

plete than that of the FBI or the Warren Commission in 1963 and 1964. It is also fair to comment that had this sort of investigation taken place at that time when the evidence was fresh, it is possible, though hardly a sure thing, that a lot more information might have been forthcoming. But the committee must face this fact. The question of organized crime involvement is still and open one. Nothing that has been uncovered excludes it and much that is new points toward it. Yet frustration may be the result of this committee's efforts too.

To address the issues raised by this frank recognition of the possibility of ultimate frustration and comment on the investigation of the Warren Commission and this committee, as well as the future, the committee has invited the Hon. Burt W. Griffin to appear here today. Judge Griffin was an assistant counsel for the Warren Commission. As such, he shared responsibility for the investigation of Jack Ruby and the shooting of Lee Harvey Oswald. Judge Griffin received a B.A. cum laude from Amherst College in 1954 and an LL.B. degree from Yale in 1959. Judge Griffin has served as the Director of the Cleveland Office of Economic Opportunity, Legal Service Program, as well as the Director of the Legal Aid Society.

In January 3, 1975, he was appointed judge of the Court of Common Pleas of Cuyahoga County, Ohio. It would be appropriate at this time, Mr. Chairman, to call Judge Griffin.

Chairman STOKES. Judge, I ask you to stand, please, 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?

Judge GRIFFIN. I do.

Chairman STOKES. Thank you, you may be seated.

Judge Griffin, it is a real pleasure to welcome you here. Mr. Blakey, Judge Griffin happens to be not only a long-time close friend, but one of Cleveland's most distinguished jurists. We welcome you here this afternoon, Judge.

TESTIMONY OF JUDGE BURT W. GRIFFIN, FORMER ASSISTANT COUNSEL FOR THE WARREN COMMISSION AND JUDGE OF THE COURT OF COMMON PLEAS, CUYAHOGA COUNTY, OHIO

Judge GRIFFIN. Mr. Chairman, and my good friend, Louis Stokes. Let me say it is a pleasure for me to be here before your committee. I say it with only one reservation, and I think, Mr. McKinney, this may bring back some memories to you because the last time that I had an opportunity to appear before this committee in executive session, I was about an hour late because I found deficiencies in the Metro transportation system. Last night, your committee was very kind and offered to spare me that indignity and sent Mr. Mathews with Mr. Blakey's car to the airport to pick me up.

I regret to say that when we got out to Mr. Blakey's car, it didn't work. And I found myself behind the car trying to push Mr. Mathews to get it started. So I would suggest that if there are any other areas of investigation for this committee to undertake that there might be some in the field of transportation.

Mr. EDGAR. Would the gentleman yield at that point?

Chairman STOKES. The gentleman is recognized.

Mr. EDGAR. As a very strong advocate of public transit, I think the Metro system is getting better, and I would suggest if you are ever in that predicament again, you might try using it. I have been to the gentleman's city of Cleveland and you have a very fine public transit system. I hope we can have those fine systems throughout the Nation.

Judge GRIFFIN. I thank you, Mr. Edgar, for the advice, and I am sure that I will consider it seriously.

Let me say in seriousness, that the purpose of my remarks is to discuss with the committee the question of what is the proper process for investigating political murders that have national implications. That is what I would like to reflect upon in these minutes with the committee.

I propose to begin that inquiry with a brief discussion of what I perceive to have been the goals of the Warren Commission and the Warren Commission's successes and failures. And I would like to end with some suggestions for dealing with future political murders.

It is a sad thing to think about, but I think we cannot escape the honest judgment that we will have in this country, political murders in the future and we will, I am sorry to say, in all probability, have Presidents who are assassinated in the future. So that I think more important than attempting to reach a conclusion as to how President Kennedy happened to be killed and why and who all may have participated in that, as important as that inquiry is, the real questions are not for the past, but the real questions for this committee are for the future.

The Warren Commission was designed primarily to achieve four goals. First, to establish the true facts surrounding the assassination of President Kennedy and the murder of Lee Harvey Oswald. Second, to accomplish that mission in a manner that would satisfy the broadest segment of influential people and the American public in general. Third, to do it in a manner that would not unnecessarily disrupt the stability of the national government and its conduct of international affairs or jeopardize the national security. And, fourth, to conduct this inquiry in a manner that would avoid damaging the reputations or employment of individuals against whom there did not exist convincing evidence of criminal conduct.

Those goals were not in every respect stated by the Commission, but I believe that they indeed were the goals of the Commission, and I think that the first two goals, that is, of finding the truth and, second, of accomplishing that investigation in a manner that would be persuasive, were actually articulated in the official Commission documents.

The third goal, that is the one that related to the stability of the National Government and the problems of national security, was communicated by the President of the United States to Chief Justice Warren.

The fourth goal, that being a civil libertarian goal, although it may not have been articulated in any official documents, was, in fact, the philosophy of Chief Justice Warren, as I had the opportunity to witness his conduct of the Warren Commission.

In a rather brief manner, I would like to summarize the reasons for these goals, and I will be brief because I think that the reasons are obvious, but it is perhaps worth mentioning them.

President Kennedy's death was surrounded with suspicions of conspiratorial intrigue that could easily have fed efforts at domestic and international turmoil. If the suspicions were true, there would be a need for serious corrective action, but if the suspicions were unfounded and were not abated, the mere suspicions could provide strong weapons in the hands of individuals who desired to manipulate public opinion and power for unjustified ends.

The Warren Commission began its inquiry on the very heels of one of the most unfortunate eras in American political history. It was what we all look back upon now as the McCarthy era. And the conduct of investigations into matters of internal security during that period cast not only a blot upon the conduct of senatorial committees, but of congressional committees as well, and I think that we—many of us, if not a vast majority of us—look back upon that period with a great deal of embarrassment and sorrow.

There was another period which none of us is old enough to remember where the same kind of political ambitions based upon unfounded suspicions and fears brought the United States into war, and that is the period of the Spanish-American War, which has been well documented and the role that irresponsible newspaper people had to play in the creation of that war is well known to any student of history. So that the fears about the inability to find the truth and to document it in a persuasive manner were not inconsiderable or insubstantial ones, as far as the members of the Warren Commission were concerned.

And it was important that a reliable body be established to investigate and report honestly the facts that surrounded the murder of Lee Harvey Oswald and of President Kennedy in order to minimize the possibility of such disastrous consequences.

At the outset of the Warren Commission's activities, speed seemed to be an important element in the Commission's operations.

Initially, the White House informed the Commission that it should complete its work and make its report prior to the national political conventions that were scheduled for the summer of 1964. The emphasis on speed stemmed from the early perceptions of this problem that I have been alluding to—preventing the unnecessary disruption of public policy and political power.

At the outset, the timetable seemed reasonable, but as the scope of the investigation became apparent, such a deadline became obviously unrealistic. The goal of speed came into conflict with the goal of completeness, for many of the suspicions, which the obvious facts generated, could not be explored fully in the 5 months that were originally projected for the Warren Commission's investigation.

In retrospect, it seems to me that speed was not the political necessity that the White House originally envisioned. The Warren report was itself not issued until late September 1964, and I reflected as I came here today that I believe that today or tomorrow is the 14th anniversary of the issuance of that report. This was, of course, after both the Republican and Democratic national conventions had nominated their candidates for President. And the issue

of the assassination of President Kennedy never became an issue in that Presidential election campaign.

At no time prior to the report's issuance did any Member of Congress attempt to use the uncertainties of the assassination to oppose Johnson administration policies. So long as the Commission was operating, the White House, in fact, achieved its goal of preventing the uncertainties that surrounded the assassination from interfering with its own conduct of public policy. I believe that the initial emphasis on speed reflected the recollections which I have made of McCarthyism which were still vivid to President Johnson and members of the Commission when we began our work in early 1964.

I would like to turn at this point then to discuss the question of how the Commission came to terminate its investigation. Pressure for a quick report was not, in my experience, what induced the Commission to curtail its investigation of areas that are now a public concern and under investigation by this committee. The reasons for stopping the investigation by the Warren Commission were that to anyone with substantial criminal investigatory experience, and you must remember that Chief Justice Warren had been the prosecutor of Alameda County for 20 years before he became Governor of the State of California, to anyone with such investigative experience, the evidence seemed overwhelming that Oswald was the assassin and the conspiracy questions that remained were entirely speculative. They were based upon political or underworld acquaintanceships but devoid of any concrete evidence on any participation in a murder or in the planning of a murder.

As a practical matter, the Commission leadership decided not to pursue further the various speculative theories on conspiracy unless two things could be found. First, unless they could find substantial evidence that a specific suspected conspirator had had personal contact with Lee Oswald or Jack Ruby during the period when that person could have counseled or assisted Oswald or Ruby in the events of November 21-23, 1963.

And second, and the two would have to go together, unless there was some evidence that such suspected conspirator desired to kill President Kennedy or was involved in a common political activity with Lee Harvey Oswald.

Although the criteria that I have mentioned were not applied at the beginning of any line of inquiry so as to stop an exploration of at least a minimal sort at the beginning, they were applied after months of investigation in deciding to close out a particular line of inquiry. It was believed by the Commission's leadership that any further investigation not so founded would require an in-depth probing of the life of any possible conspirator. The mere act of continuing to investigate such individuals, would be a form of accusation that could severely injure innocent people. It seemed unwarranted to conduct such an in-depth investigation merely upon speculation that a conspiratorial link might exist. The cost and length of such investigation seemed immense.

The likelihood of success seemed remote and the possible infringement of civil liberties seemed serious.

Those two criteria, I might point out, also became the standards that the Commission ultimately used for concluding that "no evi-

dence," the famous and much maligned language of the Commission report, that no evidence of any conspiracy had been found. The committee, in my opinion, Mr. Stokes, must seriously consider in reaching its own conclusions whether or not it is proper to depart from the standard of proof that I suggest was followed by the Warren Commission and whether it is proper to apply those standards in making its own judgments as to how far to continue any investigation.

I would like then, with that background, to turn to what I believe to be the successes and failures of the Warren Commission.

The overriding short-term political objective of President Johnson in establishing the Warren Commission was achieved. That is, the determination of public policy was not substantially affected by the uncertainties of the assassination and no member of Congress or political opponent of President Johnson was able to mobilize public sentiment through manipulation of fears that grew out of these uncertainties.

Second, the factfinding goal of the Warren Commission was partially, if not substantially, achieved. The Commission developed an extensive body of information about the assassination and related events. That information not only formed the basis of the Commission's conclusion but has provided, up to this committee's commencement of its investigation, the most solid evidence upon which the Commission's critics have relied. Almost no probative evidence bearing upon the identity of participants in the murders has been uncovered by the legions of Warren Commission critics. No witness, unknown at the time of the original investigation, has come forward with information showing that any specific person assisted or encouraged either Oswald or Ruby in their murders. The most significant newly discovered information has been that evidence in the possession of governmental agencies was deliberately withheld from the Warren Commission. If that evidence had been provided to the Commission, I personally have no doubt that our investigation, that is the investigation of the Warren Commission, would have been extended substantially.

And I would like to point out a major success which Warren Commission critics tend largely to ignore. That is, that the civil liberties of Americans were conscientiously protected by the Commission and the Commission did not become an official witch hunt that destroyed the reputations and lives innocent citizens. That success resulted both from the manner in which the Commission conducted its inquiry and from the standards that it applied in deciding to terminate the inquiry. This is a success, Mr. Chairman, which I believe the select committee should recognize and would do well to applaud, lest that accomplishment be forgot.

However, it must be recognized that a decision to terminate governmental investigation also unleashed a private witch hunt, and the committee must evaluate that byproduct.

Let me turn next to what I believe were the failures of the Warren Commission. It is clear that the Warren Commission failed to prevent the assassination from becoming a long-term political issue.

I distinguish here between an issue that remains of public curiosity, such as one might say would be an issue concerning the assass-

sination of President Lincoln at this stage, and between that kind of issue and an issue that actually affects in a substantial way the time, money, and decisions of public policy and public officials.

A second failure, and a glaring failure, was its inability, the Commission's inability, to gain full cooperation from the investigative agencies.

The committee, I know, has carefully examined the areas in which the CIA, the FBI, and the Dallas Police Department failed to provide candid and, I might say, loyal assistance to the Warren Commission, and I will not attempt to go into those.

The third failure of the Commission relates to this problem of cooperation with investigative agencies. It is the use by the Commission of liaison personnel from other agencies.

In retrospect, Mr. Chairman, I believe that the Commission needed its own staff presence on the premises of the FBI, CIA, and the Dallas Police Department, with unrestricted access to their files, and with freedom to speak privately and without approval to any employee of each agency.

Instead, the FBI and the CIA established their own liaison personnel at the Commission offices. All contacts with the FBI and CIA personnel were cleared, first through agency channels of those agencies, and the agent's reports were reviewed by their supervisors before being forwarded to the Commission.

There was, I think, at least a middle ground that the Commission might have adopted in hindsight. The investigative staffs of those agencies might have been assigned to the Commission and controlled by the Commission and the Commission then might have made the decision as to how it would keep the agencies advised of the Commission's progress, as it, the Commission deemed appropriate.

I think there was also a failure by the Warren Commission of investigative tactics. The style of the Commission's own staff was in retrospect not fully one of criminal investigators. The rules that governed the staff discouraged off the record conversations with witnesses and emphasized almost exclusively transcribed depositions. Transcribed depositions did not lend themselves to candor, if the deponent feared that this candor could injure him.

The Commission itself failed to utilize the instruments of immunity from prosecution or prosecution for perjury with respect to witnesses whose veracity it doubted.

In each case, the failure to have any of its own staff stationed within the agencies, the system of agency-Commission communications, the failure to employ its own staff investigators, and the restraints on Commission interviewing techniques, and the reluctance to use immunity grants and perjury prosecutions, the Commission chose an investigatory course that would cause the least damage to individual citizens and to existing public agencies. I believe that is the reason that the Commission chose that approach.

There was a belief among the Commission leadership that the investigatory approaches which were rejected were likely to produce more resistance than truth from public agencies and that the possibility of success by those rejected methods was outweighed by

the possible unjustified injury to individual citizens and existing governmental operations.

You must remember, Mr. Chairman, that in those days we trusted the various agencies of Government with whom we dealt, much more than we trust them now.

At no time, however, despite these investigatory techniques did those limitations ever prevent a Commission staff member from making an inquiry that he believed was relevant. The consequence, nonetheless, was the Commission was powerless to combat deliberate deceit by an investigative agency.

A fifth difficulty or failure, as I look back upon the Warren Commission, evolved from the difficulties of conducting a conspiracy investigation through a special commission. The investigatory techniques that the Commission utilized were in fact the standard investigatory techniques of the Federal Bureau of Investigation at that time and were reasonably suited to an investigation which depended on testimony from independent witnesses who generally desired to tell the truth.

The primary investigatory approach utilized by the FBI in connection with the murders of President Kennedy and Lee Harvey Oswald was directly and immediately to confront a witness or a suspect with questions. This approach, of course, was important to preserving the memory of an honest witness, but for a possible co-conspirator it largely served to keep any possible conspirators fully appraised of the ongoing investigations.

To my knowledge, in that period, the FBI never established a list of possible conspirators with either Jack Ruby or Lee Oswald, and if it had such a list, it never placed them under surreptitious investigation, or if it did so, the existence and nature of such investigations was certainly never revealed to me, and I had responsibility for investigating Jack Ruby.

Nor was there any indication that the FBI in that period used its own agents in an undercover capacity under any circumstances, or pursued the practice in that period of our history of infiltrating suspect groups, except through paid informants.

Indeed, it was my experience as an Assistant U.S. attorney in the years of 1960, 1961, and 1962, that J. Edgar Hoover strongly opposed using his own employees in an undercover capacity. By contrast, during that same period of time, the U.S. Secret Service did have its own employees trained to investigate counterfeiting by undercover means. I think a comparison of the two agencies during that period of time would reveal that the Secret Service had been much more successful in investigating counterfeiting conspiracies than the FBI had been against organized crime.

The FBI fully used its standard investigatory techniques for approximately 2 months before any member of the Warren Commission was able to initiate his own investigation. That 2-months delay substantially undermined the ability of the Commission to investigate a conspiracy.

First, obviously all tracks were cold and any conspirator had 2 months to flee or hide.

Second, all possible suspects and conspirators had ample time to learn what direction the Government's investigation was taking.

Third, after 2 months the investigatory agents of the FBI were frankly impatient, since they were convinced that they had done a thorough job and that a staff of Commission amateurs could do no better.

Looking backward, under those circumstances, the only way to investigate successfully a possible conspiracy was either to gain the complete cooperation of the original investigators, in a total reexamination of their work, or to employ a new staff of investigators. Even then the timelag would pose serious problems. But once a truly collaborative investigative team was created, it would have been necessary to develop systematically a set of possible conspiracy theories and conspiracy suspects.

The development of sound theories and reasonable suspects required a Commission staff that was knowledgeable about the primary suspect groups, pro- and anti-Castro groups in the United States and Mexico, Cuban counterintelligence and espionage, Soviet counterintelligence and espionage, the possible involvement of organized crime figures with such foreign groups, and the linkages of all those groups to the FBI, CIA, and the Dallas police force.

The Commission itself employed only two persons with any substantial background in any of those areas, and that was only in the area of organized crime.

We did have two individuals who had been members of organized crime staff in the U.S. Department of Justice.

With respect to any conspiracy related to Cuban or Soviet groups, the Commission had no staff members with past expertise and relied entirely on the CIA and FBI for assistance. That lack of in-house expertise, in my view, precluded developing sensible working hypotheses about conspiracies which could be investigated in an economical manner.

If such a staff could have developed workable hypotheses for conspiracies and for specific suspects, a special investigative approach would also have had to have been developed. The approach probably would have had to rely heavily upon clandestine surveillance and infiltration of suspected groups and individuals.

An investigation that involved infiltration and clandestine surveillance could not have been tied to a political timetable and would have taken years, not months to complete.

Certain basic records, such as a telephone call records, hotel registrations, transportation manifests, immigration records, photographs of the murder scene, and audio recordings would have had to have been comprehensively acquired for possible future use and analysis whether or not they had any immediate evidentiary value. This approach would have required a different staff and a different relationship to the President and to the Attorney General.

The staff would have needed a variety of skills besides legal, including knowledge of individuals probably associated with the primary suspect groups.

Time commitments would have been for years rather than for months. To avoid being threatened by existing agencies, the Commission staff would have required close and direct support from the President and from the Attorney General so that impediments

from reluctant investigative agencies could have been resolved with the full support of the President and the Attorney General.

A sixth failure or difficulty that I would like to address arises from the prosecution of Jack Ruby. Any investigation of Jack Ruby by the Warren Commission posed an immediate conflict with both the Dallas County prosecutor and the defense in the trial of Jack Ruby. The most serious conflicts were with the right of the State of Texas to prosecute Ruby to the fullest and with the right of Ruby to a fair trial by a Dallas jury unaffected by the actions of the Warren Commission.

The interests of Ruby in a fair trial precluded the Commission from taking any testimony from witnesses associated with that trial until the trial was over. It also dictated that the Commission itself not draw conclusions on Ruby's motives and not publicly implicate him in a conspiracy to assassinate the President, if he were in fact so implicated, until all legal avenues were exhausted in his trial for the murder of Lee Oswald.

The most important long-range considerations that grows out of the Ruby dilemma was whether or not to seek to obtain immunity for Ruby in his testimony concerning the assassination of President Kennedy once he was convicted of murdering Oswald, in exchange for testimony concerning the assassination.

The Commission did not have the power to grant this immunity, since the prosecution for the murder of President Kennedy was controlled by the State of Texas.

The Commission, moreover, chose not to exercise even its influence to gain such immunity. Nonetheless, there came a time after the Commission was disbanded and after Ruby's judicial appeals for the murder of Oswald were exhausted, when that issue, the question of immunity, could have been reconsidered, but at that point no public official or public agency existed which had an official interest or responsibility to review the question.

Mr. Chairman, I might interrupt my formal remarks at this point, because as I am sitting here speaking I am also looking at my watch, and I understand that you have a plane to catch, and if I were you sitting there, I would be very itchy and wonder how long this friend of yours was going to go on, and if you would like me to stop at this point so that you can intervene, I would be happy to do that.

Chairman STOKES. Judge, I would really like to get the benefit of your full statement, because I would like to put a couple of questions to you and then, of course, with your permission, I would at that time make my concluding remarks.

Judge GRIFFIN. All right.

Chairman STOKES. Thank you.

Judge GRIFFIN. Mr. Chairman, the next problem I would like to raise for the committee's consideration, which I regard as a failure of the Warren Commission, grows out of the problems of publication of the findings of the Warren Commission. I believe that the most serious failures of the Commission were not in the effectiveness with which it investigated the facts surrounding the murders of President Kennedy and Lee Harvey Oswald. I believe even if more aggressive and independent means were utilized for such an investigation, that no different conclusions would have been

reached as to the participants in the crime or as to whether or not there was a conspiracy.

The problems of proof of a conspiracy are probably too great or else the suspicions with which this committee is dealing are in fact not well-founded. The select committee, I would suggest in those regards, should consider the possible reality that under the American system of civil liberties and the requirement of proof beyond a reasonable doubt, that it is virtually impossible to prosecute or uncover a well-conceived and well-executed conspiracy.

The FBI, and I beg to differ with the optimistic projections of Mr. Salerno, certainly up until 1963, and I don't see that much improvement since then, has almost totally failed in its efforts directly to prosecute the organized commission of crime. The few successful prosecutions of effective criminal conspiracies that have occurred in America almost always result from the accidental discovery—accidental discovery of a crucial incriminating fact, such as was the case in the Abel spy case, where a young boy found a radio transmitter, as I recall, in a trash can in New York, and that is how the Federal Bureau of Investigation came upon Mr. Abel.

Or a second and much more common method of solving and prosecuting criminal conspirators, of course, stems from the willingness of a convicted conspirator to testify against his confederates. It is much better if you have the convicted conspirator facing the death penalty than if you have him facing the penalty of perjury.

There was I think, though a reasonable possibility that the American public could have better understood and accepted the integrity of the Commission's work. The select committee may well find deficiencies in the Commission's investigative technique but I would urge the committee to consider seriously if the Commission staff was honest and industrious in its efforts, and if substantial possibilities really existed that any different relevant facts could have been uncovered at that period, especially given the problems of cooperation with the CIA, and perhaps also with the FBI, and especially even with that cooperation but without an individual who was willing to confess. I really doubt that those questions can sincerely be resolved against the Warren Commission.

The Warren Commission report, I submit, was a communications failure that need not have occurred. The report was prepared by persons, unfortunately like myself, who distrusted and did not know how to use any form of communications except the written word. The visual media, television, and videotape, were barred from courtrooms, which is lawyers forum, and had brought disrepute to congressional investigative committees. I might commend this committee at this point for setting an example for this country and in Congress as to how an extensive investigation can be conducted in the full presence of all of the modern media that we now have.

It is true, as we all know today, that the only effective way to communicate with the American people, and all of us who are elected public officials—I like to point out that Bob Blakey always introduces me improperly as an appointed official, and I think the Congressmen recognize the difference.

Any elected public official and others realize the importance of the mass media in communicating to the American people.

All the Warren Commission's essential testimony should have been preserved on videotape. The report itself should have been packaged, both for video presentation to small audiences, and for longer video study by amateur analysts and scholars. Incorporated into the presentation should have been an opportunity for questioning by critics and a video presentation of the evidence that related to the questions that were being posed by those critics.

The eighth failure that I would like to identify for the committee is the failure to have a mechanism after the Warren Commission closed its operation for evaluating new evidence. I think the Warren Commission was shortsighted in writing its report and closing the door on further investigation. This led to claims that new evidence was being ignored or that the significance of old evidence had been overlooked. The public concern about the assassination of any President and of President Kennedy in this case will not end in the lifetime of anyone in this room.

The dedication of a democratic society to an honest search for the truth required an ongoing vehicle for unbiased public inquiry. Such problems might have been minimized if the Attorney General had established within the Justice Department an office which would have continued to receive evidence and analyses from anyone who desired to submit them.

A probable consequence would have been that further private and public investigations would have been funneled into that office rather than into the channels which they had predominately been funneled toward. Instead, the public continued to be bombarded with spurious claims that significant leads or new evidence had been developed, when, in fact, the evidence was not new or the leads were not fruitful.

Congress, as we all know, ultimately became the only national forum in which continuing questions could be reexamined.

The last failure that I wish to identify was the failure of the Warren Commission to have an adequate historical perspective on its task. The Warren Commission partially recognized that its activities did have a long time historical purpose and ultimately one member of the Warren Commission staff was an historian and it was the policy of the Commission to preserve all of its documents for delivery to the archives. I am always interested in those who accuse me of being part of a coverup when they ask me to explain how there can be one document that I prepared that is in the Archives which says one thing and another document that says something slightly different, and I am always amazed that they do not see the existence of both of those documents as a frank evidence of our desire to be candid about how we changed our minds and how things moved along and even the political considerations that affected some of our work.

We are, those of us who are former staff members of the Warren Commission, available to be dissected publicly because we made those documents available in as total a fashion as they existed, to my knowledge, and we will be examined, I am sure, as this committee will be in the future because of that attempt to be candid.

But the fundamental investigation itself, I think, lacked a proper historical perspective. I think that could have been dealt with, in part, by an investigatory approach which did collect basic raw data, such as I identified a few minutes ago—extensive telephone records, tapes, other things of that sort. Those materials would have served as original data against which new witnesses, new leads and accusations of investigative agency memos could later be evaluated.

A second historical perspective would have been to attempt more carefully to anticipate the conspiracy theories of the future critics and to build its investigation in terms of suspect lists and theories.

Mr. Chairman, then let me come to the recommendations that I would like to make for the Commission.

I would like to start by offering one basic conclusion for this committee's consideration. And that is that political murder, whether it be of an elected or a private person, requires an investigatory treatment different from that of ordinary crime. The political implications of such a murder do not vanish with the criminal prosecution, and over a period of time, new political implications may arise from the manner in which the original criminal investigation and prosecution were handled, even if no new evidence is generated that is persuasive enough to change the conclusions of the original criminal investigation.

If a hint of conspiracy exists and possible conspirators are not identified and prosecuted, the case will be retried and reexamined in the public medium.

Ultimately, political pressures or new facts may force all or part of the original investigation to be renewed again by a congressional committee, such as yours, or by another commission, such as the Rockefeller Commission. Any governmental investigation into a political murder must, therefore, address both the short-range purposes of its investigation as well as the long-range needs and pressures.

Political murders, I might point out, can include the President of the United States, a Governor, as with Huey Long, a Senator, as with Robert Kennedy, a Congressman, or even a mayor or a local official, a civil rights or other leader, a newspaper reporter, as apparently has happened recently in Arizona. Because such a murder threatened the stability of our Government and the political freedoms of all Americans, it does require a special treatment.

The murder of a President, moreover, is a crime that requires even more extensive and perhaps even a different investigation than any other political murder. Surely, the reverberations of the murder of the President are louder and longer and the implications reach into questions of foreign policy which may not be touched by any other kind of political murder.

Against those basic reflections, I would like to submit the following recommendations to the committee for its actions.

First of all, and looking at the narrowest question that I wish to address, is simply what do we do about the assassination of President Kennedy and the ongoing problem of its investigation?

I think in the narrowest sense, the select committee should recommend that the John F. Kennedy Library or some other appropriate institution be established as a repository for all materials

dealing with the assassination of President Kennedy and the murder of Lee Harvey Oswald, including the political aftermath, which I believe is an important consideration, the public reexamination of how the Warren Commission operated and the relationship of all other investigatory agencies to that Commission.

All materials that relate to those events should be declassified except those whose publication is inconsistent with human decency. The repository should be federally funded so that it may collect all relevant public and private materials and can become a center for serious scholarly inquiry into the issues that have evolved from those murders and which have brought so many people in practically full-time attendance to these committee hearings.

The second recommendation which I wish to make concerns communicating the select committee's conclusions and I suspect I don't need to make this recommendation.

The select committee should seriously consider how it can use visual as well as written means to communicate its own investigatory processes and its own findings, even beyond the conclusion of these hearings. The media form should not be designed, as I say, simply for immediate observation by the general public but should be available for repeat presentations to future audiences. You may not like my suggestion in this regard, but I submit to you that you will soon become the target that replaces the Warren Commission as the object of attack for the various critics of the investigation into President Kennedy's assassination.

Third, what do we do about possible future evidence that may bear upon the murders of President Kennedy and Lee Harvey Oswald? I suggest to the committee that if criminal prosecution remains possible for either of these murders under any applicable statutes of limitations, the select committee should recommend that the Attorney General of the United States establish a procedure and designate an Assistant Attorney General who will be responsible for the continued evaluation of evidence which may establish a basis for prosecution and for pursuing any leads. While this will undoubtedly have some consequences of encouraging spurious conspiracy claims, it will, in my opinion, have the more beneficial result of affirming the U.S. Government's continuing desire to ascertain the truth.

I might broaden that suggestion in a further regard and say that it may well be as a result of the mandate of this committee to investigate both the assassination of Martin Luther King and President Kennedy that an appropriate recommendation would be that an office be established within the Justice Department which would specialize in what I am identifying as political murder and out of that established committee, it seems to me there should not only be responsibility for investigating the loose ends which will exist because under the pressure of time also this committee will not complete its investigation for reasons that are political, but that there needs to be a capability to move quickly in the event of future assassinations. There needs to be a plan ready to be implemented which a successor Vice President can adopt with some sense that there has been reflection upon it and there needs to be an ability to draw upon techniques and staff without having to reinvent the wheel.

I would like to suggest some criteria that should be utilized in deciding how to structure a future investigation of a political murder. I think that it is important to identify the essential goals of any such investigation, and I would like to enumerate them, as I see them, for the benefit of this committee. The goals of any investigation into the assassination of the President of the United States should be, first of all, to ascertain the truth; second of all, to preserve the integrity of the governmental agencies or decision-makers against disruption by groups or individuals who would use uncertainties surrounding the political murders in order to achieve results that are not justified by the weight of evidence; third, to protect the civil liberties of individuals and groups who may become the objects of popular suspicion but against whom no violations of law can be proved in a judicial proceeding; fourth, to communicate accurately, honestly, and effectively to the American public the results of any investigation and the reasons for reaching those results; fifth, to maintain responsibility for a continuing investigation in the hands of trusted, unbiased and competent persons who have public accountability rather than leaving the field to be occupied solely by private vigilante groups.

Next, to collect, preserve, and make available for historical purposes all records related to the investigation of a political murder; furthermore, to establish the investigative agencies' independence from all existing branches of Government when the necessity requires; next, to obtain the widest possible political and public understanding of any investigation, and, last, to protect the national security.

In that final regard, I would like to suggest that an appropriate and essential responsibility of this committee is to candidly assess the factors that related to the CIA's withholding of information that it had attempted to assassinate Fidel Castro. And I would like to suggest that this committee must recommend how in the future any information should be handled which is relevant to domestic assassinations but whose disclosure might threaten the national security or interfere with the conduct of foreign affairs by the President.

I offer no insights as to how one does that. I merely pose it to the committee as an important task which I believe it faces.

Mr. Chairman, you have been very patient and I appreciate the opportunity to speak to you.

Chairman STOKES. Thank you, very much, Judge Griffin.

Our patience is due to the fact we know that you have taken a great deal of time to come here and give this committee the benefit of the kind of thinking that has gone into testimony that you have given here today. I think your testimony has been outstanding in the sense that you made the kind of evaluation that you have made of the work of the Warren Commission, the work of this committee and the kind of proposals that you have made to this committee.

Let me pose this question to you. During the course of the existence of this committee, from time to time we have heard people say, well, what have you come up with in terms of asking for a smoking gun to come out of our investigation.

At one time, one of the Members of Congress even said to us on an occasion, well, when you finish, will your work have changed the course of history? Then I recall on another occasion we were asked about our work. Judge Preyer here made a comment early on in our investigation, he said that we don't know where our investigation will come out. It may well be that we will come out at the same place the Warren Commission did for different reasons. And then, of course, there are those who say, well, why are you spending all this money to come up with the same thing the Warren Commission came up with? And as one who was a member of the Warren Commission and one who is a highly respected citizen and judge that you are, why don't you just comment on that area, in terms of whatever salutary effect you find from this investigation.

Judge GRIFFIN. Mr. Stokes, you and I have known each other too long, I think, for you to think I am simply buttering you up. What I have to say is going to sound that way to everyone else.

I think this committee, by its conduct, regardless of what its conclusions are, has demonstrated that it is possible to reexamine or even to examine for the first time in a public forum matters which can have frightening consequences to the American people. I think that the conduct of this committee, as I have been able to perceive it from the provinces, from the newspapers that I read and the television that I have seen, has demonstrated that the fears that the Warren Commission expressed that it would not be possible to publicly examine those questions, and we were the products of a period where I think it had been demonstrated that things of that nature might not be able to be publicly examined because irresponsible people who would conduct the investigation, but I think your committee has done a tremendous service by showing that this House of Representatives and public officials can handle a sensitive matter like this in a highly responsible fashion.

I think that in light of the tremendous distrust that this country has come to have, not only about the events that surrounded the assassination of President Kennedy and Martin Luther King, but about the integrity of our Government in general, the mere fact that there has been an inquiry, that it has been conducted by a staff which has been determined to prove that the conspiracy theorists were right, that the Warren Commission was wrong, I think reaffirms our faith in our Government's honesty and the ability of us to have an open society.

And I think you have also done a service to thousands of Americans who have been deeply troubled by the investigations that have previously been conducted, who have honestly, and often I disagree with them, but I believe have honestly in the vast number of instances, attempted on their own to examine the failures of the Warren Commission. The existence of these people, many of whom I believe are sitting behind me and have been behind other witnesses for days, is strong evidence of how serious this concern has been throughout the United States.

We have educated men and women, intelligent men and women, who did not believe in the conclusions or the integrity of the investigation and who arrived at those conclusions, not in a frivolous fashion, but by incredible expenditures of effort and digestion

of materials, and I think the Government owed this investigation, reinvestigation to those people who cared so strongly.

Chairman STOKES. Thank you very much, Judge.

Several of the members have indicated that they wanted the time to be able to extensively examine you regarding policy matters and matters that relate to performance of the agencies, and due to this other commitment that I have, which was made some time ago in anticipation of the fact we were going to conclude today about 4 o'clock, I would beg leave of you at this time to make some concluding observations which I have promised those who have been following these hearings that I would attempt to do on the concluding day. With your permission, I will do that now.

Judge GRIFFIN. I yield 3 minutes to the chairman.

Chairman STOKES. Thank you very much, Judge.

This afternoon, the Select Committee on Assassinations ends this series of public hearings into fact and circumstances, the death of President John F. Kennedy. The committee, in November, will continue its public hearings into the assassination of Dr. Martin Luther King, Jr., and policy hearings on the death of both President Kennedy and Dr. King may be held in December.

There is a possibility, too, that the investigation of the Kennedy assassination will require 1 or more additional days of evidentiary hearings, though no decision has been made as yet on that point.

As we have announced, the committee will meet in public in December to reach its conclusion in the two investigations. At this time, I would like to make some general observations attempting to sum up this phase of the public work that ends today.

As I indicated when the committee convened on September 6, 1978, it had identified four main issues to investigate in order to fulfill its legislative mandate which is found in House Resolution 222. First, who assassinated President Kennedy? Second, how well did the agencies perform? Third, did the assassin or assassins have help; that is, was there a conspiracy? Fourth, what recommendations shall the committee make for the future?

During the past 3 weeks, the committee's hearings have moved through several general phases, although the evidence it has considered in each phase, obviously bears on the resolution of all of the issues.

First, evidence was received on the facts and circumstances surrounding the President's death and the connection, if any, between those facts and circumstances and the alleged assassin, Lee Harvey Oswald.

Second, an effort was made to evaluate the performance of the various Federal agencies—the Secret Service, the FBI, the CIA, and the Warren Commission.

Third, the committee examined certain conspiracy theories, some not so serious, some that cannot be rejected out of hand.

Throughout, the committee has strived to consider the recommendations it will make for the future. As I noted on September 25, 1978, in presenting its evidence, neither the committee nor its staff has tried to prove or disprove any particular theory. The staff has presented the evidence and the committee has made an effort to evaluate it. The purpose of these hearings has been to consider the evidence available on a particular point. That evidence may

prove or disprove this or that theory or be insufficient to make a judgment either way.

Nevertheless, because these hearings are legislative in character and not a judicial trial, the committee has had a duty to make what it has learned public, even if the evidence falls short of what everyone might wish to know on any one question. It may be helpful to repeat what has been said here about the quality and quantity of evidence available to the committee.

As it has moved through each of the phases of its deliberations, in general, during the first phase of our hearings, the committee had available to it the hard stuff of science, quality and quantity of which was unusually high. As the committee turned to assessing the performance of the agencies, less scientific evidence was available, and it was necessary to rely more on documents and human memories; chiefly, those of public officials.

Then as the committee's attention turned to the question of conspiracy, the hard evidence of science and documents became even more rare. It was necessary to consider in its place oral testimony and recorded conversations. And those who have followed our hearings must recognize the difference in quality and quantity of three types of evidence.

Human testimony is sharply qualified by human perception and memory, to say nothing of bias, motive to lie, or fear of retaliation. It is, therefore, less reliable than scientific analysis or documents written, not for litigation, but as an accurate record of actual events.

In this context particularly, we must, as I have said, always distinguish between a suspected and a fact found.

Another point must be repeated for emphasis. These proceedings have not been a criminal trial. There was no indictment, there was no defendant, there was no prosecutor, there was no defense counsel. The normal rules of evidence found in criminal proceedings have not, therefore, been applicable here.

Because none of these elements played a role in our work, a caveat has been imposed on the committee, as evidence has been introduced before it, and should be imposed upon those who follow our proceedings: the caveat it is not to take the evidence that we have considered beyond what it fairly establishes or to sensationalize it. This caution is especially apt on the conspiracy question. When evidence of association has been considered, as I noted at the beginning of this week, conspiracy is founded on association, but more than association is required to establish conspiracy.

Reasoning that guilt goes hand in hand with association, the principal of guilt by association is to be abhorred in a free society. Those who have followed our hearings or read our record must evaluate the evidence as the committee, indeed, itself must evaluate. There is an obligation to reserve judgment until all the evidence is in and not to reach conclusions beyond what the evidence fully justifies.

I must also caution you that even though our public hearings have concluded in the Kennedy case, all of the evidence is not yet in. Obviously, it has not been possible for us to consider here every question of concern or even to consider old evidence on those questions. Much was considered in our executive hearings, our

depositions, our field interviews and file reviews that will be analyzed and made public in our final report.

What has been presented in these public hearings has been the distillation of over a year of effort by the committee, a staff of 40 attorneys, investigators and researchers. Nevertheless, I recognize that there have been loose ends in our hearings. Most of them, we hope, to be able to pin down or tie down in our final report. But frankly, life itself contains loose ends. As I said, not every question that can be asked can be answered. Not every question that can be answered can be answered to the satisfaction of all.

Apart from publication of our final report and perhaps 1 and 2, as yet, unscheduled days of hearings, this today brings the committee's public work on the assassination of President John F. Kennedy to an end. It has been a fairly intensive 17 days of hearings. In all, 59 witnesses appeared before us and well over 500 exhibits were entered into the record. The committee has heard from witnesses of all character—noted political figures and ordinary citizens, a former President of the United States, a current president of a foreign country and an individual who carried an umbrella on one sunny day in Dallas.

The committee and the staff has spent untold man-hours of sorting out a voluminous 15-year accumulation of information. Cities like Miami, New Orleans, and of course, Dallas was visited often. There were trips to foreign countries—Cuba, Mexico, France, Spain. In all, there were 385 trips to 564 points for a total of over 1,870 days in the field, and the work continues and has continued during the course of these very hearings that we have held in this room.

Witness interviews, for instance, have totaled over 1,548. Seventy five witnesses were questioned in executive session, 41 of whom were immunized. Over 500 files from the CIA, the FBI, the Secret Service, the Departments of State and Defense, as well as other agencies, have been reviewed. Files that range from a few pages to thousands. The FBI file on Lee Harvey Oswald alone consists of 238 volumes containing 5,754 serials.

Now, let me also point up some of the statistics related to some of the scientific projects which were made a major part of these hearings. First the contractors. The photo analysis enhancement, 470 man-days were consumed at a total cost to the committee of \$9,500. For acoustical analysis, for radio transmissions in Dallas on November 22, 1963, 160 man-days at a cost of \$72,000. For simulated gun tests in Dealey Plaza in conjunction with the acoustical test, 38 man-days at a cost of \$3,850.

The total, 668 man-days, \$167,350.

As for consultants, for photoanalysis enhancement, 270 man-days at a cost of \$50,000. Pathology, 101 man-days at \$29,000. Ballistics, 110 man-days at \$12,000. Medical illustrations, 78 man-days at \$10,000. Handwriting analysis, 35 man-days at \$6,000. Methodology, 20 man-days at \$3,200. Polygraph analysis, 16 man-days at \$2,500. Dentistry examination, 8 man-days at \$1,500. Neutron activation analysis, 23 man-days at \$1,500. Fingerprint analysis, 3 man-days at \$600. The totals, 828 man-days, \$146,200.

As all can clearly see, these hearings, while illustrative of our work, have reflected only part of that work. This then would con-

clude my comments on the work of the committee and our public hearings. There are, however, a number of individuals and institutions to whom I would like to say a personal word of gratitude on behalf of this committee for their efforts in supporting us in the conduct of these public hearings.

Mr. David Fones, the sound engineer who installed a new PA system as the hearings began. Mr. Fones has worked long hours to insure the system functioned properly, has been available to this committee staff at all times. To the superintendent of the three House press galleries for their work in accommodating the press. Mike Michaelson and his assistant Tina Tate, Ben West, and his assistant Charlie Marsten, David Holmes, to Maurice Johnson of the Senate still photographers gallery. To Ed Poland of property supplies service and to all of the staff of the superintendent's office.

To Capt. Charles Parks, Lt. William Waters and the Capitol Police providing security for this hearing room 24 hours a day. To Marshall Jerome Bullet, Inspector Reed and his staff for providing extra security for Marina Oswald Porter and Jose Aleman. To the Congressional Reference Service of the Library of Congress for providing the committee with graphic illustrations of its exhibits. To Bara Photographics, Inc., for providing us with photographic enlargements. To the National Archives for providing the actual pieces of evidence for the gentleman whom they sent over here on every occasion that we ever requested.

To the Governments of Mexico and Cuba for their assistance in those countries. To the police departments of Dallas and Miami for the cooperation we received in those cities. And the Metropolitan Police Department of Washington, D.C.

Finally, to my fellow members of this committee who have given the Chair excellent cooperation in so many respects and to whom I will be forever grateful for the kind of cooperation given me, to the staff, the lawyers, the researchers, clerical staff, particular to Professor Blakey, chief counsel of the staff and to the young people on the staff who, in my opinion, have done an outstanding job.

A few days ago one of the scientists before this committee commented as he left the hearing room, that if the caliber of young people on this staff are any indication of the kind of young people that are coming along in this country today, the country is in good shape, and I would concur and echo his sentiments regarding the brilliant young people who work for us.

I would like to thank, also, in particular, the secretaries, the men who run the copying machines, the rest of the administrative staff who worked long into the night to prepare the press packets and briefing books for the members. Oftentimes we tend to overlook the amount of effort that goes on behind the scenes in preparing these kinds of hearings. I am sure that other members of the committee are as grateful as I am for the support that all of those people have given us.

Last, may I just say to the working press that has been here who have been with us every moment during these hearings, the press has been vigorous, I think, aggressive, probing, they have also been cooperative in many respects and courteous to this committee, to the Chair in many respects, and I want to acknowledge that.

All in all, I want to thank all persons who had anything to do with the way in which we were able to present these hearings. It is particularly important to me, and I think all members of this committee, to have the American people understand the nature of the undertaking this committee has undertaken, has; in our opinion, from the very beginning been a very serious undertaking. We were all determined these hearings would not be conducted in any kind of a circus atmosphere, they would have all of the professionalism of the House of Representatives behind them, they would be done professionally and competently. The Chair feels that has been accomplished and I appreciate the cooperation that we have received from everyone in being able to perform our work in that manner.

Thank you, and at this time, I will ask Judge Preyer if he will assume the Chair.

Mr. PREYER [now presiding]. Well, I hope the rest of the afternoon won't be anticlimactic after the Chairman's statement.

Have a good trip, Mr. Chairman, you have earned it.

Chairman STOKES. Thank you.

Mr. PREYER. Judge Griffin, we appreciate your statement, your deeply thoughtful statement. I think you went well beyond just talking about the facts of the Warren Commission study and the facts of this Commission's study and you have got into the question of the meaning of it, and you have talked to us about the meaning of criminal law and political murders and uses of history. It is certainly a stimulating paper.

We have one historian, at least, who is a member of this panel, and the Chair at this time would recognize Mr. Fithian.

Mr. FITHIAN. Thank you, Mr. Chairman and, judge, we welcome you to the committee hearings today, and you have given us some very thoughtful food for thought, recommendations, some of which I suspect we won't be able to carry out but some we will.

I have two or three categories of things I would like to explore with you, and I think rather than just ask for continuance of time repeatedly, I would like to take one of those areas first and then after others have had their chance to ask questions, perhaps I could get additional time.

I want now to go directly to the policy questions and policy recommendations that you make, which are large, I would like to return to those, but in 5 minutes before the second set of bells ring, I would like to explore some specific questions that come out of your testimony.

First, on your preliminary draft, which I went over last night, and repeated today, you indicated that certain things might have been done differently had you known certain kinds of information. Now, for your information, it seems to me as one member of this committee that upon occasion and sometimes even frequently the two agencies that we questioned most carefully, the CIA and the FBI, frequently excused themselves for not giving information to the Warren Commission by saying something like this—"we gave them whatever they asked for." But if the Warren Commission didn't know of its existence, the question logically arises, how could they ask for it.

And when we talked to the Warren Commission members, including the President, the former President, and J. Lee Rankin, we seemed to get that refrain, we couldn't ask for something we didn't know existed. It reminds me ever so much of the chicken and egg dilemma that we get into sometimes in life.

But assuming that at some future date some other commission, some other group, some other time, might be faced with the same kind of problem for a political assassination, could you make any specific recommendations as to how we could break that at the outset institutionally or structurally?

Judge GRIFFIN. Well, you are talking specifically, I presume, about the failure of the CIA to reveal that they had supported, as I understand the evidence, actually initiated attempts to assassinate Premier Castro?

Mr. FITHIAN. That is one example. There are other lesser lights in the discussion.

Judge GRIFFIN. Certainly I think that is the most troublesome one.

I don't know what your evidence is as to what the President knew. I think that decision has to be made at the highest level, and I think that unless the President himself was kept ignorant, and I believe that the Attorney General has to be considered in this case, since he was the brother of the President, it strikes me that when you have a situation that seems to indicate, and I think it is a question that you must develop the facts on, that the decision may have been made at that level to keep information from the Commission. I don't think there is anything we can do about it.

Mr. FITHIAN. You don't think there is anything that the Commission could do about it?

Judge GRIFFIN. No; as far as what we do about that situation in the future, I think you are going to stumble onto that information.

Incidentally, I think, as I understand the evidence before this Commission, Allen Dulles, I believe, was privy to that information and did not convey it to the rest of the Commission members.

I would rather answer the question this way: I think it might be legitimate to keep that information from a commission provided within the governmental process there was an assurance that the President knew that there was a complementary investigation going on and that ultimately all of that information would be preserved and come to light. I am troubled even by that kind of suggestion.

Mr. FITHIAN. Yes.

Judge GRIFFIN. But I recognize that if it had been known in 1964 that the CIA was attempting to assassinate Fidel Castro, I think the possibilities were very great in that period that pressures would have been brought in this country to begin a war against Cuba which might have had implications that would have brought this country into a thermonuclear war with the Soviet Union.

Those are frightening consequences and I have frankly myself wondered whether the reason Chief Justice Warren said to us that our investigation had those implications, was that something that had been communicated to him by the President in that regard.

But I think in the long run if that decision is made and if made by a responsible official, that that is what is crucial, if it were

made by President Johnson, I think I could accept that decision being made by President Johnson provided——

Mr. FITHIAN. This is hypothetical?

Judge GRIFFIN. Yes, sir; talking about the future, Mr. Future President, I could accept that decision being made that something was crucial in the national interest that it could not even be revealed to a body such as ours, provided we could have substantial certainty that ultimately the record of this would be disclosed, that it would ultimately become available for examination, so that at a later stage in history we could assess whether that was a sound decision or not.

Mr. FITHIAN. Let me turn to another question related to that. In retrospect, many of the shortcomings of the Warren Commission, which you spoke of here today in your presentation seemed glaringly obvious, yet no member of the Commission has been willing or no one associated with the Commission, up to today, had been willing to acknowledge the shortcomings, and we have had, for example, as you know, former members of the Commission and the Chief Counsel.

This in itself seems to me to sort of contribute to the speculations over conspiracy, coverup, all of those dark terms. Why do you think that no one else who was directly associated with the Warren Commission has really been willing to make what I would call a candid critique of the successes and failures of the Commission?

Judge GRIFFIN. Well, one, I think that there are other people who were members of the staff who may genuinely and honestly disagree with my criticism. Some of the issues which I raised were actually raised and are apparent from the Commission documents and decisions were made at that point that the approach that I have suggested was an improper approach.

Frankly, many of the suggestions I have made, I made as a staff member, either in writing or orally, and there were differences of opinion, and I think that those other members, whom I respect both from the standpoint of their intelligence and their integrity, have honest differences of opinion on this.

I also think that we are all human and it is difficult, when we feel strongly about something, it is difficult to change our position. I guess in part what I am saying is that it is easier for me to do it because I am not changing my position that much.

Mr. FITHIAN. Let me turn to one of your stated goals of the Warren Commission. In your presentation you indicated that one of the, I should say unstated goals, of the Warren Commission was to conduct "an investigation in a manner as to protect the reputation and employment of individuals against whom did not exist convincing evidence of criminal conduct."

Not necessarily naming names, but could you give us examples of how this goal was implemented in the work of the Commission? Let me explain why I am asking the question, if I may.

When you omit from any official body of evidence a name or an activity, even with the very best of intent that you are trying to protect someone, you are legitimately trying to protect someone, you always open yourself up to that bane of existence, I suppose, and that is the advantage of 20-20 hindsight by someone who

would like to say, well, they shouldn't have covered that up, we should have known about it.

Judge GRIFFIN. Let me say that I don't think anything was covered up with respect to any individual by the Commission of which I am aware, and I would be very interested if this committee has found any instance in which the Commission failed to preserve any information about any individual which it had in its possession.

I think the way in which the Commission attempted to achieve the objective of protecting the reputations and employment of people was in the way that the information which they received was handled.

One of the things that is so disturbing, I believe, to the critics of the Warren Commission is that they can find in many of the footnotes of the Warren Commission contradictory citations to contradictory documents, and when the Commission itself draws a conclusion that, for instance, there was no evidence, I think one of the conclusions that is written into the report is something to the effect that there was no evidence that Ruby was involved in any conspiracy with organized crime figures, which you have gone into.

The fact of the matter is there is a great deal of evidence in the Warren Commission footnotes and the documents that support them which have been available for public investigation to show that many of the names that have been recited publicly in these hearings, many of those people were interviewed and much of the information which this committee has been going over was then available to the Commission. The Commission could have published that in its report and said that so and so did such and such, Mr. Trafficante, for example, I don't know what we had on Trafficante, I think very little, or Lewis McWillie we had quite a bit, and we could have published things about Lewis McWillie and Lewis McWillie may not be involved in the kind of activities that I want my children to go into, or myself, but I think even with Lewis McWillie there is a question of whether the proper step is to publicly discuss him.

Now, although I must say we did publicly discuss McWillie, maybe there were instances of people who visited with Jack Ruby, a gentleman from Chicago, who saw him the night before Oswald was assassinated. We had a lot of questions about that relationship. We came to the conclusion that in all probability one of the things he was doing was cheating on his wife that evening. We decided not to publish that information, although anybody could read the investigatory materials and find that in there.

Those are the kinds of things I am talking about.

Mr. FITHIAN. You said on page 7 of your testimony, "Had the information been known to the Commission of CIA activities against Castro, the Commission's activity would have been greatly altered," and you go on to elaborate, although pretty briefly, about how that might be altered and——

Judge GRIFFIN. I don't think, for example——

Mr. FITHIAN. You project that it might have involved a rather prolonged investigation, as conspiracy investigations are wont to be.

Do you have any indication that your findings would have been different——

Judge GRIFFIN. I think that our findings——

Mr. FITHIAN. After 15 years?

Judge GRIFFIN. I would make this observation. I think our findings on Oswald's motive would have been different, and this is a question that I don't hear discussed very often, but I happen to believe it is a very important question, because I think if an analysis of the evidence indicates that the greatest possibility is that Oswald was motivated to do this because he was aware through his so-called underground, or whatever you want to call these sources, grassroots sources, that the CIA was involved in an assassination to murder, in plot to murder President Kennedy, then it becomes clear that the motive for the assassination was supplied by this activity of the CIA, and that raises a very vital question of public policy, and if that were to be the conclusion of this committee, it would have implications that would go beyond these particular events that you are studying.

So I think we would have had to pursue that. We frankly ducked, I think, everybody who has read the report knows, we ducked the question of motive. I do not think we could have ducked the question of motive under those circumstances.

Mr. FITHIAN. Are you satisfied with regard to the question of motive or the testimony that, the information that has come about and been reiterated time and again, that Lee Harvey Oswald's most likely motive for pulling the trigger was because he was mentally or psychologically bent in the direction of trying to become somebody important?

Judge GRIFFIN. Yes; I think that is a factor, but that does not explain why he selected President Kennedy or why he did it when he did. I mean, we know, I think many of us accepted this point, that Oswald attempted to assassinate General Walker. What motivated Oswald at that particular time to select Walker?

If Oswald in November of 1963, with all his personality problems, with the sense of total inadequacy that was being given him by his wife, was then in such a psychological state that he was prepared to pull another General Walker, it might not have been President Kennedy he might have gone after someone else and, therefore, it becomes very important that something, that perhaps that the U.S. Government did is what supplied the impetus to select President Kennedy rather than some other person.

Mr. FITHIAN. I have one more minor matter, then I would like to ask a policy recommendation question.

You use the word, very powerful words on page 12, of the consequences, nonetheless, that the Commission was powerless to combat, and you used the word "deliberate deceit by an investigative agency."

Judge GRIFFIN. Yes, sir.

Mr. FITHIAN. Can you give me any indication, is that your conclusion, it was deliberate deceit?

Judge GRIFFIN. I think the CIA deliberately deceived the Warren Commission, based on evidence that I have seen. I think the answer that they have given that they didn't provide the information because nobody asked them is the kind of statement I get from

criminal defendants time in and time out, presiding over ordinary trials, and I think it is patent to me.

The FBI conducted, I think the Hosty incident, I am satisfied it was deliberate and not accidental, although that we did find out about. I am not familiar with what you have found out as far as withholding of information by the FBI so I wouldn't really comment upon anything beyond what happened in the Hosty episode.

Mr. FITHIAN. Finally, you make a very fervent plea for open hearings, open investigations, procedures in public, et cetera.

Judge GRIFFIN. At some point.

Mr. FITHIAN. Given the emotions of the 1963 and 1964 period, when you were working with the Warren Commission, is it not probable that the Warren Commission really couldn't have conducted a public hearing at that time?

Judge GRIFFIN. I think that merits very serious consideration. I think, as I reflect upon my state of trauma and what I think was the state of trauma of this country, even when the Commission came out, the Commission's report came out, it may be that with an event of that magnitude at that time, so close to the events, that a proper judgment is under those circumstances that there cannot be any public hearings.

I would think, however, that if one focused on the question in an intense way there would still be a way to structure public hearings that could avoid the trauma and could preserve the ultimate visual record for presentation at another time.

Mr. FITHIAN. Thank you, Judge.

I recognize the gentleman from Connecticut, Mr. McKinney.

Mr. MCKINNEY. Judge, let me assure you our subway is running better and better everyday.

Judge GRIFFIN. Thank you, Mr. McKinney.

Mr. MCKINNEY. Good to see you.

We have discussed these points before and they will be in the record. So, very briefly, I gather you are suggesting that this committee come forth with almost a body of Federal law that would set up a certain line to follow in the case of any public assassination?

Judge GRIFFIN. Mr. McKinney, I don't know whether legislation is needed in this area. I am inclined to believe that a recommendation from this committee that would be implemented administratively by the executive branch might deal with a lot of the problems and might in fact be a preferred way to do it, because I do think there has to be flexibility, and when you write a statute you are frozen for a long time.

But I think, for example, the recommendation I made about continuing this investigation in some way through the Justice Department, even after this committee ceases to operate, is one that could be implemented, and I think the further suggestion that a responsibility of the Justice Department should be to create a game plan which could be immediately implemented in the event of a future assassination. I think that could be implemented and those things could be done without legislation.

Mr. MCKINNEY. I think one of the problems that we have had, in retrospect, relates to the trauma of the times. It would seem to me that we need to set up some sort of a pattern as to what must happen in a sequence.

Judge GRIFFIN. The only reason I answered the question that you pose in the way that I did is that I don't feel any confidence in my judgment about where you draw the line between legislation and administrative action, but it may be that there are matters, as you suggest, that require legislation, and it may be a form of legislation which imposed an obligation under certain guidelines upon an appropriate agency of government, which may be the Justice Department. Maybe that is what needs to be done.

Mr. McKINNEY. Of course, in neither one of these cases did we have a trial which is really the citizens chance to have the knowledge and the facts presented before them. It is perfectly possible and let's hope it never happens again, if something like this were to happen again, that there would be a trial, which would answer a lot of these problems.

Do you think it could be a good idea for this committee to suggest, through legislation that within any given period of time, after a political assassination, that there be an open public hearing, a year or two later, in which a commission would present all of the evidence to the American people?

Judge GRIFFIN. There might be substantial value in setting a timetable, because it may be a way of dealing with the problem of trauma that Mr. Fithian mentioned. If you always have to be deciding when are you going to get to this, it may be more difficult to deal with it, but if you say that there must be a public hearing in 2 years, or whatever period of time is, it has a number of not only psychological advantages but it perhaps insulates the investigators from pressure to prematurely go public.

Mr. McKINNEY. Far enough from the time itself to avoid an emotional witch hunt and close enough so people would be assured that everything the government knew would be put in front of them?

Judge GRIFFIN. That is right.

Mr. McKINNEY. It has been a great pleasure having you here again and I want to thank you for all the help you have given this committee in both its executive session and the public session.

Judge GRIFFIN. Thank you very much.

Mr. FITHIAN. We are just checking to see if Judge Preyer has anything. I see he has some notes.

Let me ask one question while you are getting in here.

Do you feel the Warren Commission was under such pressure of time that they couldn't do as complete a job as you wanted them to do?

Judge GRIFFIN. I feel that the time problems were resolved. They were agonizing questions. You put this to me in two ways. I think I am answering in one way, but I realize your question was, as much as I wanted to do. I wanted to do things that others didn't want to do. So my answer would be I think that we prematurely closed out, we may have—let me say maybe I would like to reflect on this more. There is a possibility we may have prematurely closed out the investigation from my standpoint.

I think, though, that in terms of the standards that were used, which I tried to discuss at the beginning of my remarks, in terms of the standards that were used in making a decision as to whether or not, I think that in the minds of my colleagues, who had the

policymaking authority, that this was not closed out prematurely. There were certainly, and the record is full of the evidence of the struggle within the staff on this issue, but I think in every instance where a staff member, after discussion, insisted that the investigation had to go forward, the opportunity was given to him to go forward, and I for one, at the time that we concluded the investigation, was satisfied that under the standards that were being applied, I had gone as far as I could go.

So, when I answered the question in saying that I would have gone further, it is because I would have undertaken a form of investigation that was actually different from the kind that we ultimately wound up taking. So, my kind of investigation would have taken longer.

Mr. FITHIAN. Thank you.

I have no further questions of the witness.

Mr. PREYER. Thank you, Judge Griffin.

I see I have a number of deep philosophical questions here which would probably best at this hour of the afternoon go unasked or at least I can ask you in private.

We do thank you for your very fine statement and I think you have made a real contribution.

I noticed when you set out the goals of the Warren Commission in the first part of your paper, one of those goals had nothing to do with how agencies had performed or how we should handle an assassination, a political murder, as you call it, if one came up in the future.

I think that is a goal this committee has in mind, that we want to study how the agencies performed, and in the unlikely, we hope unlikely, event of future assassinations, how it should be handled, and you have given us some very good practical answers on that subject.

Let me just ask you this one question and no other.

On the question of how a political murder should be handled in the future, is there anything further that you want to add to what you have already spelled out in your paper?

Judge GRIFFIN. I think I have nothing further to say other than to thank the committee for the opportunity to be here and to address all of you.

Mr. PREYER. We are grateful to you.

The chairman has thanked many people for their contribution in this public hearing. I would like to just very briefly name a few people who have worked so hard, and I am referring to the staff.

You mentioned, Judge, the incredible expenditure of effort, I think is the way you put it, on behalf of the staff, and I certainly agree with you on that.

We have recognized Mr. Blakey, but let me just briefly name a few other people who have done an outstanding job. Some have become media personalities now, such as the umbrella girl, Cynthia Cooper, but many have labored in obscurity, and I think at least we should name them. I think the morale in the whole team has been remarkable in view of the kind of hours they have worked. Probably one definition of what morale is is when you are united in a common effort, then each person is perhaps better than they

thought they could be, do more than they thought they were capable of. I think the staff has done that.

Mr. Blakey, of course, has been our chief counsel. Gary Cornwell has been our deputy chief counsel. Charlie Mathews our special counsel, who has been sitting here whispering in Mr. Stokes' and my ear for this month.

Kenney Klein, who sits just below me here, has been our assistant chief counsel and team I leader.

Cliff Fenton has been our chief investigator.

Jackie Hess, deputy chief researcher, who has done some work on the exhibition board.

Jim McDonald, team II and III leader, senior staff counsel.

Lee Matthews, senior staff counsel and team IV leader.

The Kennedy investigation is divided into five teams.

Michael Goldsmith, who is a senior staff counsel and the team V leader.

And Staff Counsel Surell Brady and Andy Purdy, Jonathan Blackmer, Belford Lawson, Bob Genzman, secretaries, who hadn't had the chance to appear here much, Ida Jane Ross, Jane Godfrey, Ann Misita, Rebecca Rife, Connie Smith, and the press officer, Dawne Miller, whose name we have all seen on many releases, and Lance Svendsen, and Paul Golden, who Xeroxed the press release material which you have been receiving regularly, and all the researchers and investigators whom I wish I had time to name.

One person who I think has become a media person, along with Cynthia, has been Elizabeth Berning, our clerk here, who has been very faithful and very efficient in keeping some 500-odd exhibits straight. We appreciate that very much.

So at this time, is there anything further from any member of the committee?

If not, the committee will adjourn sine die.

[Whereupon, at 4:56 p.m., the committee was adjourned, sine die.]