

# INVESTIGATION OF THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

WEDNESDAY, SEPTEMBER 20, 1978

HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE ON ASSASSINATIONS,  
*Washington, D.C.*

The committee met at 9:18 a.m., pursuant to recess, in room 345, Cannon House Office Building, Hon. Louis Stokes (chairman of the committee) presiding.

Present: Representatives Stokes, Preyer, Dodd, Ford, Fithian, Edgar, Devine, McKinney, and Sawyer.

Staff present: G. Robert Blakey, chief counsel and staff director; I. Charles Mathews, special counsel; James E. McDonald, staff counsel; Robert W. Genzman, staff counsel; and Elizabeth L. Berning, chief clerk.

Chairman STOKES. A quorum being present, the committee will come to order.

The Chair recognizes Professor Blakey.

## NARRATION BY G. ROBERT BLAKEY, CHIEF COUNSEL

Mr. BLAKEY. Thank you, Mr. Chairman.

The murder of President Kennedy was probably the most significant crime committed in the 70-year history of the Federal Bureau of Investigation that the Bureau was called upon to investigate. It is, thankfully, the only Presidential assassination of modern times, and for that reason alone, the FBI was presented in its investigation with a monumental task, one complicated further by a rapid succession of events, including: The fatal shooting of the accused assassin at Dallas Police Headquarters on November 24, 1963; and the establishment of a Presidential commission to learn the facts about the assassination, for which the FBI had primary responsibility to do the investigative work.

At the moment word came of the President's death in Dallas, there was confusion in Washington over the FBI's role in the investigation. It was not at that time a Federal felony to assassinate a President, though to threaten harm to him or to conspire to injure any Federal officer, while he was discharging his official duties, did fall within the Bureau's jurisdiction.

Originally, the FBI's entry into the case was predicated on a statute covering an assault on a Federal officer, though there was considerable debate at FBI headquarters over the basis for the investigation. The problem became moot, however, when President Johnson ordered the FBI to enter the case in the interest of national security.

It would be instructive, given this early legal dilemma as well as the controversy that developed over the FBI's investigation, to trace the history of the Bureau from its inception in 1908.

Up until that time, Federal agencies and departments were responsible for their own investigations, and the Department of Justice was primarily a prosecutorial body, although it was given statutory authority to perform investigations in 1871.

In 1907, Attorney General Charles J. Bonaparte proposed an investigative force in the Department of Justice and went ahead with it despite the objections in Congress. His successor, George Wickersham, named the force the Bureau of Investigation.

By the end of World War I, the Bureau was firmly established as the main law enforcement arm of the Federal Government, its size increasing fivefold from 1916 to 1920. The two major influences on this growth were (1) the war itself, which confronted the Bureau with the task of enforcing President Wilson's alien enemy proclamations and with the problems of draft evasion and enemy espionage, and (2) the Mann Act, giving the Federal Government jurisdiction over certain interstate criminal activities, making a marked increase in the demands on the Bureau, as well as calling for additional appropriations.

After the war—in the period 1919 to 1924—two successive Attorneys General abused the power of the Bureau of Investigation.

A. Mitchell Palmer, in his campaign against Bolshevik radicals, acted with questionable legality. After the bombing of his home in June 1919, Palmer created the General Intelligence Division of the Bureau to deal with radicalism, and he named a young Justice Department attorney, J. Edgar Hoover, to head the division. The division used covert as well as overt means to gather information on suspected radicals.

In 1920, Attorney General Palmer also directed the wholesale deportation of members of the American Communist Party and the Communist Labor Party. This led to the controversial "Palmer raids," which, though they diminished the standing of American Communists, came to symbolize for many the abuse of police power for a political purpose.

Then came the Harding administration, which saw Harry Daugherty, the President's campaign manager, named Attorney General. Daugherty, in turn, appointed his friend, William S. Burns, of the detective agency, to run the Bureau. Burns was antiradical and antilabor, as well, and he continued the questionable practices of unlawful wiretapping and illegal surreptitious entry in investigative work.

Although the primary target continued to be Communists, the Bureau is credited during this period with having dealt a heavy blow to the Ku Klux Klan.

Harlan Fiske Stone, a New York attorney and civil libertarian, was appointed Attorney General by Calvin Coolidge in 1924. Stone was a reformer, and he named Hoover Director of the Bureau of Investigation with a clear mandate to clean it up. Hoover created a structure and a set of policies that would endure for nearly 50 years. He also established the independence of the Bureau within the Department of Justice.

The Bureau stayed out of the limelight until the 1930's when the emergence of a resourceful criminal underworld, feeding on public response to prohibition, became a national concern. The Bureau was recognized then as the single law enforcement agency in the country that could cope with crime of such interstate dimensions.

Public outrage over the kidnaping of Charles Lindbergh's infant son led to enactment of the so-called Lindbergh Law in 1933, adding kidnaping to the list of interstate crimes that came under the jurisdiction of the Bureau.

Then, in 1934, there was a major expansion of Federal criminal laws when Congress passed a package of nine new statutes. They dealt with such crimes as killing or assaulting a Federal law enforcement officer, fleeing across a State line to avoid apprehension or prosecution and extortion involving interstate commerce.

That same year, Bureau agents were granted authority to go beyond general investigative power and to serve warrants and subpoenas, to make seizures and arrests, and to carry arms.

The Bureau was renamed in 1935, becoming the Federal Bureau of Investigation, and by the end of the decade, it was able to point to an array of important accomplishments, for example: a Division of Identification with central fingerprint records; an FBI laboratory with up-to-date scientific law enforcement techniques; and a National Police Academy for training State and local law enforcement officers.

The Bureau then had no internal security or counterintelligence functions until they were established, beginning in 1936, by a series of Presidential orders coupled with a secret oral agreement between Hoover and President Roosevelt. The FBI was authorized to store intelligence information collected by Federal agencies.

In 1939, a written directive was issued providing that the FBI take charge of investigative work relating to "espionage, sabotage, and violations of neutrality regulations." Subversive activities were not specifically mentioned until 1950, in an Executive order by President Truman.

The FBI's primary responsibility during World War II was enforcement of laws dealing with espionage, sabotage, and conscription. It also conducted the apprehension of enemy aliens, but Hoover opposed the relocation of Japanese citizens as a violation of their civil rights.

The FBI also conducted foreign intelligence in South America, attempting to gather information on activities detrimental to U.S. interests.

After World War II the fear of communism was such that internal security activities against it was acceptable to most Americans. The FBI's actions were based on a series of statutes that covered membership in the Communist Party, including the Smith Act, the Internal Security Act of 1950, and the Communist Control Act of 1954.

J. Edgar Hoover himself defined as disloyal any acts that could pose a threat to the Government, and even after the anti-Communist fervor of the McCarthy era had subsided, the internal security operations of the FBI continued.

By 1960, Hoover had developed a force of agents who employed sophisticated investigative techniques and enjoyed unusual inde-

pendence. Hoover himself had become a formidable figure who deftly handled Presidents, Attorneys General, and Members of Congress, as he groomed his image as an extraordinary crime fighter. FBI appropriations would pass without serious opposition in Congress after only pro forma hearings.

J. Edgar Hoover's three distinct priorities in those years were the fight against communism, statistics that reflected FBI progress and the positive image of the Bureau. He also had, according to some, two glaring crime spots in the area of civil rights and organized crime that put him at odds with the Kennedy administration.

It has been documented that little priority was given by the FBI to requests by the Civil Rights Division of the Department of Justice. Not all would agree with his choice of words, but his point was widely shared. Historian Arthur M. Schlesinger, Jr., in his recent book, "Robert Kennedy and His Times," writes that Hoover had "the racist instincts of a white man who had grown up in Washington when it was still a southern city."

By 1964, under pressure from the Kennedy Justice Department, the FBI was beginning to alter its stance, but before then, Schlesinger noted that:

"For reasons of policy as well as prejudice, Hoover succeeded in withdrawing the FBI almost completely from civil rights investigations. Internally, he preserved it as a lily-white agency."

Hoover was also reluctant, according to some, to allow the Bureau to join Attorney General Robert F. Kennedy's all-out fight on organized crime. Indeed, as late as the early 1960's, Hoover himself had been quoted as saying that no national coalition of underworld figures dominated organized crime. On that, Schlesinger wrote:

Kennedy had determined to stop the drain of power in America to obscure forces beyond moral and legal accountability. In insisting on the spreading threat of organized crime, he offended J. Edgar Hoover doubly—by dismissing the cherished Red menace and by raising a question the Director had done his best for 40 years to ignore.

The FBI priority here too came under sharp challenge during the new administration. Turning to the investigation of the assassination itself, the Bureau's investigation was of a magnitude unsurpassed in the annals of American law enforcement. In all, 80 FBI personnel were on the scene in Dallas within a few hours of the fatal shots and by the time it was over, 2,300 reports consisting of over 25,000 pages based on 25,000 interviews had been filed, most within weeks of the assassination itself.

The quality of the investigation, however, has been the subject of mounting criticism over the years. At first, taking potshots at the Bureau was an exclusive avocation of critics of the Warren Commission. Eventually, however, doubts and misgivings were being expressed by committees of both Houses of Congress, by former high-ranking officials of the FBI itself, and by members and staff of the Warren Commission, which had relied on the Bureau for its fieldwork.

There are four principal issues that the select committee has considered in its assessment of the quality of the FBI investigation. Not necessarily in the order that they will be discussed in the hearing today, or their relative importance, they are as follows:

One, did the FBI's early conclusion that Oswald alone was the assassin, that he had assistance from no one, hamper the thoroughness of the investigation that followed?

In 1976, the Select Committee on Intelligence issued a report in which it noted that within 3 weeks of the assassination, just as the Warren Commission was beginning its investigation, the FBI prepared a position paper, "concluding that Oswald was the assassin and that he had acted alone." The Senate committee went on to note, "The Bureau issued its report on the basis of a narrow investigation of the assassination focused on Oswald, without conducting a broad investigation of the assassination which would have revealed any conspiracy, foreign or domestic."

Two, did senior FBI officials, wanting to close the case quickly, compromise the proficiency of Bureau field personnel?

Make no bones about it, this charge has been leveled at the late Director of the FBI, J. Edgar Hoover, and against a few of his close personal associates. Evidence of Mr. Hoover's position has been cited from a statement he is said to have made by telephone to President Johnson just hours after Oswald had been shot down by Jack Ruby:

"The thing I am most concerned about \* \* \* is having something issued so we can convince the public that Oswald is the real assassin." In a memorandum dated November 29, 1963, relating a conversation that day with President Johnson: "I advised the President that we hope to have the investigation wrapped up today, but probably won't have it before the first of the week."

Three, was the FBI investigation internally mismanaged?

Just such an allegation has been made by a former Assistant Director who supervised major aspects of the investigation. The criticism has also been directed at the organizational structure of the probe. It was divided between two FBI divisions.

The Central Investigative Division was assigned the task of assembling the facts of the assassination itself, because this is the division that is customarily put in charge of murder investigations. The actual work was supervised by an official who headed the bank robbery desk, because the manual of operations designates that desk to handle assaults on Federal officials.

The Domestic Intelligence Division was assigned the question of possible conspiracy, as well as other aspects of subversion. Domestic Intelligence was also given the job of piecing together the background puzzle of Lee Harvey Oswald, his activities, associates, motivations, and so on. A source of a lack of confidence in the FBI investigation that has developed since 1964 is the realization that 20 members of the Domestic Intelligence Division, including an assistant director, were secretly censured by Director Hoover for their mishandling of a preassassination investigation of the activities of Lee Harvey Oswald.

Four, was the FBI investigation conducted in such a way that the Bureau's specialists on Cuba and organized crime did not actively participate?

The FBI had, prior to the assassination, considered Jack Ruby sufficiently knowledgeable about "criminal elements in Dallas" to contact him as a potential informant on nine separate occasions, and questions have been raised about the failure to probe his

known connections with gangster elements in Chicago, Dallas, New Orleans, Havana and elsewhere.

In addition, the Bureau had specialists on Cuban and Cuban exile activities. They were not called on in the assassination investigation, even though both Oswald and Ruby had suspected ties to Cubans or Cuban exiles.

Mr. Chairman, a former official of the FBI is here today to testify about the investigation of the Kennedy assassination. He is James R. Malley, who joined the Bureau as a special agent in 1937. Mr. Malley was an inspector in the General Investigative Division and principal assistant to Director Alex Rosen. He played an important role in putting together the Bureau's four-volume report on the assassination given to the President in December 1963.

Subsequently, as the FBI liaison officer to the Warren Commission, Mr. Malley was in a position to closely observe the key role in the assassination investigation played by the FBI.

Mr. Malley retired from the FBI in 1971. It would be appropriate at this time to call him.

Chairman STOKES. The committee calls Mr. Malley.

Mr. MALLEY. Where do you want me to sit?

Chairman STOKES. At the witness table right in front of me.

#### TESTIMONY OF JAMES R. MALLEY

Chairman STOKES. Please stand and be sworn. Do you solemnly swear the testimony you will give before this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MALLEY. I do.

Chairman STOKES. Thank you. You may be seated.

The Chair recognizes counsel for the Committee, Mr. James McDonald.

Mr. McDONALD. Thank you, Mr. Chairman.

Would you please state your full name for the record?

Mr. MALLEY. My full name is James R. Malley.

Mr. McDONALD. And were you employed by the FBI, Mr. Malley?

Mr. MALLEY. From 1937 until 1971.

Mr. McDONALD. And in what capacity did you begin your service with the FBI?

Mr. MALLEY. As a special agent.

Mr. McDONALD. What was your position in November 1963?

Mr. MALLEY. I had been designated as inspector at the time and was working as an assistant or No. 1 man, you might say, to Assistant Director Alex Rosen, in charge of the General Investigative Division.

Mr. McDONALD. What did your duties entail?

Mr. MALLEY. My actual duties were very broad. I was supposed to try to keep track of everything going on in the General Investigative Division, handle routine matters I did not feel was necessary to send into the Assistant Director, also see all mail that was going to him and, in general, to double check on things that were going on in four different sections in the Bureau's General Investigative Division.