public information and I am wondering whether the agency and/or the State Department influenced any way in which the Commission asked for information formally from the Soviet Union so that only public information was asked for and received.

A. I don't remember the considerations that went into so limiting the request through formal diplomatic channels. I have a general recollection that we were depending on the CIA to get any nonpublic information that might be available to it. I have the recollection also that we thought it would be clearly inappropriate in a formal diplomatic communication to inquire of the Soviet Union whether Lee Harvey Oswald was an agent of the KGB. It seemed to us that there was a certain futility involved in asking that kind of question through a formal diplomatic note and I assume that the Department of State would have strongly advised against so doing.

Q. All right. Just to round out this point on a slightly different aspect of it, do you recall receiving either formally or informally from the agency any information that the agency had obtained other than through formal diplomatic channels on Lee Harvey Oswald from the Soviet Union?

A. Yes.

Q. Could you share that with me now?

A. Well, I think such materials as we obtained are in the records of the Commission. I do not know whether they continue to be protected by a security classification or not.

Q. For the record, you ought to be aware that the committee has access to all the information, both classified and not classified, that is made available to the Commission or is currently in existence in the agency. My question really was not designed to ask you to disclose classification information as much as to comment whether you were aware and more specifically of the existence of any Soviet defectors at about 1963-64 and any information that they may have had bearing on Lee Harvey Oswald.

A. Yes; I was aware of the reports from the CIA with respect to a Soviet defector whose knowledge with respect to Oswald was being evaluated by the agency at the time and as to which the agency eventually offered some assessment on which the Commission felt it could rely. I do have a recollection also that there was other information originating from sources in addition to the defector of a kind that may have included nonpublic information of the sort you are referring to.

Q. Can you recall for us what the agency's position was at that time on the quality and accuracy of information obtained from Soviet defectors about Lee Harvey Oswald?

A. I cannot speak in terms of more than one defector. There may have been others and it was my understanding then and is even more fully understood by me now that the handling of defectors by the agency is a very sophisticated and controversial line of work. It is my understanding now that there was a considerable controversy regarding the credibility of the particular defector to whom I am making reference.

I think the record probably has to stand as the best evidence of what their ultimate assessment was. As I recall, they cautioned us against premature or extensive reliance on the information coming from this particular defector but that near the end of our work my recollection is that we were given reason to believe that the defector had supplied some information that was confirmatory of conclusions that the Commission might otherwise reach with respect to the absence of Soviet involvement in any conspiracy.

Q. Did the Commission rely to any degree on that information? It of course does not appear as such in the Commission's report and I would ask then as to whether any reliance was placed on that in writing the final report although there are no citations to the testimony of a Soviet defector either given formally or informally to the Commission.

A. I really could not answer that question without reviewing the records of the Commission and the deliberations with respect to the findings set forth in the Commission report.

Q. Could you make a comment in a general way? I am not really worried about any specific three lines in the Commission's report but rather that the general orientation of the Commission toward its conclusions. For example, the conclusion of no Soviet involvement or single assassin to the degree that the defector's information tended to support no Soviet involvement or single assassin, can you recall that defector's confirmation of those two theses played a role or was a factor in the willingness of the Commission to decide either of those two issues?

A. It is my recollection that the Commission tried to resolve those two issues without reliance on the information coming from the Soviet defector. However, I believe that some members of the Commission and staff undoubtedly found some small comfort in the fact that a defector did exist who was characterized as possibly reliable by the CIA whose statements did not contradict the findings that the Commission was otherwise disposed to make.

I think you can be confident that if the Soviet defector had stated knowledge of Soviet Union involvement in the assassination that the Commission would have qualified its conclusions with respect to the two issues even more than was done in the report as published. To that extent, therefore, the existence of this defector and the assessment at the time by the agency were relevant to the Commission's conclusions.

Q. Following up this same line of inquiry and perhaps jumping ahead in what I hope would be a very orderly discussion, nonetheless it seems to be appropriate to raise it here, the Commission had available to it information stemming from what was described as unusually reliable sources dealing with the Cuban Government. Do you recall receiving a transmission from the Federal Bureau of Investigation outlining that the Bureau had an unusually reliable source of information closely connected to the Cuban Government whose information, if believed, would tend to indicate that Lee Harvey Oswald acted alone? I am doing my best to express this in indirect terms.

A. But your question refers to a transmission from the FBI, is that correct?

Q. To the Commission.

A. And by transmission do you mean something different than a report?

Q. Yes; a letter.

A. I have a recollection of a source described as confidential and reliable being utilized in connection with the Cuban aspect of the Commission's investigation. I do not have a recollection of that transmission or a reference to a source from the FBI as opposed to the CIA but I may be mistaken in that connection.

Mr. BLAKEY. Let me suggest that we take a 2-minute break and we can resume.

[Whereupon, a short recess was taken.]

Mr. BLAKEY. We can go back on the record.

By Mr. BLAKEY:

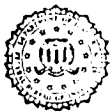
Q. Mr. Willens, let me show you a copy of what has been previously marked as Warren Commission Document 1359 which is a letter from J. Edgar Hoover, the Director of the Federal Bureau of Investigation, to the Honorable J. Lee Rankin and ask if you would look at it, please.

I might also note that the document also has a JFK document No. 002734.

Have you seen that letter previously?

BEGIN INSERT ON D-310

OFFICE OF THE DIRECTOR



Commission No. 1359

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON 25, D. C.

June 17, 1964

BY COURIER SERVICE

Honorable J. Lee Rankin  
General Counsel  
The President's Commission  
200 Maryland Avenue, Northeast  
Washington, D. C.

Dear Mr. Rankin:

Through a confidential source which has furnished reliable information in the past, we have been advised of some statements made by Fidel Castro, Cuban Prime Minister, concerning the assassination of President Kennedy.

In connection with these statements of Castro, your attention is called to the speech made by Castro on November 27, 1963, in Havana, Cuba, during which Castro made similar statements concerning this matter. The pertinent portions of this speech are set out in the report of Special Agent James J. O'Connor dated May 8, 1964, at Miami, Florida, beginning on page 30.

According to our source, Castro recently is reported to have said,

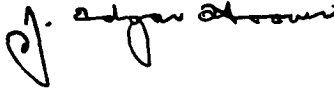
The source then advised that Castro's speculation was based

Honorable J. Lee Rankin

It will be noted that the information furnished by our source at this time as having come from Castro is consistent with and substantially the same as that which appears in Castro's speech of November 27, 1963, and which is referred to above.

This additional material is set forth for the Commission's information and no further action is contemplated by this Bureau concerning it.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "J. Edgar Hoover". The signature is written in a cursive, flowing style with a large initial "J" and a long, sweeping underline.

A. I think so.

Q. The letter in the form in which it has been shown to you had certain sections excluded because of their sensitive character. Nevertheless, do you recall the letter as well as the contents that are excluded in the copy shown you?

A. I do not have any recollection of the comments which were attributed to Mr. Castro in that communication but which are not contained in the letter as was shown to me.

Q. Can you recall generally whether what Mr. Castro may have said at that time concerning the assassination of President Kennedy may have played any part in the Commission staff or the Commission itself being willing to find the absence of Cuban involvement or to affirm the probable validity of a single assassin theory?

A. I do not recall that we had any evidence or investigative leads implicating Mr. Castro personally or his government generally in the assassination. I am assuming that the comments attributed to Mr. Castro in that communication were not admissions that Mr. Castro or government officials acting at his direction had been involved in any way with the assassination of President Kennedy. Assurances of that kind were undoubtedly considered by the Commission staff and members of the Commission in evaluating the overall investigation and reaching a finding with respect to the possibility of Cuban involvement. My concern now, of course, is that additional sources of information may have been available to the investigative agencies with respect to this matter that were not fully exploited and results made available to the Commission pertaining to such results bore directly on the possibility of an informed conspiracy.

Q. Let me ask you the last of the four elements that I discussed with you previously. Can you recall any outside or inside pressures or discussions that reflect a concern that the Commission's effort might be a McCarthy-type witch hunt?

A. I have the recollection that concerns of that kind were presented to the Commission both through the media and through other sources. I believe it is a desire to prevent any such accusation that the Commission developed certain procedures with respect to its proceedings to protect the rights of individuals whose activities were being investigated by the Commission and to exercise caution in the framing of conclusions with respect to what the evidence showed.

Q. Can you recall any specific discussions with specific people where the question of a witch hunt came up? Not necessarily in those terms.

A. As our records reflect, there was considerable controversy early on in the work of the Commission regarding the protection of Lee Harvey Oswald's rights as a criminal suspect who could not be brought to trial. As you know, those deliberations resulted in certain procedures and safeguards being put in place to try to make certain that the Commission's conclusions with respect to Oswald were based on a fair assessment of all the relevant evidence. That is the only context in which I remember this particular issue coming up over any period of time.

From time to time there were published expressions of concern that the Commission not prematurely or unfairly reach a conclusion that because Lee Harvey Oswald had gone to Russia that there was a Soviet conspiracy. These expressions of concern balanced the other expres-

sions to the effect that the Commission should not reach inappropriately any conclusion that this was the product of a right wing conspiracy prompted by conservative interests who were dissatisfied with the administration of President Kennedy. We had assured a wide range of concerns and wide conspiratorial theories and the proponents of each were pressing their theories and trying to urge the Commission to reject an alternative explanation.

Q. Mr. Willens, let me show you what has been previously marked as Willens exhibit No. 2 which is a memorandum from the then Deputy Attorney General Nicholas deB. Katzenbach to Mr. Moyers in the White House dated November 25, 1963. I take it you have had an opportunity to see that before today, is that correct?



November 25, 1963

## MEMORANDUM FOR MR. MOYERS

It is important that all of the facts surrounding President Kennedy's Assassination be made public in a way which will satisfy people in the United States and abroad that all the facts have been told and that a statement to this effect be made now.

1. The public must be satisfied that Oswald was the assassin; that he did not have confederates who are still at large; and that the evidence was such that he would have been convicted at trial.

2. Speculation about Oswald's motivation ought to be cut off, and we should have some basis for rebutting thought that this was a Communist conspiracy or (as the Iron Curtain press is saying) a right-wing conspiracy to blame it on the Communists. Unfortunately the facts on Oswald seem about too pat--too obvious (Marxist, Cuba, Russian wife, etc.). The Dallas police have put out statements on the Communist conspiracy theory, and it was they who were in charge when he was shot and thus silenced.

3. The matter has been handled thus far with neither dignity nor conviction. Facts have been mixed with rumour and speculation. We can scarcely let the world see us totally in the image of the Dallas police when our President is murdered.

I think this objective may be satisfied by making public as soon as possible a complete and thorough FBI report on Oswald and the assassination. This may run into the difficulty of pointing to inconsistencies between this report and statements by Dallas police officials. But the reputation of the Bureau is such that it may do the whole job.

The only other step would be the appointment of a Presidential Commission of unimpeachable personnel to review and examine the evidence and announce its conclusions. This has both advantages and disadvantages. It think it can await publication of the FBI report and public reaction to it here and abroad.

I think, however, that a statement that all the facts will be made public property in an orderly and responsible way should be made now. We need something to head off public speculation or Congressional hearings of the wrong sort.

Nicholas deB. Katzenbach  
Deputy Attorney General

A. Yes; I have reviewed this memorandum in the course of preparing for my testimony before this committee. I do not have a recollection of seeing this memorandum at the time that it was prepared in 1963.

Q. Were you generally aware that memorandums of these kinds were circulating in the Government at that time?

A. I was generally aware that Mr. Katzenbach was having conversations regarding how best to deal with the assassination and what disclosures, if any, should be made to the public with respect to the assassination.

Q. You did not know then of this memorandum in 1963 or 1964?

A. I do not recall seeing it at or about the time it was written. I do not believe also that it came into the possession of the Warren Commission but I might be mistaken in that regard.

Q. At page 8-112 of your testimony on November 17 we discussed a letter of Mr. Katzenbach to the Chief Justice dated December 9, 1963. Let me show you a copy of what has been marked as Willens 2-B and ask you whether you are familiar with that letter.

You have seen that letter before today, this morning?

WILLENS EXHIBIT NO. 2B

*Willens EXHIBIT 2B)**FBI**Shut page  
for page*

December 9, 1963

The Chief Justice  
The Supreme Court  
Washington, D. C.

Dear Mr. Chief Justice:

At the direction of President Johnson, I am transmitting herewith to you and to the other members of the Commission copies of the report of the Federal Bureau of Investigation on the assassination of President Kennedy and on the subsequent shooting of Lee Harvey Oswald. You will note that in some aspects the investigation is continuing and further information will be made available to the Commission as it develops. The Secret Service and the Department of State have also prepared reports with respect to the preparations made to guard the President and certain background information in the hands of the State Department with respect to Oswald. You will have these promptly.

This report is not a classified document since it does not contain defense information. However, we have been treating it as a highly classified document and I trust that you and the other members of the Commission will do likewise until such time as you determine to release matters contained within it. Within the Government it is being read by a very limited number of people on a "need to know" basis.

You will recall that at the time of announcing the Federal Bureau of Investigation investigation, and prior to the appointment of the Commission, President Johnson announced that the FBI report would be made public. I have,

however, informed him of your request that this report not be released until the Commission has had time to review all of the facts and evaluate them. At the same time I am sure you are aware that there is much public speculation and rumor in this connection which would be desirable to allay as quickly as possible. For example, the latest Gallup poll shows that over half the American people believe that Oswald acted as part of a conspiracy in shooting President Kennedy, and there is considerable rumor in this country and abroad to the effect that Ruby acted as part of the same or a related conspiracy.

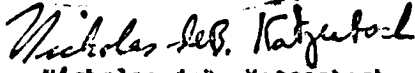
I think, therefore, the Commission should consider releasing--or allowing the Department of Justice to release--a short press statement which would briefly make the following points:

(1) The FBI report through scientific examination of evidence, testimony and intensive investigation, establishes beyond a reasonable doubt that Lee Harvey Oswald shot President Kennedy on November 22, 1963. The evidence includes ballistic tests, fingerprints and palm prints, clothing fibers and other technical data which places Oswald at the scene of the crime and establishes that he fired the shots which killed President Kennedy and wounded Governor Connally of Texas.

(2) The FBI has made an exhaustive investigation into whether Oswald may have conspired with or been assisted by any organization, group or person, foreign or domestic, in carrying out this dastardly act. In this regard, the FBI has questioned hundreds of persons and checked out numerous rumors and reports. To date this aspect of the investigation has been negative. No evidence has been uncovered indicating that any organization, group or person, including Dallas night club owner, Jack Ruby, was involved with Oswald in the assassination of President Kennedy, or that the subsequent shooting of Oswald was part of a conspiracy.

I would be happy to discuss any of the matters contained in this letter or in the report with you or other members of the Commission at any time you should desire. I am, of course, always at your service.

Sincerely yours,

A handwritten signature in cursive script, reading "Nicholas deB. Katzenbach".

Nicholas deB. Katzenbach  
Deputy Attorney General

A. Yes; I have seen that letter before my testimony here this morning.

Q. Were you aware of the letter in 1963 or 1964?

A. I was aware that the Deputy Attorney General officially sent to the Commission copies of the FBI report. I do not believe that I participated in the drafting of this letter at the Department of Justice although it is possible that I was aware of its existence at the time even though I did not participate in its drafting.

Q. Can you recall any member of the Commission discussing it?

A. I remember some very early conversations with Mr. Rankin and the Chief Justice with respect to the question whether anything should be made public about the assassination based on the work of the FBI. I think I was aware that the Deputy Attorney General had expressed his views on this subject and that the Chief Justice believed that no disclosures should be made until the Commission had undertaken its inquiry. I think this was one of the first policy issues presented to the Commission although I was not at the meeting where it was discussed.

Q. Would it be fair to characterize this letter as an example of the kind of outside pressures that were put on the Commission with an apparent design to shape its work?

A. Well, I do have some difficulty with your use of the word "pressure." The letter I think is an effort to inform the Chief Justice of a possible course of action for his consideration and that of the other members of the Commission. It was a question that had to be resolved because of the President's earlier statement to the public that the results of the FBI inquiry would be made public. Since that statement was on the public record there was obviously a need to deal with it so as to either make a public statement as had been promised by President Johnson or provide some satisfactory explanation as to why such a public statement could not usefully be made at that time.

Q. Do you recall any staff discussions of the Katzenbach letter?

A. I do not recall discussions among the staff about the Katzenbach letter. By the time the staff was assembled, more than a month had elapsed since the date on that letter and the Commission in the interim had reached a conclusion that there would be no public statement based on the FBI report. That was a conclusion of the Commission with which I believe the staff was in general agreement.

Q. At page 8-138 of your testimony of November 17 I showed you JFK exhibit No. 65 which was a memorandum from Mr. Hubert and Mr. Griffin to yourself dated February 24, 1964, dealing with telephone records. At that time you raised a question of the response that had been made to JFK exhibit No. 63 which was a Hubert-Griffin memorandum to Mr. Rankin dated May 14, 1964, raising questions about the adequacy of the Ruby investigation. You noted at that time that there was also an exchange of memorandums on June 1, 1964, between yourself and Mr. Hubert and Mr. Griffin. In that context let me show you what has previously been marked Willens exhibits Nos. 3 and 4. You have had an opportunity to see them this morning, have you not?

[For copies of JFK 63 and 65, see *supra* testimony of Burt Griffin; and for Willens Nos. 3 and 4; see IV HSCA-JFK Hearing, pp. 548-60.]

A. Yes.

Q. Are these the exchange of memorandums you referred to in your testimony of November 17?

A. Yes.

Q. All right. Is there anything that you would like to add to your testimony of November 17 in light of these two exhibits?

A. Yes; there is. I am disturbed by the fact that these documents have been produced for the purpose of securing testimony at this late stage in this committee's investigation. I was troubled by the thrust of your previous interrogation with respect to the adequacy of the investigation by the Warren Commission in the Ruby area where the responsible attorneys were Mr. Hubert and Mr. Griffin.

I understand furthermore that the adequacy of this investigation has been the subject of testimony that the committee has elicited from witnesses other than myself before I appeared in November. The general thrust of the questioning was to the effect that the investigation in this Ruby area was incomplete and that limitations had been placed on the responsible attorneys by myself or Mr. Rankin. I think that hypothesis is a thoroughly appropriate one for the committee to investigate but that if you do explore this issue you have a responsibility to put into the record and elicit testimony concerning all the relevant documents pertaining to the issue.

The fact that the staff did not present these two documents to me or others at an earlier date gives rise to some concern as to why that happened. There certainly are two possibilities. First, it is possible that these documents had not been found by the staff of this committee in the course of reviewing the Warren Commission records in which event the adequacy of this committee's investigation is suspect. Second, it is possible that the committee staff found these materials but elected not to present them to me or other witnesses whose testimony was being sought regarding the adequacy of the Ruby investigation.

If the second hypothesis is accurate, it suggests that the committee staff is biased in its underlying approach, and is motivated by a desire to document preconceived notions regarding the adequacy of the Warren Commission investigation. I mention these possibilities not really to suggest that either is supportable but only to demonstrate that this committee's work is subject to challenge and error as the work of the Warren Commission and to that extent I hope that when the committee staff and the full committee addresses this issue of the adequacy of the Ruby investigation you will take into light the substance of these memorandums and the fact that some of the earlier testimony you have obtained and the documents that predate June 1, 1964, must be evaluated in light of the subject of these particular memorandums.

Q. In addition to seeing these two memorandums today, were they forwarded by me to you shortly after your appearance on November 17?

A. Yes; they were.

Q. Would that indicate that the staff has had access to these documents since the end of November?

A. Yes; it certainly would indicate that you did ascertain their existence and presumably you realized them since late November 1977.

Q. And that would mean that there are at least three hypotheses or possible ways of interpreting that these documents would be shown to



you now. The third would be that they were found shortly after your testimony and perhaps in light of your testimony and that they have indeed shaped the committee's investigation since that time and are being shown to you now in a deposition taken to complete your testimony of November 17 in a spirit of fairness and completeness.

A. Yes. I appreciate that fact but my concern really goes to the testimony of other witnesses that have been presented to this committee. My concern is that other witnesses may not have had their recollection refreshed by these particular memoranda and accordingly may have testified based on the earlier memoranda that the investigative efforts in the Ruby area were improperly restrained by persons like myself acting in a reviewing capacity.

Q. And if you learned that there was an exchange of correspondence between the committee staff and other witnesses periodically making an effort to bring each witnesses' testimony up in light of the developing investigation, I take it you would be willing to indicate that your concern was allayed.

A. That would be helpful to allay my concern; it would still leave open both of the hypotheses that I have identified regarding the adequacy of the staff's search for the relevant materials or the existence of possibly a bias with respect to this investigation.

Q. Which in any case could not be finally determined until our record was read as a whole at the conclusion of our investigation; isn't that correct?

A. That is correct.

Q. Let me concentrate a little more on where we were on November 17. We had just begun, I think, to discuss the relationship between the various Federal agencies and the Warren Commission. Let me specifically, if I may, call your attention back to subjects we covered a little bit this morning but I want to cover in a little more detail and that is the relationship between the Warren Commission and the FBI.

How would you characterize the relationship between the Bureau and the Warren Commission on the question of its general attitude toward being cooperative or uncooperative?

A. I think the FBI honored its responsibilities of generally cooperating to its fullest capability with the Commission's investigation.

Q. Would you characterize its responses as timely or untimely or none of the above?

A. I believe that the Bureau on the whole responded in a timely fashion to the request of the Commission. There were, as the records reflect, some investigative requests that took longer than others to answer and there were instances where the Bureau representatives and the Commission staff negotiated with respect to particular requests that caused some special difficulty.

Q. Did you perceive at any time, based on your contacts with the Bureau, that there was any kind of an adversary relationship between the Commission and the Bureau?

A. The relationship was certainly not free of controversy. Let us be clear about the fact that the Bureau had conducted a substantial investigation before the Commission was completed and had reached certain conclusions regarding the facts of the assassination. In particular the Bureau had concluded that Lee Harvey Oswald was a single assassin,

that the assassination had occurred in a particular way and that there was no evidence of any conspiracy. It would be completely understandable for the FBI to be concerned about the possibility that the investigation of the Warren Commission would disprove one or more of the findings of the FBI and they were undoubtedly sensitive to this possibility that did contribute from time to time to a relationship that might be described as arm's length if not adversarial.

Q. You indicated, and quite properly, that when the Warren Commission came into existence it found an investigation substantially underway and I take it that you would probably agree with the characterization of that investigation as one that was largely self-directed by the FBI. After the Warren Commission came into existence, would you care to indicate for the record the degree to which the locus of the decisionmaking in that investigation shifted from Bureau officials to the Warren Commission?

A. Yes. I think that is a useful perspective and I have two things to say about it. First, the Bureau remained free to conduct whatever investigation it desired with respect to the assassination. It certainly was not inhibited by the Commission regarding such investigative efforts as it might have decided were appropriate under the circumstances. Second, the Commission staff did believe that its initial job was to review the investigative materials and by that I do mean the underlying materials rather than the summary FBI report and make such additional investigative requests to the FBI as seemed warranted.

The records of the Commission will reflect during the several months beginning in approximately February a substantial number of detailed investigative requests were designed to elicit from the FBI specific responses to specific questions that members of the Commission staff thought should be explored. In that respect the Commission entered the picture as a new decisionmaker to direct the Bureau's investigative effort in the sense that the Bureau was one of the investigative arms available to the Commission to develop the pertinent facts.

Q. In fact, did the Bureau continue to conduct the investigation on its own initiative?

A. I do not know to what extent the Bureau did not conduct the investigation other than that specifically requested by the Commission. I have the sense that our investigative requests were so extensive and numerous that it engaged in substantial Bureau resources but I do not know whether in addition they conducted other investigation.

Q. You cannot recall now receiving the product of investigative effort that you had not requested after you came into existence and had begun to make requests of your own?

A. Well, no, that is not entirely correct. I do have a recollection of occasional communications from the Bureau that were unsolicited in the sense that they contained facts or allegations coming to the attention of Bureau agents or informants.

Q. But it would be your judgment, if I understand your testimony correctly, that the basic initiative was being taken by the Commission and not the Bureau?

A. All I can speak about is the initiative undertaken by the Commission, and as to that it seemed clear that one of the important steps in our investigation was to master the investigative materials supplied to the

Commission by the FBI and the other investigative agencies and to organize a further investigative effort to look at leads that came to our attention.

Q. Let me turn your attention now to the question of whether any relevant evidence was withheld from the Commission by the February investigation and show you what has been marked as JFK exhibit No. 70. You have had an opportunity to review that prior to your testimony, have you not? For the record it is a memorandum dated February 12, 1964, of yourself summarizing a staff meeting in reference to the allegation that Lee Harvey Oswald was an undercover agent for the FBI, is that correct?

EXHIBIT #5  
1

February 12, 1964

## MEMORANDUM FOR THE RECORD

FROM: Howard P. Wilkens

RE: Staff meeting February 11, 1964

This staff meeting was called by Mr. Rankin to put before the staff the question of the proper handling of the allegations of Lee Harvey Oswald as an undercover agent of the Federal Bureau of Investigation or other federal investigative agency.

Mr. Rankin reviewed for the members of the staff some of the salient facts regarding these allegations. He reported to the staff on the Commission meeting at which this matter was discussed with Texas officials Carr, Wade, Alexander, Javoraki and Storey. He also brought before the meeting the fact that the FBI in the Cemberling report of December 23, 1963 had omitted information to the effect that the name, address, telephone number, license number of Special Agent James P. Hosty, Jr. of the Dallas office of the FBI was contained in Oswald's address book. To complete the factual picture he pointed out to the staff that the Commission had received the letter of the FBI dated January 27, 1964 in which the fact that some of this information was contained in Oswald's address book was officially communicated to the Commission by the Bureau. Mr. Rankin indicated that this matter was an extremely difficult one which had concerned him and members of the Commission during the past few weeks.

The opinions of the members of the staff varied widely. Some thought that nothing should be done at this time until we had a further opportunity to appraise fully the work of the FBI, at which time a proper letter could be addressed to the FBI. Some members of the staff thought the significance of this omission was not particularly great and that no further action should be taken at this time. Most of the members of the staff, however, thought that the omission of the Hosty information was of considerable importance and could not be ignored by the Commission. There was discussion as to the

(short)

EXHIBIT #5

possibility of the adverse effect on the relationship with the FBI if this matter were brought to its attention. The thought was expressed that pointing this omission out to the FBI might in fact produce more accurate reports by the FBI in the future. I suggested that the group consider the possibility of addressing a letter to the FBI which would request an explanation from the Bureau regarding this matter. The majority of the members of the staff present at the meeting did not agree with the proposal that something of this sort be done in the near future.

At the end of the meeting Mr. Rankin suggested that the members of the staff consider all the facets of this problem more fully and indicated that there would be a subsequent staff meeting to discuss this further.

A. Yes; that is correct. I have had the opportunity to review this exhibit.

Q. How would you characterize this incident and its impact on the work of the Commission?

A. Well, my recollection is refreshed by this memorandum and I do have the recollection as indicated here that the omission of the Hosty information from Oswald's address book was, and I quote, "of considerable importance and could not be ignored by the Commission." End quote. I believe that was the predominant staff sentiment at the time and we were generally upset by an incident which we thought was some question on the readiness of the FBI to supply all information forthrightly to the Commission.

Q. For the record, at this point let me kind of summarize some of what the Hosty omission might be further described as. Mr. Robert P. Gemberging was a special agent of the FBI who acted as a coordinator of the FBI's assassination investigation. Gemberging's report dated December 23, 1963, submitted to the Warren Commission on January 13, 1964, and labeled CD 205 contained a transcription of Oswald's address book but omitted the entry of a name, office address, telephone number and license number of Special Agent James P. Hosty. His report dated February 11, 1964, submitted to the Warren Commission on February 20, 1964, and labeled CD 385, however, contained the remaining contents of the address book including the Hosty entry. He submitted to the Commission an affidavit dated February 25, 1964, explaining the original omission. Special Agent John T. Kesler who had reviewed the original transcription submitted a similar affidavit. Both affidavits explained that the omission reflected Gemberging's instruction to the effect that Kesler was to extract all names and telephone numbers, the identities of which were unknown, together with any other lead information. On this basis Special Agent Hosty's name was said to have been excluded because it was neither unknown nor lead information.

What impact did this set of events in this meeting that you have had here have on the trust between the staff and the Federal Bureau of Investigation?

A. I think it had an adverse effect on the relationship between the staff and the Bureau that could be rehabilitated only over a fairly lengthy period of time. That was healthy in the sense that it alerted the staff to the possibility that the FBI might have institutional or other interests that were not fully consistent with the objectives of the Warren Commission. To that extent I think it caused the staff to exercise more initiative to review investigative reports more carefully and to make certain that the investigation could be fairly characterized when it was finally completed as an investigation by the Commission and its staff rather than investigation by the FBI.

Q. It has subsequently become public that there was an apparent destruction of a note delivered by Lee Harvey Oswald to the FBI. Let me read to you a short description of that situation.

Sometime approximately 2 weeks before the assassination it is said that Lee Harvey Oswald left a note at the Dallas office of the FBI for Special Agent James P. Hosty. The receptionist who took the note remembers its contents more or less as follows:

Let this be a warning. I would blow up the FBI and the Dallas Police Department if you don't stop bothering my wife.

Special Agent Hosty has not acknowledged that he received the note on the same day. Nevertheless, he remembers it as saying:

If you have anything you want to learn about me, come talk to me directly. If you don't cease bothering my wife, I will take appropriate action and report this to proper authorities.

Hosty says he put the note in his workbox. He also indicates that on the evening of November 24, 1963, he was instructed by Gordon Shanklin, the special agent in charge of the Dallas field office, to destroy the note and a memorandum he wrote discussing the note and his contacts with Lee Harvey Oswald. Accordingly, Hosty destroyed them.

Hosty testified before the Warren Commission on May 5, 1964, and during that testimony he made no mention of the note or its destruction because he had been instructed by the FBI not to volunteer information.

Had you been aware of this information in 1964, do you think it would have affected the course of your investigation?

A. Are you talking about the Oswald note or are you talking about the knowledge that the Oswald note had been destroyed by Mr. Hosty?

Q. Both.

A. If we had known about the Oswald note, I think it would have provided us still further confirmation of the findings reached by the Commission with respect to the adequacy of the liaison between the FBI and the Secret Service. If the substance of the note was more or less as recalled by the receptionist, it would have revealed a particular level of emotional intensity and capacity for threatened violence that might plausibly have prompted the Bureau to be more concerned about Oswald in light of the impending Presidential visit than was in fact apparently the case. At the same time though the note itself would have been largely confirmatory of facts already known to the Commission from the FBI and other sources; namely, that the FBI did have a file on Oswald and numerous contacts with him before the visit of President Kennedy to Dallas in November 1963.

With respect to the destruction of the note, I think it is clear that knowledge of this fact would have prompted the most serious kind of criticism of the FBI by the Warren Commission. I find that reported destruction of a note to be inexcusable and the saddest possible commentary on the mentality that apparently prevailed in those days at the FBI. I do not think our knowledge of either fact, however, would have prompted any additional investigation with respect to the substance of our inquiry that might have developed facts other than those that were ultimately set forth in our report.

Q. Both of these incidents raise questions about the relationship between Lee Harvey Oswald and the Federal Bureau of Investigation. I am sure you are familiar with the concern expressed by some that Lee Harvey Oswald far from having an adversary relationship with the Bureau as the note destruction incident might have indicated had instead an agent's relationship with the Bureau.

What significance do you think there would have been to the fact, assuming it could be established, that Oswald may have been an informer or an undercover operative for the FBI?

A. I don't think I understand the question.

Q. Suppose your inquiry into Oswald's background had demonstrated that he was an informant for the FBI reporting on the activity of an organization such as Fair Play for Cuba. Had that informant file not been more complicated than what I described to you as being among the materials considered by the Commission, would that (a) have affected your investigation or (b) assuming that nothing additional was known, would that have affected your ultimate conclusions about the assassination?

A. I certainly think that knowledge that Oswald was an informant of the FBI would have affected our investigation. It would have raised serious questions regarding the origin of that relationship between Oswald and the Bureau and any knowledge by the Bureau regarding Oswald's propensity for violence or his plan to assassinate the President. It would have raised 14 years ago an issue that is very much in the newspapers today regarding the extent to which law enforcement agencies find themselves acquiring information from informants who themselves participate in criminal conduct, so at the very least it would have involved an investigation addressed toward that kind of possibility arising from Oswald's status as an informant of the FBI.

I cannot begin to speculate whether it would have resulted in any differing conclusion of the Commission since by this time we are piling speculation upon speculation since it remains my conviction that Oswald was not in fact an informant of the FBI as that term is customarily used. In fact, the destruction incident that we have just been reviewing cuts against any suggestion that Oswald was an informant in my view because the Bureau would perhaps have engaged in a more substantial reconstruction of the pertinent records if they had not been trying to conceal any such relationship.

Q. Let me show you what has been previously marked as JFK Exhibit No. 71 which is a letter dated November 14, 1977, from you to me and ask you if you are familiar with it and its attachments?



BEGIN INSERT ON

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November 14, 1977

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G. Robert Blakey, Esq.  
Chief Counsel and Director  
Select Committee on Assassinations  
U. S. House of Representatives  
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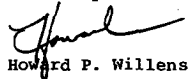
Dear Bob:

In response to your letter of November 11, 1977, I will reserve Thursday afternoon for an appearance before the House Select Committee on Assassinations. I will plan to be present at 2:00 p.m. unless I hear from you before noon that you would like to have me come earlier.

During our discussion on October 31, 1977, I mentioned a letter that I wrote to the New York Times regarding the article published in that newspaper on February 23, 1975. Enclosed for your information is a copy of that letter.

Thank you for the materials enclosed with your letter.

Sincerely,



Howard P. Willens

Enclosure

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JAMES C. LAMONT  
DANIEL MARCUS  
JAMES S. ROBERTSON  
RAYMOND C. CLEVELAND, JR.  
LOUIS B. COHEN  
MICHAEL R. ALTMAN  
STEPHEN A. WEINSTEIN  
TIMOTHY N. BLAKE  
SALLY RAYNE  
F. DAVID L. KATZ, JR.  
PAUL J. HENRY, JR.

DR. HAROLD A. ALLEN  
PETER D. BENNETT  
STEPHEN F. BOLICK  
MICHAEL L. BURRAGE  
BRAND L. CAMPBELL  
RICHARD W. CASE  
BARRY D. CHASE  
WILLIAM A. BRECH  
JAMES H. FARRAND  
WILLIAM H. EDWARDS  
C. RUTHER GARY  
CHARLES W. GREEN  
RONALD J. GREENE  
ROBERT C. PICKER  
DAVID S. HANCOCK  
WILLIAM H. HANCOCK, JR.  
MICHAEL S. MILLER  
JAMES E. MILLER  
PAUL D. MORTON  
A. STEPHEN RAY, JR.

LEONARD J. FERNAN, JR.  
PAUL B. JOHNSON  
H. JACOB H. KELLEY  
NEIL J. KING  
JOHN W. LORAN  
ROBERT A. LORAN  
WILLIAM F. LORAN  
CARL A. LORAN  
HARRY A. LORAN  
ROBERT A. LORAN  
ROBERT A. LORAN  
ROBERT A. LORAN  
JACK D. OGDEN  
PHILIP L. RABOFF  
JOHN ROSENTHAL, JR.  
DEAN C. SCHWARTZ  
THOMAS S. SING  
DAVID S. THOMPSON, JR.  
DAVID S. WELLS  
GARY D. WELLS  
WILLIAM T. WILSON, JR.

February 24, 1975

Mr. Ben A. Franklin  
Washington Bureau  
The New York Times  
1920 L Street, N.W.  
Washington, D.C. 20036

Dear Mr. Franklin:

I appreciate the professionalism with which you approached the story on the Warren Commission which was published in the Times (page 32) on Sunday, February 23, 1975. I disagree strongly, however, with the suggestion that relevant material was withheld from the Commission. I feel that once again the New York Times has been used by those who desire, for motives beyond my comprehension, to discredit the conclusions of the Warren Commission. The following are my reasons for believing that your story is fundamentally inaccurate.

First, there is clear evidence in the Commission's record that the Bureau memorandum dated June 3, 1960, was reviewed by the Commission. I offer the following facts in support of this assertion:

(a) The memorandum was found in the National Archives among the Commission's official papers. In the absence of any credible suggestion that the memorandum was inserted into these files after the Commission concluded its work, I hope you will agree that its presence alone in the National Archives suggests that it was given appropriate consideration by the Commission before its Report was published.

(b) The Commission stated in its Report (page 433) that it reviewed "the complete files on Oswald, as they existed at the time of the assassination, of the Department of State, the Office of Naval Intelligence, the FBI and the CIA." Both an FBI spokesman and I confirmed that the Bureau files on Oswald were in fact reviewed as asserted in the Commission's Report. In the absence of any credible evidence that the Commission, the Bureau or I were lying or that the June 3, 1960, memorandum was not in the files at the time of the Commission's review, I believe it is reasonable to suggest that the Commission's statement should be considered valid.

(c) The Commission's own public documentation confirms that the June 3, 1960, memorandum was in the FBI files reviewed by the Commission. Commission Exhibit No. 834, published in Volume XVII at pages 804-813, is a letter from the Bureau to the Commission dated May 4, 1964, which lists the contents of the FBI file concerning Oswald up to November 22, 1963. Item 14 is described as follows:

"A letter from this Bureau to the Department of State dated June 3, 1960, furnishing the State Department data in the possession of the FBI concerning Lee Harvey Oswald and requesting the State Department to furnish this Bureau any information it may have concerning Oswald."

This is obviously the same memorandum which your story alleges was withheld from the Commission.

Second, your story demonstrates the risks inherent in relying upon the fragmentary and hastily solicited recollections of selected members of the Commission's staff. I am confident that none of the staff members interviewed, if they had been aware of my statements to you and the facts summarized above, would have asserted that the memorandum in question was withheld from the Commission. Let me amplify a bit:

(a) Contrary to the suggestion in your story, the responsibility for checking out rumors was not assigned exclusively to any two or three members of the Commission's staff. This was a responsibility of all the members of the staff, operating within the general parameters of their individual assignments. It is not surprising to me, therefore, that neither Mr. Slawson nor Mr. Coleman recall this particular memorandum. The memorandum is both without substantive significance and irrelevant to the area of concern to Messrs. Slawson and Coleman, since it is concerned not with the activities of Oswald abroad but rather with the "possibility" that someone might somewhere, at some time, seek to pose as Oswald using his personal documents.

(b) The responsibility for reviewing the files in existence at the time of the assassination in the possession of the Bureau and other intelligence agencies was specifically assigned to one member of the staff. This task was given to Samuel A. Stern, currently one of my law partners, who had primary responsibility for studying the area of Presidential protection and making appropriate recommendations. For various reasons, both Mr. Rankin and I also took a particular interest in this area of the Commission's work. It was in that connection that I personally took upon myself the responsibility for reviewing the Bureau file on Oswald as it existed at the time of the assassination. In short, it is my best recollection that at least two members of the staff -- Mr. Stern and I -- reviewed the FBI files which contained the June 3, 1960, memorandum. I expect that we were also responsible for ensuring that this memorandum, and indeed most of the contents of the Bureau file, found its way to the Commission and into its files.

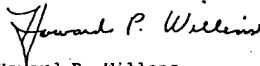
(c) The concern expressed by the Bureau of the "possibility" that an impostor could be using Oswald's identification data was not the kind of rumor or allegation which had to be dealt with in the "Speculations and Rumors" section of the Commission's report. As is apparent from this section of the Report, it was intended to rebut those widespread allegations which, if true, would contradict the conclusions reached by the Commission on the critical issues, i.e., did Oswald shoot the President, did he act alone, was he an agent of a foreign power, etc. I hope you will agree that the Bureau's suggestion of a "possibility" in its June 3, 1960, memorandum did not require separate analysis and publication in the Report. Among other reasons, no facts were advanced by the Bureau, or subsequently came to the attention of the Commission's staff, that an effort to use Oswald's papers as feared by the Bureau in 1960 had, in fact, been made by anyone other than Oswald himself.

Third, your story demonstrates how the critics of the Warren Commission have demonstrated such an impressive ability to survive. Unable to find any real substantive grounds for attacking the Commission's work, they have concentrated on the procedures followed by the Commission and its staff. As you recognized in preparing your story, there is no reason to believe that the Bureau memorandum of June 3, 1960 -- even if it had not been seen by the Commission -- in any way impeached the findings of the Commission. But, of course, it was seen, and I hope you will agree that once this fact is accepted there was simply no story worthy of either your time or space in the Times.

As I mentioned over the phone, I have been reasonably discreet during the past decade about my work with the Warren Commission. I have urged a similar course, with limited success, upon many of my former associates. I have written this letter, however, because my patience has finally been exhausted and because your article provides such a graphic example of human and institutional frailties. I hope you will not take this letter personally and that, before you write another article on the Warren Commission, you will be my guest for lunch.

I am sending copies of this letter to various of the Commission staff members mentioned in your article and to two old friends at the Times, Jack Rosenthal and Roger Wilkins. Both know me very well and, in particular, know how I approached my assignment on the Commission staff.

Sincerely,



Howard P. Willens

cc: Mr. J. Lee Rankin  
 Mr. William T. Coleman, Jr.  
 Mr. W. David Slawson  
 Mr. Samuel A. Stern  
 Mr. Richard Frank  
 Dr. Alfred Goldberg  
 Mr. Roger Wilkins  
 Mr. Jack Rosenthal

## Data on Oswald Apparently Withheld From Key Warren Investigation Aides

By BEN A. FRANKLIN

Special to The New York Times

WASHINGTON, Feb. 22—J. Edgar Hoover sent a memorandum to the State Department in 1960 raising the possibility that an impostor might be using the credentials of an American defector named Lee Harvey Oswald, who was then in the Soviet Union.

This memo from the director of the Federal Bureau of Investigation and two subsequent State Department memos related to it were apparently not shown to key investigators of the Warren Commission, which examined the assassination of President Kennedy and determined that Oswald, acting alone, was the assassin.

The late Mr. Hoover's warning of the "possibility" that an impostor could be using Oswald's identification data, in the Soviet Union or elsewhere, came more than two years before the murder of the American President in Dallas on Nov. 22, 1963. The impostor theory was rejected, by implication but not directly, in the published report of the Warren Commission, and its significance could not be determined.

### Body Identified as Oswald

The body of the man who the commission concluded had shot the President—and who was shot to death by Jack Ruby two days later—was identified by his mother and other relatives and also by fingerprints and other physical features as that of Lee Harvey Oswald.

But the apparent withholding of information from the commission investigators responsible for checking Oswald's activities in foreign countries supported a theory of some critics of the commission's final report that the panel had come to its conclusion regarding Oswald without having had all the facts.

A spokesman for the F. B. I. said, in response to questions, that "we can definitely state, without hesitation, that a copy of the Hoover memo was shown to a member of the Warren Commission staff in the presence of an F. B. I. agent." However, the spokesman said that he could not identify the commission staff member to whom the memo reportedly had been shown. Neither J. Lee Rankin, the former general counsel of the commission, nor any of his former staff aides who were most involved in investigating Oswald's background said they could remember seeing it.

However, Howard P. Willens, now a private lawyer here, identified himself in an inter-

"and I don't remember one way or the other."

He recalled, however, that his duties "required me to see everything that Oswald had done as a defector to the Soviet Union."

Mr. Hoover's memo was dated June 3, 1960. Its contents suggest that the F. B. I. director raised the possibility of an impostor because of certain facts the memo recounts.

It cited a Foreign Service dispatch concerning Oswald's declaration in Moscow on Oct. 31, 1959, that he would renounce his citizenship and noted that he had surrendered his passport.

It also cited a report of an F. B. I. agent in Dallas of May 12, 1960, which said that Oswald's mother, Marguerite C. Oswald, "stated subject had taken his birth certificate with him when he left home."

The agent's report indicated that Mrs. Oswald was apprehensive about her son's safety because she had written him three letters and they had all been returned to her undelivered.

Mr. Hoover concluded: "Since there is a possibility that an impostor is using Oswald's birth certificate, any current information the Department of State may have concerning subject will be appreciated."

Two internal State Department memos transmitted Mr. Hoover's warning. One, dated June 10, 1960, went to the department's Soviet desk. The other, dated March 31, 1961, was sent from one section of the Passport Office to another.

### Concern on Passport

The latter memo indicated concern that a revalidated passport to be issued to Oswald in preparation for his return to the United States in June, 1962, not be mailed to him through the Soviet postal system but be delivered to him "only on a personal basis" at the Embassy in Moscow.

The Warren Commission subsequently developed that in July, 1961, Oswald's passport was handed back to the man who Moscow Embassy officials were satisfied was the same Oswald they had first met in 1959, when he angrily announced his intention to renounce his citizenship. The State Department had ruled by then that he had not given up his citizenship.

None of these documents—not the Hoover memo nor either of the State Department memos—was in the department's Oswald file as it was given to the Warren Commission in 1964, according to Mr. Slavov.

any impostor memo in the State Department files. He recalled that Mr. Kennedy had died at about 2 P.M. Washington time and said that if any Oswald documents had been taken from the files before he and his assistants took custody of them and placed them under guard that night, "somebody would have had to be thinking awfully hard and moving awfully fast."

"I am absolutely certain," he said, "that we gave the commission all the documentation that was in the files that night."

After the Commission pub-

F.B.I. file. Mr. Willens, who was then the commission's special liaison officer to the Justice Department, said today that "while I do not think that any one can state now with the necessary precision whether or not he saw the Hoover memo, it is my best recollection that I did, in fact, see that memo."

"I do not want to be in a public debate with my old colleagues," Mr. Willens said, "but I know that there was discussion of this among others on the staff concerned with the activities of Oswald abroad. I am concerned with continued public references to the notion that the commission overlooked obvious facts."

#### Suggests Reopening Inquiry

Shown the F.B.I. memos and the two State Department documents—discovered in the National Archives here by a private researcher—W. David Slawson, a lawyer who checked out rumors about Oswald for the commission in 1964, said he thought the assassination inquiry should be reopened.

Mr. Slawson, who is now a law professor at the University of Southern California, said he and other investigators had never been shown the memos. "We were the rumor runners, and we certainly should have seen this material, as we did a great deal of other stuff that we showed to be unfounded," he said.

"It may be more significant that we did not see it, in terms of a possible cover-up and the reasons for it, than if we had seen it," he continued. "I mean, I don't know where the poster notion would have led us—perhaps nowhere, like a lot of other leads. But the point is we didn't know about it. And why not?"

Two other commission staff members shared with Mr. Slawson the responsibility for checking out rumors. Neither recalled specifically having seen the memos, but they tended to discount any thought of a renewed investigation.

One of them, Dr. Alfred Goldberg, who wrote the gossip-puncturing "Speculations and Rumors" section of the commission's report, said in an interview:

"I don't have any recollection of having seen that [Hoover] memorandum. As a matter of fact, I am fairly certain I didn't."

"While I think we might have done more had we seen it—we might have engaged in more research, we might have looked for more, we might have asked for more from the State Department and the F.B.I.—in terms of the outcome, I don't believe it would have made any difference."

William T. Coleman Jr., who was Mr. Slawson's immediate superior at the commission, and who was nominated last month by President Ford to be Secretary of Transportation, was asked during an interview whether he had seen the memos.

"It's been 10 years," he said,

pages of unpublished commission records were declassified by the State Department and placed on public file in the National Archives.

Among them, J. G. Harris, a 45-year-old New Yorker who has spent nearly a decade in Kennedy assassination research, found the Hoover and State Department memos.

How the memos came to be missing from the State Department's Oswald file given to the commission but included in the same file placed in the Archives remains unclear.

At the State Department, a spokesman said there would be no comment because all former officials who might have knowledge of the Oswald file had died or retired.

Mr. Slawson, citing recent disclosures about domestic activities of the Central Intelligence Agency, said:

"It conceivably could have been something related to the C.I.A. I can only speculate now, but a general C.I.A. effort to take out anything that reflected on them may have covered this up." Mr. Slawson added that he had been "impressed at the time with the intelligence and honesty of the C.I.A. people I dealt with."

#### Denial by C.I.A.

A C.I.A. spokesman denying that the agency had ever had any connection with Oswald, said the agency had no record of ever having seen the Hoover memo and had not engaged in a cover-up.

A former State Department official who was familiar with the Oswald file suggested that Mr. Hoover himself might have ordered his memo removed from the file before it was sent to the commission, to avoid embarrassing the bureau.

The former official, Richard A. Frank, now a lawyer here with the Center for Law and Social Policy, said in an interview that as the department's assistant legal adviser in 1963-64 he had been unaware of the Hoover memo, although he had a major responsibility for assembling the Oswald records sent to the commission.

He said it seemed possible that the memo "was so unsupportable by anything the F.B.I. had on Oswald that, when the Oswald file suddenly became the object of a most intensive search and review, Mr. Hoover and his friends in the security operation at State simply made it disappear."

A former senior F.B.I. official who worked on the assassination inquiry said in an interview that he could not recall such a memo as part of the case file.

Abram Chayes, the department's legal adviser in 1964, who assured the commission in testimony then that "very aggressive efforts" had been made to collect and transmit the full Oswald file, was interviewed by telephone in Moscow, where he was attending a legal conference.

He said he had no memory of

A. Yes; I am.

Q. The letter and attachments speak pretty much for themselves. Nevertheless, is there anything that you would like to add for the record at this time about the newspaper article and your own previous letter which is an attachment to your letter of November 14, 1977?

A. No.

Q. Let me turn your attention now to the relationship between the agency, the CIA, and the Warren Commission. Would you generally characterize that relationship as cooperative or uncooperative or none of the above?

A. I would describe it as cooperative.

Q. How would you describe their performance on the question on the issue of time? Were they timely in their responses with you?

A. Yes; I think they generally were although I think there were one or two investigative requests that were not responded to promptly.

Q. We previously talked about the possible adversary character of the relationship between the Commission and the Bureau. Did a similar relationship, however characterized, exist or come to exist between the Commission and the agency?

A. I did not think so at the time although with the benefit of hindsight it probably should have.

Q. We have also previously discussed the dynamics of the nature of the investigation shifting to some degree from the Bureau to the Commission. Did a similar process take place between the agency and the Commission?

A. I would not describe it in the same way. We made many fewer investigative requests of the CIA than we did of the FBI and I certainly never had the impression that the CIA felt restrained in any way from doing what it thought was necessary or useful in connection with conducting any inquiry that it wished to with respect to the assassination.

Q. Did they in fact furnish a great deal of information to the Commission on their own initiative that was not in response to the specific questions by the Commission?

A. I recall very little information that was submitted by the CIA other than in response to a specific Commission request.

Q. Let me show you what has been previously marked as JFK exhibit No. 62 which is a series of items basically dealing with a request made by the Commission of the Agency and on the top having a memorandum in your own handwriting apparently dated March 12, 1964. You have had an opportunity before today to see these documents, have you not?

[For a copy of JFK 62, see *supra*, testimony of Burt Griffin.]

A. Are you referring to all the materials that you have just handed me?

Q. No; I am primarily referring to the materials associated with your short cover memorandum.

A. Yes, I have seen these before.

Q. Can you recall to whom the request in the Agency was given?

A. Well, as I see by reference to a letter dated May 19, 1964, from Mr. Rankin to Mr. Helms that the memorandum of February 24, 1964, was delivered to Mr. Helms at a meeting on March 12, 1964. That



would coincide with my recollection of how we generally conducted business with the CIA.

Q. But you had no specific memory of giving it to Mr. Helms?

A. No.

Q. Can you recall why the investigative request was apparently held for approximately 16 days from the time the draft memorandum was given to you until you recall it having been given to Mr. Helms?

A. No; I don't have a recollection of the reasons for the decision to handle the matter at a meeting rather than by correspondence. I think we all anticipated that the matter would require discussion with the CIA representatives and it may be that we had a meeting with the CIA for other reasons and decided simply to add this to the agenda of such a meeting. I don't recall that there was any particular controversy about any inquiry to the CIA for a review of files to acquire what information they might have in those files relating to Ruby or other persons whose names arose during the course of the Ruby investigation.

Q. If only this written record were examined, it would tend to indicate that it took from approximately March to September for the Agency to respond to this request. There is testimony before the committee that the written record does not always adequately reflect the verbal communications. Does that square with your memory?

A. Well, as I indicated, I did recall a few investigative requests that were not responded to promptly by the CIA. This may have been one of those that I had in mind. I am confident that the failure to respond more promptly was undoubtedly brought to my attention either by Mr. Hubert or Mr. Griffin with the request that some follow-up be made as to the reasons for the delay. I do not recall personally, however, any conversation that I had with a CIA representative on this subject.

Q. Assuming this written record is correct or approximately correct, would delays of this magnitude have been typical of the Agency's response?

A. I don't believe that delays of that kind would have been typical. Also, I think that the agency was more responsive to our request than this particular written record would suggest. I am reasonably confident that if the agency had any information in its files with respect to Ruby or other of the figures mentioned in that memo they would have advised us orally before any written response was made so as to give us the substance of our information before they confirmed it in writing.

Q. You recall then that there was an extensive oral dialog between the agency and the Warren Commission?

A. I would not describe it as extensive but there were certainly occasional telephone conversations relating to investigative requests and I am surmising, and that is all it is, that the CIA might well have informed us of the substance of the September communication if my date is correct in oral form before they confirmed it in writing. Much of the correspondence in September was designed to confirm on the record information that had been previously communicated orally so that a committee such as this would have a firmer factual record on which to proceed than the clouded recollections of ancient staff members.

Q. I do understand you correctly saying though that if one were only to come and read the written record, one might come up with an impression of substantial delays that in fact might have had impact on the work of the Commission where in fact they did not because oral communications had been made. What I am really getting at, Mr. Wilens, is that, as I am sure you are aware of, critics have analyzed the record of the Warren Commission and through a series of Freedom of Information suits the forms of the CIA, and relying largely on the written record and not the memory of ancient staff members, have sharply criticized the agencies for not being responsive to the Warren Commission and I am trying to get for our record your judgment whether that kind of criticism where it is based only on the written record is wholly accurate or wholly fair.

A. No; I don't think it is wholly accurate because the written record provides only a partial record of what actually transpired.

Q. Let me change the direction a little bit of my questions. Since 1964 it has been public knowledge that the Central Intelligence Agency and certain organized crime figures were involved, as you previously indicated, in efforts to assassinate Premier Castro. Had you been aware of the relationship between agency personnel and organized crime figures in this kind of activity, do you think it would have affected the course of the Warren Commission's investigation?

A. Yes; I think knowledge of that particular relationship might have prompted a specific investigative request to the CIA to utilize those relationships and sources to find out what Cuban involvement, if any, existed with the assassination. It may have been that the CIA utilized these relationships and sources independently and satisfied themselves that no evidence of Cuban involvement could be developed through these relationships and sources.

I do not know what in fact they did on this subject. In response to your question, however, if we had known of these relationships, we would have requested that every effort be made to exploit these relationships and sources and to report to the Commission the results of any such inquiries. I cannot state now that that would have in any way changed the ultimate findings of the Commission but it would have added another dimension to our investigative effort.

Q. Let me take two possible examples of investigative decisions and let's see if we cannot analyze them with some hindsight. Let me show you initially the exhibit previously marked as JFK exhibit No. 65. I believe you had an opportunity to review this memorandum previously.

On November 17 we discussed at least preliminarily the question of to what degree the Commission reviewed various phone records. This memorandum raises that general question. Had you known of the Mafia-CIA plots involving Premier Castro, in retrospect now do you think you might have pursued an effort to trace the telephonic communications through toll records to a greater extent than you did?

A. I think that is possible but I think it probably would have been done on a more focused basis than was proposed in this memorandum of February 24, 1964. We are discussing now a course of investigation prompted by full disclosure by the CIA of its relationships with or-

ganized crime figures in connection with a possible assassination of Premier Castro. If we had been confided in by the Agency, we might jointly have concluded that certain extensive investigative efforts should be directed at particular members of organized crime or particular time frames when those persons might have been in Cuba or in communication with people in Cuba or in some other way have had leads that would have permitted a focused and potentially useful course of investigation. In other words, knowing of the CIA's relationship with a handful of organized crime figures with respect to a potential Cuban assassination does not necessarily make appropriate a broad scale review of all telephone records of all organized crime figures who might have any relationship whatsoever with the assassination.

Q. Apart from the question of the CIA's relationship to organized crime figures that might have prompted additional investigation, was it presented to you as an active possibility that organized crime figures on their own might have been involved in the assassination?

A. That was one of the main allegations that was reflected in the original investigative material supplied by the FBI.

Q. Was it ever brought to your attention in 1963 or 1964 that the Federal Bureau of Investigation had conducted extensive unlawful electronic surveillance of the major figures involved in organized crime in the period of 1963, 1964?

A. I do not think so.

Q. You seem somewhat hesitant in answering me. Do you have a little bit of a memory that you may have known about it or heard about it?

A. Well, there is so much that has come to light in the intervening 14 years with respect to the FBI's techniques of electronic surveillance. Some of the electronic surveillance that I did become aware of in my capacity as a supervisory lawyer in the Criminal Division related to what I believe was considered lawful electronic surveillance at the time but then again I have a feel where you are the expert and so it is unfair to me that I have any recollection here that is useful to you.

Q. Let me be a little more specific. The committee has had brought to its attention that the Federal Bureau of Investigation had hot wire taps that were at that time thought to be lawful under section 605 of the Federal Communications Act where there was only interception and no public disclosure but rather bugs—that is, electronic bugs—placed inside a home or an office, that the Bureau had in existence somewhere between 75 and 100 bugs on the major figures of organized crime specifically—the Costa Nostra in New York, Chicago, Buffalo, Pittsburgh, Philadelphia, Detroit and some on the west coast—that hundreds of volumes of logs and notes based on the work of the investigative clerks in listening to this existed within the FBI in 1963 and 1964.

Was either the existence of this program or the products of that program ever brought to the attention of the Warren Commission?

A. I do not recall. I was aware that an extensive investigative program was underway with respect to organized crime. I had every reason to believe that the FBI and the Criminal Division which had responsibility for the overall prosecutorial effort would bring to the

attention of the Warren Commission any information developed by any source that pertained to the work of the Warren Commission. I was aware also that the Bureau would frequently submit investigative reports attributing information to confidential but undisclosed sources. To that extent I was aware that there were sources to which the Bureau attached a considerable confidence and importance and so it may be that those undisclosed and confidential sources were the means by which information obtained through this program that you referred to was made available to the Department of Justice or to the Warren Commission.

Q. To your knowledge was there any effort made by the Commission, by the Department of Justice or the Bureau to survey that electronic surveillance to determine whether there was any indication in it either direct or circumstantial that any of the major figures of organized crime might have had motive, opportunity, or the means to assassinate the President in Dallas?

A. I do not know whether any effort of that kind was made. I do not believe it was made, if it was made at all, at the request of the Warren Commission because I for one did not know that such a program was in effect at the time.

Q. Had you known it, would you have asked for that kind of survey to be made?

A. That certainly would have been a very reasonable and logical investigative request to have made and it is my hope that in fact it was done by the Bureau but I am confident that you and the committee have information one way or the other.

Q. Do you know of any informal communications between the Bureau and the Commission that might have given on a confidential basis and not in a written form the product of any such examination by the Bureau of this material?

A. No.

Q. OK.

A. The only other thing I can say on this general subject is that the Commission did have substantial confidence in the Bureau's ability to investigate allegations with respect to organized crime figures. There were many investigative reports submitted on this general subject as I recall and I think the Commission was inclined to regard this particular kind of investigation as something peculiarly within the competence of the FBI and to involve none of the controversy that was associated with some of the other kinds of investigative activities in which the Commission and the Bureau were jointly involved.

Q. Let me show you what has been previously marked JFK exhibit Nos. 72 and 73. Exhibit No. 72 is a memorandum dated April 1, 1964, from Mr. Slawson to Mr. Rankin and exhibit No. 73 is a memorandum of April 24, 1964, from Mr. Slawson to Mr. Rankin. Both of these memorandums deal with an allegation by John B. Martino that Castro may in some way have been involved in the assassination of President Kennedy.

You have had an opportunity before this morning to see these memoranda; is that correct?

[EXHIBIT No. 72]

WDS:mfd:1Apr64

Memorandum to: J. Lee Rankin.

From: W. David Slawson.

Subject: Allegations of John V. Martino, Author of the Book Entitled, "I Was Castro's Prisoner".

Reference is made to Commission Nos. 657 and 662, dealing with the statements of Mr. Martino, copies of which are attached hereto. The substance of Mr. Martino's assertions is that the death of the President resulted from a Castro plot, which itself resulted from a plot by President Kennedy to overthrow Castro through a "second Bay of Pigs Invasion." Mr. Martino has been questioned on his sources but he refused to disclose their identity although he describes them in general terms such as, "a person high in the Cuban Government."

The assertions of Mr. Martino are of more than usual interest for two reasons. First, because he is the author of the book, "I Was Castro's Prisoner," published in August 1963, by Devin-Adair Company of New York City, co-authored by Nathaniel Weyl, described as the author of "Red Star Over Cuba," and is therefore a person in whose statements the public at large may place considerable trust and indeed, despite his suspicious reluctance to name any of his sources, we ourselves must accord some consideration. Second Nathaniel Weyl is quoted on page 2 of Document No. 662 as saying that a friend who ran for President of Cuba in 1958 will testify soon before the Senate Internal Subcommittee as to alleged contacts between Jack Ruby and "Praskin" in Cuba, and this may tie in somehow with Mr. Martino. Burt Griffin has told me that the name "Praskin" is known to him from his Ruby investigatory work.

Nothing appears from Mr. Martino's testimony which would indicate that he could claim a Fifth Amendment privilege were he subpoenaed by the Commission and asked to disclose his sources. His book was published in August 1963 and it would therefore appear that his information as to the alleged plot backed by Castro to kill President Kennedy are not sources that he came upon in the preparation of his book. Therefore, there does not appear to be any basis for his assertion of a "newspaper reporter's privilege," if such a privilege has any legal basis.

Howard Willens and I have discussed this briefly and he asked that I write this memorandum and state my own conclusion. My tentative conclusion is that Mr. Martino should be asked to testify before the Commission and subpoenaed if necessary.

Enclosures (2)

[EXHIBIT No. 73]

WDS:mfd:24Apr64

Date: April 24, 1964.

Memorandum to: J. Lee Rankin.

From: W. David Slawson.

Subject: Allegations of John B. Martino, Author of the Book Entitled, "I was Castro's Prisoner"; Supplemental Memorandum.

Reference is made to my memorandum to you on this subject dated April 1, 1964. In that memorandum I concluded that we should follow up on Mr. Martino's allegations of a Cuban conspiracy behind Lee Harvey Oswald's assassination of the President. Since that memorandum was written, the FBI has independently followed up on Mr. Martino. The FBI reports that have come in are Commission Nos. 810 and 812.

In substance, what has happened is this: Both John Martino and Nathaniel Weyl, the writer who helped Martino write his book, has [sic] been asked to name their sources or other evidence. With one exception, both men have refused to do so, although Martino has gone so far as to admit that his sources are not primary sources but only men who told him that they had sources who could prove what was said. Martino especially seems rather vague on where he got his information. The one exception is that Weyl named a man named "Buchanan" who used to work in Miami for an anti-Castro group who is supposed to have told Weyl that Lee Harvey Oswald was seen among some pro-Castroites in Miami in March 1963 and October 1962 passing out Fair Play for Cuba literature. When approached on this, Buchanan backed up the statement in general but was very vague on when exactly and where he saw Oswald. Buchanan finally said it was his brother who really saw Oswald.

The tenor of both Commission reports is that Weyl and Martino have no real evidence for their allegations. In view of the fact that the FBI has already fol-

lowed up on this subject, and because this follow-up has shown the weakness of the allegations, I feel that my conclusion in the April 1 memorandum that the Commission should call Martino as a witness no longer holds. I would now recommend that we let the whole thing drop unless some new evidence which changes the picture appears.

A. Yes; I have a recollection of seeing these.

Q. There is no indication on either of these memorandums that they went to you or through you. Do you recall seeing them in 1964?

A. Yes. It would be frequently the case that I would see such memoranda even though I was not the addressee.

Q. These memoranda indicate that this particular allegation was handled only through field interviews, that there was no effort being made to subpoena Mr. Martino and request from him an identification of the source to which he attributes the allegation. There is nothing here or in any other records of the staff of the Commission that indicates that a subpoena was considered as a possible investigative technique in addition or that a subpoena might be employed whether or not Mr. Martino would have a lawful grounds on which to refuse to answer. I am thinking now of the fifth amendment or some other lawful privilege.

Do you think that had you known in 1964 of the allegations involving the agency in efforts to assassinate Premier Castro that this kind of lead that was followed only through field interviews might have been more vigorously pursued by subpoenas and immunity grants or other more potent investigative techniques?

A. I can do nothing more than speculate in response to that question and I am reluctant to do so. This particular investigative lead was pursued as the memoranda reflect through FBI interviews of the principal figures and the reports of those interviews were reviewed by the responsible Commission attorney. I obviously took no objection then and I do not take any objection now to the conclusion reached here that no further investigation was required at the time.

If we had known of agency sources or specialized capability with respect to Cuba, any such allegation as this would have appropriately been the subject of an investigative request to the CIA as well as pursuing the normal FBI avenue. This is an example of a kind of an allegation that one might have transmitted to the CIA and asked for them to conduct such investigation as seemed appropriate, particularly with respect to the individuals here involved, the conversations that allegedly took place regarding a Cuban involvement. We obviously did not do so with respect to the CIA and I think it is probably what we would have done had we known then some of the facts that we have discussed here earlier today.

Q. An examination by the staff of the Warren Commission materials and the Warren Commission report itself, 492, does not indicate that Mr. Martino was called before the Commission and deposed or even placed under oath for an affidavit. In addition to asking you whether any additional investigative techniques might have been employed through the agency, I would ask you to reflect and perhaps speculate whether if you may have had a more concrete understanding that Premier Castro may have had a motive to take revenge on President Kennedy for the CIA plots, might you not have more vigorously pursued this allegation, for example, by deposing him and placing him under oath or by calling him before the Commission?

A. I see nothing now that would have held out any greater promise of our obtaining relative information from Mr. Martino than was available at the time. I do not attach quite the same significance as you do to taking a deposition of a person under oath but there is one assumption underlying your questioning that I think deserves some examination. You are assuming that really we were not aware of the possibility that Premier Castro had a motive to participate in any way in an assassination attempt on President Kennedy. That is clearly not the case.

There was ample evidence in the historical record at the time that Premier Castro might have felt that the United States and President Kennedy in particular were trying to overthrow his government and that certainly would seem to provide a sufficient possibility of a motive so as to justify exploration by the Commission staff of any meaningful allegations as suggesting Cuban involvement with Oswald in this assassination attempt. It was for that reason that we did try to explore to the best of our ability those allegations that came to our attention that suggested some Cuban or Cuban-related involvement. I am confident that with the benefit of hindsight there were some of those allegations that were investigated excessively and other allegations that were not sufficiently investigated.

Q. Let me see if I cannot rephrase your answer and see if you will accept it. Without the concrete knowledge of actual Government participation in the effort to assassinate Premier Castro, it is your testimony that if you had sufficient knowledge nonetheless of the possibility that the Commission in your judgment adequately pursued that line of inquiry and that had you known concretely of the assassination plots, it is unlikely that you would have done too many things too terribly different.

A. Well, that is generally my position with the exception that we would have specifically enlisted the assistance of the CIA on a regular basis on any investigations relating to Cuba. I am confident if we learned of any indication that Castro personally was aware of the United States sponsored efforts directed at his assassination, then in that case we would have attached a higher priority—perhaps the highest possible priority—to these allegations so as to satisfy ourselves if we were able to regarding any involvement of the Cuban Government.

Q. Mr. Willens, let me see if I cannot clarify and perhaps pin down precisely what the status of your knowledge was as to the possession on the part of the Commission or Commission members, Commission staff, of the Castro plots. Specifically to your knowledge did the Chief Justice have any information while he was serving on the Warren Commission concerning any involvement of any U.S. intelligence agency in plots against Cuba to assassinate Fidel Castro?

A. I do not know.

Q. To your knowledge did any other Commissioner have any such information while he was serving on the Warren Commission?

A. I do not know.

Q. To your knowledge did any staff member have any such information while he was serving on the Warren Commission?

A. I believe not.

Q. In retrospect was there any conduct on the part of the Chief Justice from which you could have or might have inferred that he had such information?

A. No.

Q. In retrospect was there any conduct on the part of any other Commissioner from which you could have or might have inferred that he had such information?

A. Not that I recall.

Q. In retrospect was there any conduct on the part of any staff member from which you could have or might have inferred that he had such information?

A. Not that I recall.

Q. Did you see any document from which you could have or might have inferred that either the Chief Justice or other Commissioner or any staff member had such information?

A. No.

Q. Were you ever present during any discussions from which you could have or did infer that the Chief Justice or other Commissioner or any staff member had such information?

A. No.

Q. Were you ever instructed by anyone, including the Chief Justice or any Commissioner or any staff member or anyone else, while you served on the Warren Commission staff not to pursue any area of inquiry?

A. No.

Q. Were you ever instructed by anyone while you served on the Warren Commission staff not to pursue any area of inquiry because the area might endanger the national security?

A. No.

Q. Did anyone ever suggest to you that certain matters should not be explored for any reason?

A. No.

Q. Did anyone ever suggest to you that certain matters should not be explored for reasons of national security?

A. No.

Q. Let me change the subject if I might a little bit. I have only this one last subject. I hope to get you out in time for lunch, assuming you either eat a late lunch or eat quickly.

Let me ask a little bit about the writing of the final report and its processes.

Let me show you what has been previously marked as Willens Exhibit 5. I believe you have not had an opportunity to see it previously. Nevertheless it purports to indicate which staff member had primary responsibility for writing the various chapters or rewriting the various chapters of the report. I wonder if you would look at it and indicate whether that generally corresponds with your memory?

A. No; it does not.

Q. Would you indicate for the record to what degree that exhibit does not reflect the true facts?

A. This exhibit is in serious error with respect to almost everyone of the eight chapters of the report. I do not know what the source of this exhibit was and I don't know that it is worth your time or the committee's time to try to correct it.



Q. The source of the exhibit is from Epstein's book.

A. I suspected as much and that is just further confirmation of the substantial errors that characterize Mr. Epstein's original work. One of the difficulties of Mr. Epstein's review of this subject was that he interviewed only selected members of the Commission staff and among those that he interviewed several, including myself, elected not to talk to him about some matters that we regarded as confidential to the work of the Commission.

Have you questioned other witnesses with respect to this exhibit?

Q. No.

A. Do you regard this as something that is to be addressed in your committee report?

Q. Not necessarily. Perhaps the best way to handle this would be if you want to write me a short letter later in which you could indicate to the best of your memory who had the primary responsibility to each of these sections, we could incorporate it at the end of your testimony.

A. Why don't I take this exhibit under advisement then and see whether I can supply helpful information to you with respect to it.

Q. All right.

A. I would just generally say that the exhibit underestimates the number of people who contributed to the writing of the report and it overstates the contributions made by certain individuals. It also reflects a lack of precision as to the origin of the material that went into these various chapters. The chapters as they finally emerge in the Commission report were the product of considerable discussion and debate among the Commission's staff and the full Commission. Eventually proposed drafts that were prepared by some staff members were divided and found their way into several different chapters as we elected to reorganize the report and this summary neglects to trace back to the original drafters the individual subsections of individual chapters in the report. There were approximately 20 members of the Commission staff who participated in a substantial way in writing the Commission report.

If you let me consider it further, Mr. Blakey, to see if I can supplement that brief statement with any more detailed statement, that might be useful.

Q. I might say this is the actual identity of individuals who wrote the particular sections and it may well only be of historical interest and for some inquiry. Someday in the future one may want to go back and figure that out. The Committee is, however, very interested in processes and not so much the people by which the material examined by the Commission ultimately found its way into the particular form that it took in the Warren Commission report. As I am sure you are aware, there has been considerable criticism of the Commission, sometimes not so much on the substance of what it said but on its manner of presentation and sometimes what it omitted. Consequently, the processes that are in the Commission document are a matter that the committee is very vitally concerned in so that if you would make an effort to reconstruct as best you can that process and its personalization and individuals, I can assure you that that letter's content would find its way into the committee's report.

A. If you have specific questions about the process, why don't you address them to me and I will see if I can answer them.

Q. Why don't we try some. Let me show you what has previously been marked as JFK exhibit No. 74. This is a memorandum of your own to Mr. Rankin dated August 8 commenting on what I take it is a relatively mature version of chapter 4 entitled "The Assassin." Let me ask you a couple of questions about that memorandum.

[EXHIBIT No. 74]

Date : August 8, 1964.

Memorandum to : Mr. J. Lee Rankin, General Counsel.

From : Howard P. Willens.

Subject : Chapter IV—Draft dated 7/21/64.

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

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

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

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

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

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

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

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

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

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

5. On page 4 I do not see the significance of the first full paragraph, with the exception of the first sentence. We know that Oswald lived in Dallas at the relevant time and I do not believe it is significant that Oswald did not receive mail from the box after he left Dallas for New Orleans on April 23.

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

7. In the third line from the bottom of page 8 the meaning of the word "lifted" is not clear to the lay reader. Similarly with the reference to the "powder" in

the second line on page 9. The last sentence of the first full paragraph on page 9 might be combined with the prior statement on page 8 about the metal of the rifle in a separate paragraph offered as explanation for the lack of other prints on the rifle, assuming recent use. If there are any statistics or other evidence on this point, I think they should be set forth and explained. This is a more controversial matter than I believe we have considered.

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

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

*First paragraph.*—Covering Marina's testimony on pictures including dates, places, number, etc.

*Second paragraph.*—Setting forth the Commission's conclusion that the pictures were in fact taken with Oswald's camera at Neely Street, and are not superimposed.

*Third paragraph.*—Dealing with the conclusion that the rifle in the picture is Lee Harvey Oswald's rifle. If this reorganization is not adopted at the very least there should be an introductory paragraph setting forth the conclusions reached by the Commission regarding these pictures.

10. With regard to the last paragraph on page 13 I would consider mentioning the name of the magazine. I also think some reference should be made to the fact that the Commission has examined these pictures and reached certain conclusions regarding the curvature of the stock problem and the scope situation. In short, I think it is necessary to expand this discussion.

11. I am concerned by the lack of introduction to the section beginning on page 13A and the fact that the conclusions drawn here seem to be somewhat elusive. If we are stating only that he was on the 6th floor 35 minutes before the shots were fired, that is one thing. If we are going to rely on Brennan in part, then we should state a conclusion at the beginning of this section which reflects our analysis of the eyewitness testimony. I realize that the "access" point has a colorful history going back several months, but I am not persuaded that it contributes very much.

12. It might be desirable prior to examining the scientific evidence to have a short section dealing with the site, setting forth the descriptive material now contained on page 14 and including other material in the chapter describing the cartons which were used to construct a barricade from the rest of the floor.

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

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

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

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

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

17. In the section on eyewitness identification, we should make some reference back to chapter 3 and Brennan's testimony there.

18. On page 21 the fact that another eyewitness identified Oswald in a way similar to Brennan does not seem to me to help support Brennan's identification.

I would eliminate this comparison here and perhaps make a reference to it later on when the Tippit shooting is discussed.

19. Throughout the discussion of Brennan's testimony we should reaffirm his testimony as to the source of the shots. On page 23 I think we go out of our way to qualify the Commission's reliance on Brennan's testimony. I see no reason why we should pick Brennan out as the subject for the second paragraph on page 23. He is a good witness despite his declination to identify Oswald positively in the police lineup. Why not place this paragraph at the end of the entire section on eyewitness testimony. The record on Brennan speaks for itself. The last sentence in this paragraph is obvious, since we have stated several times that our findings that Oswald is the assassin is based on many different categories of evidence.

20. It seems to me that the last paragraph on page 23B gives Fischer and Edwards more weight than Brennan. At least they are blessed with the "consistent with" characterization, which I think is overworked in his chapter.

21. I have substantial problems with the section beginning on page 24. I would consider placing the first subsection, dealing with the rifle's location in the Paine garage, in the first section of the chapter dealing with Oswald's ownership and conditional possession of the rifle. I do not think that this discussion here is necessary to the argument that he carried the rifle in on Friday. Also the testimony discussed here is more relevant here to the possession of the rifle than it is to the location of the rifle in the Paine garage. The first of these two points is the more important conclusion and it should be bolstered by all available evidence.

22. I do not follow the argument contained in the first full paragraph of page 24. We do not have to prove that Oswald never took the rifle out of the garage in order to make the point that the garage was its usual storage place. I would consider eliminating the paragraph entirely.

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

*First conclusion.*—The paper bag contained the assassination weapon.

*Second conclusion.*—Lee Harvey Oswald carried this bag to work.

- (a) He made the bag from TSB material;
- (b) He had the opportunity to make the bag;
- (c) He carried this bag on Friday;
- (d) He had handled the bag.

*Third conclusion.*—He lied about the curtain rod story and the paper bag.

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

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

25. On page 32 I question the relevance of the last sentence of the first full paragraph dealing with the location of the bag. I do not see how this is relevant to the conclusion that the bag contained the rifle. If this point is to be made, I think it should be made as part of the general description of the assassination scene as proposed in one of my earlier comments.

26. The third line on page 33, I do not think that the meaning of the word "matched" is clear.

27. I think that the way that the Frazier-Randle testimony is handled on pages 38-40 may well be the best possible way. It does occur to me, however, that under my proposed reorganization this testimony would be pertinent to the conclusion whether the bag contained the assassination weapon. Perhaps the organization should be changed so as to prove first that Oswald carried the paper bag to work, and then turn to the question whether the bag contained the assassination weapon. The Frazier-Randle testimony could then be set against the scientific evidence as well as the other evidence bearing on this issue.

28. The characterization of the killing of Tippit on page 42 as a desperate act of escape may be true, but I would like to discuss this further. Perhaps this point could be made in the overall introduction or conclusion of the chapter after all the other evidence is set forth.

29. On page 45 I would not begin the discussion of Tippit eyewitnesses with Helen Markam. On page 46 I think we should have at least a paragraph on Helen Markam's alleged description of Oswald as "short", stocky and bushy-haired.

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

31. The discussion at pages 60-64 gives me some difficulty. I do not see why we have to proceed witness by witness in making the points to be made here. I would suggest that the paragraphs might be along these lines.

- a. Lee Harvey Oswald entered the theater at such and such a time.
- b. Police officers were summoned to the scene and entered the building.
- c. Lee Harvey Oswald was apprehended and in the source of this may have attempted to kill the arresting officer.
- d. Excessive force was not used by the Police officials.

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

33. Regardless of where it is located, I think that the full paragraph of the section should state the basic conclusions regarding Oswald's movements during this period of time. For example, the Commission concludes that Oswald went from the 6th floor to the 2nd floor by the stairway, through the lunchroom and out the front door of the building before 12:34 when the building was not closed off. He then took a bus and a taxi, went to his apartment, and proceeded to the site of the Tippit killing.

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

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

36. On page 76, I think that we have to do something more with the Lovelady picture. It occurs to me that we should probably do a paragraph or section dealing with Oswald's known whereabouts at 12:30. In setting forth the limited amount of evidence as to his whereabouts at this time we could reject the allegation that the picture in question shows him standing in the doorway at the time of the assassination.

37. With regard to the treatment of the General Walker shooting, I think that we need a paragraph summarizing the investigation, or lack of it, conducted by the Dallas Police Department after the Walker shooting. We also should set forth briefly the fact that Walker initiated an investigation into the matter. Our conclusion that Oswald was probably responsible builds of course on the fact that it was an unsolved crime. We have to make some reference to the investigation made by Keaster and Roberts, whose statements regarding Duff should be made part of the record and have been collected by Liebeler.

38. I am of the mind now that there should be no other evidence section at the end of the chapter. This means that we have to find a place for each of the subsections. I think that the paraffin tests discussion should be set forth early in the Report, after the discussion of Oswald's ownership of the rifle. It could be set forth by the Commission in a frank statement that the Commission has no scientific evidence as opposed to eyewitness and circumstantial evidence that Oswald fired the rifle on November 22.

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

40. The Nixon attempt problem presents a more difficult problem. I would consider discussing this under the case heading as the General Walker shooting so as to cover all prior similar acts in one section. In the course of that section we could state our evidence supporting the conclusion that he fired at General Walker and why we believe he did not attempt to shoot Nixon. An alternative

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

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

For example, I note on page 2, paragraph 3, the memorandum employs words like "case," "argument," "weaken." Aren't these the words appropriate to a brief, a legal brief?

A. These are the words that come naturally to a lawyer reviewing a written product. We thought it was important to have a fair and comprehensive treatment of the evidence. We also thought it would be desirable to support the Commission's conclusions in as useful and as persuasive a way as possible.

Q. It has been suggested by some that the Commission's report was in fact not a fair and objective analysis of the evidence but rather a brief in behalf of the Government's position; to wit, the single assassin theory. I wonder if you would comment on this.

A. I do not agree with that criticism obviously. I think there are several examples in the report that could be allowed in a response to that criticism; for example, the decision of the Commission not to rely on the eyewitness testimony of Mr. Brennan.

Q. Let me explore that with you if I might. On page 3 of this memorandum, paragraph 11, that very issue is raised and it is also raised on page 4, paragraph 18, and page 5, paragraphs 19 and 20. How did the staff and the Commission arrive at a decision in reference to Mr. Brennan's testimony? Would you describe the processes that led you to handle Brennan in one way as opposed to another?

A. Well, the process is not really very, very mysterious. There were initial drafts of the report or assessment of the relevant evidence going back as early as February and March of 1964. As we turned from the investigative stage of the report to the writing stage of the report, the responsible attorneys would make an initial cut at presenting the relevant evidence, evaluating it and supporting their conclusions.

Q. In what sort of way?

A. In this particular case they were trying to use those standards that they thought would be the likely product of a contested trial. They were sensitive in this area in particular to the fact that there was no cross examination that could be used to challenge the eyewitness testimony of a person such as Mr. Brennan and there was a sensitivity to that concern supplemented by the fact that other evidence seemed more credible that led the staff attorneys and ultimately the Commission to conclude that some evidence should not be relied upon and other evidence should be emphasized.

Q. Do I understand you correctly to be saying that where information or evidence might have been subjected to sharp challenge in an adversary proceeding there was an inclination of the Commission staff not to rely on it but to rely instead on evidence that could not have been as sharply criticized or challenged?

A. That certainly was a general effort. I don't know how well it was achieved in the overall report but I do know that it was of particular

concern with respect to the evidence implicating Lee Harvey Oswald. This exhibit that I have in front of me, JFK exhibit No. 74, reflects a process by which the report ultimately emerged; it represents a detailed review by me of a proposed draft including the substantive and organizational changes that I thought would be useful.

I had the general responsibility of submitting my views with respect to any portion of the report and I think I generally took advantage of that opportunity and performed that responsibility. After such a memo would be prepared by me or by Professor Redlich, customarily the drafts would be either rewritten by the responsible attorneys or Mr. Redlich and I or in some instances Dr. Goldberg would take the responsibility for incorporating the revisions into another draft.

The drafts were generally commented upon by attorneys in other areas as well, particularly the most sensitive parts of the report, so that as the redrafting continued the use of a large number of staff members was taken into account. Mr. Rankin had the final responsibility for the drafts that went forward to the Commission and he looked primarily to Professor Redlich and myself to present to him a draft with which both of us were in agreement.

Q. The committee has available to it in its record now testimony indicating that there was some controversy over the general structure of the report, and now I am referring to what the staff here has called the long-run/short-run report. The short-run report was one that in relatively clear and black letter terms made an effort to resolve as sharply as possible most controversies presented to the Commission appropriately qualified but nevertheless resolved. The long-run version would have been a report that included within the language of the report and its footnotes a great deal more of the ambiguity of the evidence and a clearer and a franker recognition of the ambiguities in the testimony and the unresolved questions.

I grant that neither of these two characterizations would fully or adequately describe the document that was ultimately published. Nevertheless, they might well represent tendencies in a draft. The testimony in the record tends to indicate that the option taken by the Commission was the short-term. I don't use that in a pejorative sense. That is, to write as clear and forceful and determined a report as possible. The option of writing a report that contained more ambiguity and more unanswered questions was not adopted. I wonder if you would comment on that general description of the report and its tendencies.

A. Well, I don't accept those characterizations as having any relevance to this end product. When the report came out it was regarded as being a lengthier and more thoroughly documented report than most people had anticipated. There was a considerable desire within the staff at least to prepare a report that would deal substantially and usefully with all the important questions addressed in the investigation.

The numerous appendixes attached to this report and the decision to publish simultaneously the underlying evidence suggests to me a disposition quite contrary to the suggestion that this was a short run product designed to avoid controversy and overlook the ambiguities inherent in the investigation. The report I think reflects the limita-

tions of the Commission's efforts in important respects when it concludes as to the existence of a conspiracy and only that. There is no evidence regarding such a conspiracy and the significance of that conclusion has to be evaluated in light of the investigation that was conducted up to that point by the Commission in the various investigative agencies. I think as a qualified conclusion that was appropriately made and that left others free, like this committee, to explore facts that have developed in the intervening years to re-examine that conclusion and see whether it is still a legitimate conclusion or not.

I think the suggestion that the report should have reflected ambiguities and hold open more serious questions is both unrealistic and not very useful. We are, after all, dealing with a public report issuing over the signatures of seven extremely experienced and prominent public figures. We are well accustomed to the ambiguities of life and also the necessity of reaching conclusions notwithstanding the existence of such ambiguities. They and the staff tried to do so in an honest and complete way, and I am sure that we all anticipated that criticism of whatever kind would come over the years and should be expected.

**Q.** Let me direct your attention to page 4, paragraph 13, of JKF exhibit No. 74. There is a reference in the memorandum to the Ball-Belin approach. Do you recall what that was?

**A.** This characterization was not intended to be a critical one. My recollection is that the initial draft of this section of the report that was prepared by Mr. Ball and Mr. Belin devoted a considerable amount of space to tracing the chain of custody of particular items of evidence, for example, in the way that you would have to do if you were presenting the matter in court. That is completely understandable in light of the considerable litigation experience of both of them and particularly Mr. Ball.

My sense as someone who was trying to organize and present the material was that the lay reader of this report did not need that kind of detail in a report that already promised to be very long and ought to focus in on the issues of real controversy. I think it is that which I had in mind by the reference here to the Ball-Belin approach. That is more a difference in style than in substance and reflects my views as to what kind of a report ultimately should be produced.

**Q.** Nevertheless I take it from your previous answers that trial-type standards on custody and authentication were applied to the evidence that you ultimately relied upon.

**A.** I would not want to go so far as to say that. I mean there was concern about custody and authentication but even if there was some concern that does not necessarily mean that the body of this report should contain a detailed recital of the chain of custody of particular items of physical evidence if the writers of the report are comfortable with the conclusion that the evidence that they are relying upon was not tampered with during the relevant period.

**Q.** Let me make an effort to paraphrase you so I understand. You are saying that the Commission staff in evaluating evidence if it didn't apply trial-type standards on custody authentication at least only used that evidence that it was comfortable with and then in writing the report did not necessarily set forth the processes by which it came to



arrive at a judgment that they were comfortable with; for example, whether the rifle taken from the depository was indeed the rifle that Lee Harvey Oswald bought or whether the rifle first found in the depository is indeed the rifle ultimately examined by the ballistics people.

A. We certainly would not have relied on physical evidence where we had any reason to suspect that there had been some substitution so as to make the results of examining that evidence not reliable.

Q. The absence sometimes in the report of the detailed discussion of the reasoning process that led you to decide that a particular rifle was identical within a particular photograph that was authentic is not an indication that the Commission staff did not explore those questions prior to relying on the evidence.

A. That is correct, and I think that certainly is an option that that could have been considered in writing the report; that is, to provide a more detailed explanation of the reasoning process in general terms at least if not with respect to each specific piece of evidence relied upon.

Q. Although I might be moved to comment that if your one-volume report lacked a certain readership, then the two-volume report filled with the tedious record systems entitled "Only to Lawyers" might have been even less well read.

A. I suppose we would have addressed that kind of issue the way we did the more scientific questions that were considered in the appendixes but we did limit our discussion of the quality of our evidence only to a few very important items in the report of the kind that we previously mentioned.

Q. What is included in the report is important. What is not included in the report is sometimes important, too.

In that context let me show you what has been previously marked JFK exhibit No. 42. This deals with a question of a possible threat by Premier Castro to kill President Kennedy and whether or not that threat might have come to the attention of Lee Harvey Oswald. The memorandum addresses the issue of whether that should have been reflected in the final report. The official report at page 414 and the New York Times report at page 390 in general terms discussed this issue but at least to my reading do not explicitly adopt the suggestion that Mr. Liebelier had made to Mr. Rankin in his memorandum on the 16th.

Do you think that had the Commission known of the CIA plots that this kind of material might have found its way explicitly into the final report?

[EXHIBIT No. 42]

Date: September 16, 1964.

Memorandum to: Mr. Rankin.

From: Mr. Liebelier.

Reference: 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 9, 1963 concerning Fidel Castro to the effect that U.S. leaders would not be safe themselves if U.S. promoted attacks 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.

A. I can't say.

Q. Do you recall this particular controversy at all?

A. I remember seeing that memorandum. There were several such issues that were raised in the last week's effort to conclude the writing of the Commission report. People were working very hard. There was a keen sense of history involved in preparing the report. There was apprehension of all kinds with respect to our ability to complete a satisfactory report. There were numerous instances where differences of views came to light with respect to what should be contained in the report and how it should be stated.

Q. This is just one example.

A. This is just one example and reflects a very substantial contribution that Mr. Liebler made throughout the Commission's investigation to keep people's attention focused on the need for fairness and political balance and to be careful about matters of detail.

Q. Should any particular significance be attached to the omission in the final report of explicit reference to the Castro threat?

A. I don't think so but I do not really recall very clearly now what, if anything, is included in the Commission report regarding this particular hypothesis.

Q. You can, if you want to, examine this. I think on page 414 is the only reference at least that I have been able to find. You have in this a general section entitled "Entrance in Cuba" and you have a paragraph—I am reading now from page 319 of the New York Times version. I think you have page 414 of the official version.

A. I noticed on page 414 of the official version that there is a reference to a substantial difference in political views between Cuba and the United States, specifically the reference to a statement by Castro that Cuba could not accept a situation where at the same time the United States was trying to ease world tensions it also was increasing its efforts to tighten the noose around Cuba.

I note also a sentence from page 414 to this effect: "The general conflict of views between the United States and Cuba was, of course, re-

flected in other media to such an extent that there can be no doubt that Oswald was aware generally of the critical attitude that Castro expressed about President Kennedy."

On page 415 there is a sentence that reads as follows: "While some of Castro's more severe criticisms of President Kennedy might have led Oswald to believe that he would be well received in Cuba after he had assassinated the American President, it does not appear that he had any plans to go there."

It seems to me that those sentences demonstrate the resolution of the controversy raised by Mr. Liebel's memorandum. The resolution seems to have been a generalized reference to the kind of criticism that existed at the time and that might have well come to Oswald's attention but without the need to focus on particular embodiments of that Castro criticism where there was no evidence that Oswald did in fact see the specific newspaper item.

Q. That concludes my questions this morning, Mr. Willens. Let me say again I appreciate your time and effort to come over and share with us your thoughts, and I will look forward to reading your subsequent submission on the processes that led to and were involved in the writing of the report. I would like at this time to extend to you the opportunity to make any additional statement, that you want to for the record.

A. Thank you. It will be short.

I do want to summarize some of my views with respect to the work of the Warren Commission and the review of that work by this committee.

First, I have not and do not oppose the work of this committee. It is certainly most appropriate for an instrumentality of the Congress to evaluate the findings of the Warren Commission in light of the technical developments and the disclosures of the last nearly 14 years. In addition, anyone who serves the public in any capacity, especially on a project as visible and historical as the Warren Commission, must be prepared to have his or her work subjected to the closest public scrutiny.

All I or anyone associated with the Commission can ask is that the judgment this committee ultimately renders be reasoned and fair. By reasoned I mean a process of careful consideration of all the pertinent evidence and factors and the framing of documented and balanced conclusions in light of the relevant evidence and factors. By fair I mean the application of a mature and humane judgment that recognizes that errors are inevitable and that the establishment of priorities is necessary in any public endeavor. In particular I ask for some understanding of the incredible public pressures operating upon the Commission and staff to complete its work as the end of 1964 approached.

Second, I will not reiterate at any length my views regarding the ability or integrity of the members of the Commission and staff. Any such opinions of mine are obviously self-serving.

To the extent that the record of the Commission's work provides evidence of conflicting viewpoints among staff members, two points might be made.

First, the Commission had nothing to hide about the way it did its business. The difficulties are reflected in the records of the Commission for all subsequent interested parties to evaluate.

Second, such differences surely must be expected of a staff of reasonable, mature and highly independent professionals. Nothing would have warranted suspicion as much as a unanimity of views among the members of the Commission staff.

Third, I hope the committee will have the courage to conclude publicly that the Warren Commission was correct in its major findings, if that is indeed its conclusion. It will be an easy and attractive course to avoid such an assessment by finding deficiencies in the way in which the Warren Commission did its work and lamenting the passage of time that has made further investigation fruitless. The public deserves more than this. If the findings of the Warren Commission are not soundly based on the evidence, this committee should so state but if the opposite is true and the committee concludes that the Warren Commission was essentially right, then the public deserves to be told this as well.

Last, as you approach public hearings I hope you will give careful thought to the fairness of your presentation of the facts. If you have concluded that the Warren Commission was deficient in its operating procedures, I hope you will consider giving an opportunity to members of the Commission or staff to comment on your findings or to testify in your public hearings. I offer this suggestion not because of any vested interest in the findings of the Warren Commission but in an age where governmental institutions are so persuasively distrusted it seems only fair to make certain that all perspectives are evaluated before concluding that the Warren Commission or any other Government agency associated with the assassination investigation of President Kennedy did anything less than extend its best efforts to deal honestly with a most challenging public assignment.

Thank you for your courtesy.

Mr. BLAKEY. You're welcome.

[Whereupon, at 12:10 p.m., the deposition concluded.]

#### CERTIFICATE OF NOTARY PUBLIC

I, Annabelle Short, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in shorthand to the best of my ability and thereafter reduced to typewriting by me; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further that I am not a relative or employee of any attorney or counsel by the parties thereto nor financially or otherwise interested in the outcome of the action.

ANNABELLE SHORT,

*Notary Public in and for the District of Columbia.*

My Commission expires November 14, 1980.