

Mr. COLE. That is a possibility. I think most people find the act of writing, especially writing a signature, a pleasant thing to do. I think that is one reason why people develop a somewhat higher skill.

Mr. McCloy. It depends on whether it is an endorsement of a check or a drawing of the check.

Mr. COLE. That could make a difference.

Mr. McCLOY. Well, thank you very much.

Mr. COLE. Yes, sir.

(Whereupon, at 2:30 p.m., the President's Commission recessed.)

*Tuesday, May 5, 1964*

### TESTIMONY OF JOHN W. FAIN, JOHN LESTER QUIGLEY, AND JAMES PATRICK HOSTY, JR.

The President's Commission met at 9:25 a.m. on May 5, 1964, at 200 Maryland Avenue NE., Washington, D.C.

Present were Chief Justice Earl Warren, Chairman; Senator John Sherman Cooper, Representative Gerald R. Ford, John J. McCloy, and Allen W. Dulles, members.

Also present were J. Lee Rankin, general counsel; David W. Belin, assistant counsel; Wesley J. Liebeler, assistant counsel; Norman Redlich, assistant counsel; Samuel A. Stern, assistant counsel; Howard P. Willens, assistant counsel; Charles Murray, observer; and Leon Jaworski, special counsel to the attorney general of Texas.

### TESTIMONY OF JOHN W. FAIN

The CHAIRMAN. Mr. Fain, the purpose of today's hearing is to take the testimony of members of the Federal Bureau of Investigation, including yourself, who interviewed Lee Harvey Oswald or other important witnesses, before and after the assassination, and concerning the assassination of President Kennedy, both before and after.

We will also take the testimony today of Mr. Belmont, one of your superiors. Would you please rise, Mr. Fain, and raise your right hand and be sworn. You solemnly swear the testimony you are about to give before this Commission will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FAIN. I do, sir.

The CHAIRMAN. Will you be seated, please.

Mr. Stern will conduct the examination. Mr. Stern.

Mr. STERN. Yes, sir.

Mr. Fain, would you state your full name for the record, please.

Mr. FAIN. John Wythe Fain.

Mr. STERN. And your address?

Mr. FAIN. 12711 Pebblebrook, Houston 24, Tex.

Mr. STERN. What is your education, Mr. Fain, at the college level?

Mr. FAIN. After graduation from Weatherford High School in 1926, I entered Weatherford Junior College at Weatherford, Tex., which I finished in 2 years in 1928. After teaching school for about 4 years, I entered the University of Texas, in the summer of 1933. I finished my prelaw work, and in 1936, the spring of that year, I received my LL.B. degree in law from the University of Texas.

Mr. STERN. Are you a member of the bar, Mr. Fain?

Mr. FAIN. I am a member of the Texas State Bar.

Mr. STERN. Can you summarize briefly your employment experience after receiving your law degree and before joining the Federal Bureau of Investigation?

Mr. FAIN. I will have to go back just a little bit there. In 1932 I ran for the office of representative in the State Legislature from Weatherford, Tex., my home city in Parker County, my home county, and served two terms, no opposition on the second term, and then I did not seek reelection at the end of the second term. I chose to go on and get my law degree at the University of Texas. Then, in 1937 I became employed. Robert B. Anderson, whom I suppose you know—

The CHAIRMAN. Former Secretary of the Treasury.

Mr. FAIN. Former Secretary of the Treasury, yes; he and I were good friends, and it happened that he was in the adjoining county of Johnson, which touched my county, Parker. I had met him in Weatherford Junior College, and we were in the same debating society at Weatherford Junior College, and I served in the Texas State Legislature with him, I sat in some of his law classes at the University of Texas, and then he was instrumental in giving me or getting me appointed to, a position as district supervisor of the Texas Unemployment Compensation Commission. It is now known as the Texas Employment Commission.

I was in charge of investigations of claims for unemployment insurance, and I served in that capacity at Waco, Tex., until on September 8 of 1942 I entered the FBI. Of course, I made my application prior to that. I served in the Federal Bureau of Investigation as a law-trained special agent until October 29 of 1962, upon which date I retired voluntarily.

Mr. STERN. Can you describe briefly your experience in the FBI.

Mr. FAIN. Yes, sir. After finishing my training session here at the seat of government, I believe that lasted 12 weeks at that time, I took my practical experience here for a couple of weeks, and then was assigned to the Chicago, Ill., field office, where I remained for a period of approximately 4 months. I received a transfer to Oklahoma City, where I was 3 weeks, and then they stationed me at Tulsa, Okla., as a resident agent, where I remained approximately a year. I then was transferred to San Francisco, Calif., where I remained for approximately 2 years; and in December of 1945 I was transferred to Dallas, Tex., where I remained for approximately 5 years, in the head office there, division office in Dallas, and then I was sent to Fort Worth in 1949 as a resident agent of the FBI, and remained there until I voluntarily retired on October 29, 1962.

Mr. STERN. Now, would you describe the relationship between the Fort Worth office and the Dallas office.

Mr. FAIN. Well, the Dallas office is the headquarters city to which I was originally assigned and, of course, in that area distances are rather great between the cities, so we have what is known as resident agencies, there being at that time 10 agents in the Fort Worth office.

(At this point in the proceedings Mr. McCloy entered the hearing room.)

And we had agents, of course, at Lubbock and Amarillo and Wichita Falls, Sherman, Harris, and the other cities in order for economy reasons, to save travel. It would be a rather expensive operation to go from Dallas to those other areas.

Mr. STERN. Mr. Fain, did you specialize in any particular area of FBI work or were your assignments general?

Mr. FAIN. My assignments were comparatively general up until, I would say, about 1951, at which time I specialized mostly in security matters. Most of my investigations after 1951 were security-type investigations.

Mr. STERN. This is true—

Mr. FAIN. However, I did handle—excuse me, I did continue to handle—other types of investigations, too.

Mr. STERN. This is true until your retirement?

Mr. FAIN. Yes, sir.

Mr. STERN. Were you in charge of the investigation of Lee Harvey Oswald until the time of your retirement?

Mr. FAIN. Yes, sir; up until the time we closed the case—I don't recall the exact date, it can be verified from the report—but, I think we closed the case, following his interview on August 26.

Mr. STERN. Well to the extent—

Mr. FAIN. I want to correct that. It was August 14.

Mr. STERN. We will get to that, Mr. Fain. But to the extent the case was being investigated during your tenure, were you in charge of the case?

Mr. FAIN. Yes, sir; the case was assigned to me.

Mr. STERN. Fine. That is all I want right now.

Mr. FAIN. Yes, sir.

Mr. STERN. How many other cases on an average would you be in charge of during this period from 1960 until retirement?

Mr. FAIN. From 1960 until the time of retirement?

Mr. STERN. Yes.

Mr. FAIN. I don't have any exact figure on that, but I suppose I would have 45 to 50 cases.

Mr. STERN. At anytime?

Mr. FAIN. Yes, sir.

Mr. STERN. Mr. Fain, I show you a seven-page mimeographed report marked "Report of John W. Fain," dated May 12, 1960. Can you identify that report? (Marked for identification No. 821.)

Mr. FAIN. Yes, sir; this is my report.

Mr. STERN. Were you responsible for preparing this entire report, Mr. Fain?

Mr. FAIN. Yes; I was.

Mr. STERN. Have you reviewed the report in preparation for your testimony today?

Mr. FAIN. Yes, sir.

Mr. STERN. Is the report correct?

Mr. FAIN. Yes, sir.

Mr. STERN. Is there anything you want to correct in the report?

Mr. FAIN. No, sir.

Mr. STERN. Is it complete in covering the events described?

Mr. FAIN. It is.

Mr. STERN. So that you have no additions or corrections?

Mr. FAIN. No additions or corrections.

Mr. STERN. Let me ask you, first, Mr. Fain, about a couple of symbols that appear on the first page of the report. The report is characterized as "Internal Security R." What does the "R" mean?

Mr. FAIN. It stands for "Russia."

Mr. STERN. At the end of the synopsis on the first page are the letters "RUC." Can you tell us what that means?

Mr. FAIN. That is a symbol to save typing and stenographic effort and so forth. It is known to all agents, and it means "Referred Upon Completion," "RUC," "Referred Upon Completion," to the office of origin actually. In other words, it indicates that the investigation there at that point where it was conducted has been completed and we are referring it back.

Mr. STERN. To an office which had prime responsibility?

Mr. FAIN. Yes, sir; in this case I suppose it was the Bureau in Washington. I see the Bureau file number up there at the top.

Mr. STERN. I see. Do you recall, Mr. Fain, how you were assigned to investigate this matter which is entitled in this report "Funds Transmitted to Resident of Russia"?

Mr. FAIN. Yes, sir.

We received a communication, or rather the Dallas office did, from Bureau to the effect that there was an indication that application had been made by Mrs. Oswald, Marguerite C. Oswald, for a draft, purchase transfer of funds, to be sent to Lee Harvey Oswald over in Russia, and I was given the assignment to contact her and find out all I could about the circumstances.

Mr. STERN. Concerning the transfer of funds?

Mr. FAIN. Yes, sir; you will notice that the title in this case is "Funds Transmitted to Residents of Russia," that was the type of inquiry.

Mr. STERN. To your recollection, had you ever before this time heard the name "Lee Harvey Oswald" or any other member of the Oswald family?

Mr. FAIN. Well, I believe—let's see, April 27, 1960, I talked to Robert Lee in an effort to locate his mother.

Mr. STERN. By this time, Mr. Fain, I mean the time covered by your report, not the date of the report.

Mr. FAIN. Just what I read in the newspapers about his having gone over into Russia. The papers played it up.

Mr. STERN. Did you have any official responsibility in connection with Lee Harvey Oswald before the time covered by this report?

Mr. FAIN. No, sir; no, I did not.

Mr. STERN. On page 2 of the report—is this a record of an interview that you held, Mr. Fain?

Mr. FAIN. It is. It is a record of the interview that I conducted.

Mr. STERN. Is this a form normally used for reporting interviews?

Mr. FAIN. Yes, sir.

Mr. STERN. What is your practice or what was your practice, while an FBI agent, in making interviews? Would you make notes of the interview as you interviewed a subject?

Mr. FAIN. Yes, sir.

Mr. STERN. Are you familiar with any shorthand method?

Mr. FAIN. I had a course in shorthand and, of course, still know some of the symbols and, at that time, did use it, mixed it up with my other English as I wrote it. I did use it.

Mr. STERN. Can you tell from this report when you made the interview?

Mr. FAIN. I interviewed Robert Lee Oswald, who was the brother, older brother, of Lee Harvey Oswald, the subject of this case, on April 27, 1960, at Fort Worth, Tex.

Mr. STERN. Can you tell the Commission where that appears from your report?

Mr. FAIN. The date of the interview?

(At this point in the proceedings, Representative Ford entered the hearing room.)

Mr. STERN. Yes.

Mr. FAIN. The date of the interview is located on the lower left-hand corner, and also the place of the interview.

Mr. STERN. When did you transcribe—or, first, how would you do that normally?

Mr. FAIN. Well, I dictated this on May 2, 1960. It evidently was transcribed by the stenographer, as noted, on the upper right-hand corner—this is a little dim—but it looks like May 6, 1960. This is a very old copy.

Mr. STERN. You would dictate this to a secretary, Mr. Fain?

Mr. FAIN. Some of it I dictated on the dictaphone, some of it I would do by rough draft and send by mail to Dallas, and if I happened to be in Dallas, I would dictate to the stenographer.

Mr. STERN. Would you ordinarily preserve your rough notes of the interview after you dictated your report?

Mr. FAIN. Not after it gets in this form, because this contains all the information in the notes we have. In other words, we put everything right in. Now this is supposed to be an exact transcript of the information. It is not a recording of the information. I don't mean to leave that impression.

Mr. STERN. And you would normally destroy your notes?

Mr. FAIN. Yes, sir; unless there was some—there would be no reason to keep my notes, once I put all the information I was assured was in here. Once that is true I destroyed them.

Mr. STERN. I think these reports largely speak for themselves, Mr. Fain, but I would like to ask you a few details to clarify statements in the report.

On page 3 in the report of your interview of Mrs. Marguerite Oswald, you say in the second line, "She volunteered for interview." What does that mean in this connection?

Mr. FAIN. You will notice that on the lower left-hand corner it indicates I talked to her on the 28th, April 28, which was the day after I talked to her son Robert Lee, and evidently he had gotten in touch with her on the same afternoon that I talked to him or that night. Anyway she knocked on the door the next day and wanted to talk to me; and she came in voluntarily. I believe Robert told me that he would get in touch with her. He gave me her address, at least, and I was going to send out a lead to have her interviewed down there, but she came in to talk to me, voluntarily.

Mr. STERN. Would you look at page 4 of your report, Mr. Fain, the fourth full paragraph from the top of the page, the paragraph that begins, "Mrs. Oswald stated," and the last sentence of that paragraph reads, "Mrs. Oswald stated that she would not have been surprised to learn that Lee had gone to, say, South America or Cuba, but that it had never entered her mind that he might go to Russia or might try to become a citizen there." As far as you can remember, is that accurately what she said?

Mr. FAIN. Yes; that is as she said, I put it down. She seemed very much upset that he had gone to Russia.

Mr. STERN. Did she explain that to you?

Mr. FAIN. None other than this. In other words, she said she wouldn't have been surprised that he had gone to, say, South America or Cuba, she was taken aback by learning he had gone to Russia. You see, he had told her he was going over to New Orleans to go to work over there, and she was apparently very surprised that he had taken this boat to Europe, to Russia.

Mr. STERN. Mr. Fain, in your report of your interview with Mrs. Marguerite Oswald, you quote several letters and refer to other specific bits of information. How did you get that so accurately?

Mr. FAIN. She had all of those in her purse. She had all those clippings that had appeared in the paper, and she had quite a stack of them there, and I got the information out of those at the time.

Mr. STERN. She displayed them to you and let you copy them?

Mr. FAIN. Yes, sir; she displayed them to me, that is right.

The CHAIRMAN. Gentlemen, are there any other questions any of you would like to ask Mr. Fain? He has stated that everything he knows concerning this matter is contained in his written report.

Mr. FAIN. Yes, sir; that is correct.

Representative FORD. May I ask a question?

The CHAIRMAN. Yes, indeed.

Representative FORD. Is it the practice of the Bureau to check with relatives of those who defect or make an attempt to defect to the Soviet Union?

Mr. FAIN. Well, I was—my primary motive here was—trying to locate her. I wanted to talk to her. If I had been able to talk to her, the mother, I probably wouldn't have contacted Robert. But he was the only one that I could locate there that knew anything about it, about where she might be, so I, in the course of things, interviewed him to try to find out what I could find out from him.

Representative FORD. I am more concerned about the overall policy. Whenever an individual makes an attempt to defect or does defect, is it the policy of the FBI to subsequently interview relatives of the individual who tried or did defect?

Mr. FAIN. Mr. Ford, I am unable to answer that because I am not versed in overall policy, and I am sorry. I am not trying to avoid your question, but I just actually don't know.

Representative FORD. What prompted you then in your capacity to interview—

Mr. FAIN. Robert?

Representative FORD. Either Robert or Mrs. Oswald?

Mr. FAIN. Well, I was instructed to get in touch with her and find out what the situation was. The only way I could get the information was to talk to her, and I talked to Robert only in connection with my attempts to locate her.

Representative FORD. But your instructions came from whom?

Mr. FAIN. I don't have the memorandum or communication that came in here in connection with this, but it came from the Bureau, I am sure, through the Dallas office.

Representative FORD. And you were working out of Dallas?

Mr. FAIN. Right. My supervisor over in Dallas, no doubt, either called me or else very likely he wrote an assignment and mailed it to me in Fort Worth.

Representative FORD. Your assignment was really to check with the mother, both, or all?

Mr. FAIN. Actually, I don't recall how the assignment was worded, I really

don't. I haven't seen it for over a year and a half, and I just don't recall exactly how that came.

Representative FORD. But the only reason for such an interview was the fact that the son had gone to Russia and either defected or attempted to do so; was that the basis of the investigation?

Mr. FAIN. Yes, sir. We wanted to find out the circumstances and about these funds and any information we could ascertain and, of course, it is always important in this type of case to find out whether or not any of these—especially intelligence agents or anyone like that might contact these people and try to get information from them. We try to get these people to let us know if anything like that happens.

Representative FORD. That was really the purpose of the interview or investigation you conducted?

Mr. FAIN. Let me see if I can find out. In this paragraph 4 there is an indication—

Representative FORD. Paragraph 4 on what page?

Mr. FAIN. Paragraph 4 on page 2. "He stated he had no contact in any manner or form with any individual known to him to be a Soviet official or affiliated in any way with Soviet establishments. He also advised that as far as he knows neither his mother or other members of his family had had any contact whatsoever with Soviet officials or with Soviet establishments."

I explained to him the jurisdiction of the FBI, that the FBI had jurisdiction in internal security matters in the United States, and Robert told me that he would immediately contact the FBI in the event he was contacted by Soviet officials. Then I also asked him, as is contained in that final paragraph on the same page, "Oswald stated that neither he nor his mother as far as he knew had been requested to furnish any items of personal identification to Lee Oswald in Russia. He said he would immediately contact the FBI in the event any information like that came to his attention."

Representative FORD. These were the only interviews you had with either one of them?

Mr. FAIN. Yes, sir; at that time, yes, sir.

Senator COOPER. Can I ask a question?

Mr. McCLOY. Did you have one at any other time?

Mr. FAIN. These were the first interviews. We will get to those later. Do you want to go into those?

Mr. McCLOY. Never mind. We will get to those in due course. But wasn't the touch-off on this investigation the fact that a transfer order or an attempted remittance was being sent to Oswald in Russia by his mother?

Mr. FAIN. Yes, sir.

Mr. McCLOY. That was the thing that prompted the inquiry, wasn't it?

Mr. FAIN. Yes, sir; that is right.

The CHAIRMAN. Senator.

Senator COOPER. Yes.

Did Mrs. Oswald give you any reason for her statement she would not have been surprised if Lee Oswald had gone to Cuba or some South American country? Did she explain that statement?

Mr. FAIN. No; she didn't. She just—of course, she was all upset and bothered by his having gone to Russia, and she expressed great surprise that he had gone to Russia, and she said just casually or during the course of the conversation she wouldn't have been surprised for him to have gone, say, to South America or to Cuba, but to go to Russia, she was totally surprised and taken aback.

Senator COOPER. She didn't give you any reason why she would not have been surprised—

Mr. FAIN. No; she didn't go into that.

Senator COOPER. Whether he had said anything about Cuba or South America.

The CHAIRMAN. All right, Mr. Fain. Do you have other questions?

Mr. STERN. I have other questions for him. I thought we might break it up in the order of his reports.

The CHAIRMAN. Go right ahead.

Mr. STERN. One last question at this stage, Mr. Fain: Did Mrs. Oswald indicate

to you in any way that she thought Lee Harvey Oswald had gone to Russia in any capacity other than as a private citizen?

Mr. FAIN. No; she did not. She apparently didn't know why he had gone at all. She was surprised he had gone in the first place.

Mr. STERN. She did not suggest in any way that he might have been an agent of the United States or serving United States interests in Russia?

Mr. FAIN. I think she did remark something about she believed he was a secret agent. Maybe she was clutching at anything—

Mr. STERN. She did? Is that covered in that report?

Mr. FAIN. In one of these reports I believe it is.

Mr. STERN. I am talking about this one, as of this time.

Mr. FAIN. No; I believe that came in something else. She told evidently the State Department in Washington, D.C.

Mr. STERN. Yes.

Mr. FAIN. That is where that came from.

Mr. STERN. I am asking whether she suggested this to you at the time of your interview of Mrs. Oswald on April 28, 1960.

Mr. FAIN. No; I don't recall anything of that. I have confused that.

Mr. STERN. Mr. Chairman, may we have the report admitted into evidence?

The CHAIRMAN. It may be and it will take the next number.

Mr. STERN. That was marked for identification 821.

The CHAIRMAN. All right. No. 821 may be admitted.

(The document referred to was marked Commission Exhibit No. 821 for identification, and received in evidence.)

Mr. STERN. Mr. Fain, I show you a report of 11 pages dated July 3, 1961, entitled "Lee Harvey Oswald." Can you identify this report for us, and we will number it for identification No. 822.

Mr. FAIN. Yes, sir; this is my report. It is dated July 3 of 1961.

Mr. STERN. Have you reviewed this report recently in preparation for your testimony today?

Mr. FAIN. I have.

Mr. STERN. Is the report complete in all respects of the subject matter it covers?

Mr. FAIN. Yes; it is.

Mr. STERN. Is it accurate in all respects of the subject matter it covers?

Mr. FAIN. Yes, sir.

Mr. STERN. Is there any addition or correction you would like to make to the report as it stands now?

Mr. FAIN. No, sir.

Mr. STERN. The report shows on the cover page, Mr. Fain, that a copy was sent to the Office of Naval Intelligence in New Orleans, La. Can you tell us why that was done?

Mr. FAIN. Well, this investigation at this time was under internal security category R, and you will notice that predicated on information received by a communication of January 11, 1961, from District Intelligence Office, Naval District, New Orleans, La., advising that Oswald, who had attempted to defect in Russia in October 1959, and who was a member of the U.S. Marine Corps Reserve had been given an undesirable discharge from the U.S. Marine Corps Reserve on August 17, 1960.

Mr. STERN. When you say the investigation was predicated on this information, what precisely do you mean?

Mr. FAIN. That was the reason that this report was initiated from that incoming communication from New Orleans.

Mr. STERN. And how did this information come to you? Was it sent to you directly, if you know, from the New Orleans Naval District or did it come from FBI—

Mr. FAIN. It would have come through Dallas, the headquarters division office in Dallas.

Mr. STERN. But so far as you know was it sent from New Orleans to Dallas or from New Orleans to FBI headquarters in Washington and then disseminated to Dallas?

Mr. FAIN. I expect it came directly to the Dallas office. It could have been,

the office there might have gotten a copy of it, might have gotten the original, and this might have been a copy. I just don't recall.

Mr. STERN. Were you instructed to make this investigation or did you initiate it yourself on the strength of this information from the naval district in New Orleans?

Mr. FAIN. There again I believe that the supervisor in Dallas asked that this case be—or did reopen it and asked for a background investigation. It looks like this is a background type of investigation on the individual Lee Harvey Oswald.

Mr. STERN. When you say "reopen," Mr. Fain, does that mean there was a case opened previously on Lee Oswald?

Mr. FAIN. No; I used the wrong term. I confused it with this report. This was a different type of investigation, this "Funds Transmitted to Residents of Russia."

Mr. STERN. That was not an investigation of Lee Harvey Oswald as such?

Mr. FAIN. That is right.

Mr. STERN. This was actually the first report concerning the individual?

Mr. FAIN. That is correct.

Mr. STERN. So that did this represent the opening of a case on Lee Harvey Oswald, Mr. Fain?

Mr. FAIN. Yes; it did.

Mr. STERN. And as far as you know, there was no earlier investigation of Lee Harvey Oswald as such; is that correct?

Mr. FAIN. I believe that is correct.

Mr. STERN. I am just asking you of your own knowledge.

Mr. FAIN. That is right.

Mr. STERN. You say this was a background investigation. What do you mean by that, Mr. Fain?

Mr. FAIN. Well, we always ascertain his correct name and aliases, and residences, where he previously lived, his employment, his citizenship status, his nationality background, his education, his military record, whether or not he had any relatives, close relatives, in the Armed Forces; and we get a physical description of him, identification record, and where possible we always get a photograph; and his mother furnished a copy of the photograph to us on April 28, 1960.

Mr. STERN. On the first page of the report, the initial "C" appears after the synopsis. What does that mean, Mr. Fain?

Mr. FAIN. That means closed.

Mr. STERN. What does that indicate to you in terms of the investigation?

Mr. FAIN. Well, it indicated that we obtained the information concerning this person, to identify him, as to who he was, something about him, about his background; it appearing there was no further need for investigation at that time, we closed the case.

Mr. STERN. Your report indicates at page 8 that the files of the office of naval intelligence in Louisiana were checked. Was that done at your request, if you recall? Did you check those files?

Mr. FAIN. I did not. That would have been checked in the New Orleans division.

Mr. STERN. Would this have been done at your request or on the instructions of someone else?

Mr. FAIN. I am of the opinion that that information probably came along with the other information or subsequent to the other information on which this case was predicated. I don't recall asking them to make any check like that.

Mr. STERN. The first paragraph on page 1 reads a little differently. It says, "Information received by communication from the Naval District," and on page 8 you refer to a check of the files of Naval Intelligence.

Mr. FAIN. It sounds like a check was made, and they had made some information available to us, and I incorporated it in this report.

Mr. STERN. "They" is—who do you mean by "they"?

Mr. FAIN. The New Orleans Division of the FBI.

Mr. STERN. Of the FBI?

Mr. FAIN. Yes, sir.



Mr. STERN. But the first indication on page 1, when you refer to information received by communication from the District Intelligence Office, does that seem to indicate a check was made by the FBI office in New Orleans or this information was delivered by the Office of Naval Intelligence voluntarily, without request?

Mr. FAIN. I don't recall ever dictating a request. It could have happened, but you must remember it has been over a year and a half since I referred to these things. And——

Mr. STERN. Sure.

Mr. FAIN. That just sounds like it is a communication we received from there, and that we opened the case based on that information. That would be my opinion now.

Mr. STERN. But you don't know why they would have been sending you that information?

Mr. FAIN. That can be ascertained.

Mr. STERN. Yes. We, perhaps, can find out from other witnesses if you don't remember, and if you don't know, just tell us that.

Mr. FAIN. I do not know; I don't recall that.

Mr. STERN. All right. On page 10, the top paragraph, in reference to a review of the files of the passport office of the Department of State, again do you recall whether this was done at your request by someone else?

Mr. FAIN. No, sir; I do not. It could have been requested by letter out of the Dallas office or it might have been that it was made up here at seat of Government.

Mr. STERN. But in any event did you check these files at the State Department?

Mr. FAIN. I did not.

Mr. STERN. The passport office?

Mr. FAIN. No. My investigative jurisdiction was the Fort Worth area and vicinity.

Mr. STERN. Again would you summarize your recollection of the purpose and direction of the investigation at this stage, at the time covered by this report. What do you recall to have been the purpose and direction of the investigation?

Mr. FAIN. At this particular point it seems we were looking at this individual, opened the case to find out who he was and see if he was any kind of an internal threat, a threat to the internal security of our country.

Mr. STERN. What was your evaluation of that question as a result of your investigation?

Mr. FAIN. At that time we—there was nothing appearing that he was of any potential danger to the security of—I was trying to find out whether or not, you will notice on page 9 there the last paragraph, to see whether or not he was a member of the Communist Party in Fort Worth, and my check of our confidential sources showed that there was no knowledge available, no information available, that he was a member of the Communist Party. That was supposed primarily my immediate objective, to find out whether or not he was connected with the Communist Party there in Fort Worth, in addition to the developing of the background information on him.

Mr. STERN. And this entered into your evaluation at the time, the fact that he was not a member of the Communist Party?

Mr. FAIN. Yes, sir; there was no indication that he was a member of the Communist Party in Fort Worth.

Mr. STERN. Was it also relevant to your evaluation that he was apparently living in Russia at the time?

Mr. FAIN. I beg your pardon?

Mr. STERN. Was it also relevant to your conclusion about his not being a threat to the internal security of the United States that at the time he was apparently living in Russia, at the time covered by this report?

Mr. FAIN. Well, certainly we were going to keep track of him from then on, naturally, if he is over there.

The CHAIRMAN. Gentlemen, any questions? Mr. McCloy.

Mr. McCLOY. On the top of page 10, Mr. Chief Justice, this report refers to the review on May 9, 1961, of the files of the passport office. Who did make that review if you didn't make it?

Mr. FAIN. Someone, some employee of the FBI here at the seat of Government.

Mr. McCLOY. How did you know it was made?

Mr. FAIN. How did I know it was made?

Mr. McCLOY. Yes.

Mr. FAIN. The communication concerning the results of the check were sent by mail back to Dallas, and then my supervisor sent it to me at Fort Worth.

Mr. McCLOY. That is how it came to be embodied in your report?

Mr. FAIN. Yes, sir; and I covered it in my report.

Mr. McCLOY. I see. Have we got a copy of that? Do we have that review, the report of that review?

Mr. STERN. We will receive testimony concerning it from the Assistant to the Director of the Bureau.

Mr. McCLOY. Will we be able to examine the person who examined Mrs. Oswald and to whom apparently she said that she thought he was a secret agent, that Oswald was a secret agent?

Mr. STERN. I am sure we can arrange that. That would have been someone in the State Department.

Mr. McCLOY. That is right. But you don't know anything except what is stated in the report here?

Mr. FAIN. That is correct, as a result of a communication from this office to Dallas.

Mr. McCLOY. No further reasons that you recall in that report as to why she thought he was a secret agent or he might have been a secret agent?

Mr. FAIN. No, sir; I am sure I copied it from that report just like it was there. She expressed the thought that, perhaps, her son had gone to the Soviet Union as a secret agent, and the State Department was not doing enough to help him.

Mr. McCLOY. All right.

The CHAIRMAN. Congressman Ford.

Representative FORD. No questions.

The CHAIRMAN. Senator Cooper.

Senator COOPER. Again I ask you, on page 6, the second paragraph, it states, "Mrs. Oswald also stated the subject had mentioned something about his desire to travel and said something also about the fact that he might go to Cuba." Do you remember whether or not she talked to you about that?

Mr. FAIN. Yes, sir; that was the information that she gave me on April 28. If you will notice from the first paragraph on April 28, 1960, Mrs. Marguerite Oswald stated—that was a repeat, in other words, of the information that actually was contained in this first report we mentioned a while ago.

Senator COOPER. On page 8 she stated she had not been requested to furnish any items of personal identification of the subject in Russia. What is meant by that "personal identification"?

Mr. FAIN. Well, in these espionage cases we wanted to be sure that they hadn't been contacted by the Soviet intelligence agencies for any purpose or any reason at all. We didn't know whether maybe he went over there and maybe they had gotten in touch with his parents or his relatives and demanded any information about him to verify who he was, and so forth.

Mr. McCLOY. Could you remember the photograph that Mrs. Oswald presented to you of Lee Oswald?

Mr. FAIN. Yes, sir; I don't remember the details right now, but I believe it was a photograph of him in the service.

Mr. McCLOY. So far as you can recollect it was in uniform?

Mr. FAIN. I just don't recall the facts.

Mr. McCLOY. You don't recall that he was carrying any weapons?

Mr. FAIN. He was not. I am sure he was not carrying any weapons. I don't believe, I am certain—I don't believe—he was in uniform at all. I think it was a picture of him. The picture, as I recall it, was not a recent picture. It was 3 or 4 years old.

Mr. McCLOY. All right.

(At this point in the proceedings, Senator Cooper leaves the hearing room.)

The CHAIRMAN. Very well, Mr. Stern, you may continue with the next item.

Mr. STERN. Thank you, Mr. Chairman. May we admit Exhibit 822 for identification at this time?

The CHAIRMAN. It may be admitted under that number.

(The document referred to was marked Commission Exhibit No. 822 for identification and received in evidence.)

Mr. STERN. Mr. Fain, I show you Commission Exhibit No. 823 for identification, a report of 15 pages dated July 10, 1962. Can you identify this report for the Commission?

Mr. FAIN. Yes, sir; this is my report dated July 10, 1962.

Mr. STERN. Have you reviewed this report in preparation for your testimony today?

Mr. FAIN. I have.

Mr. STERN. Is it correct in all respects concerning the material covered?

Mr. FAIN. Yes, sir.

Mr. STERN. Is there anything you would like to add to any of the data set forth there?

Mr. FAIN. No, sir; I believe not.

Mr. STERN. It carries on page 1 after the synopsis the symbol "P." What does that mean, Mr. Fain?

Mr. FAIN. Pending, a pending case.

Mr. STERN. Now, the case was closed, I believe you told us, as of the time of your last report which was Commission No. 822. Can you tell us how this report, this Exhibit 823 for identification, came to be prepared, and how the investigation reflected in this report came to be held?

Mr. FAIN. Yes, sir; there began to appear various items of information that this subject, Lee Oswald, was preparing or was desiring to come back to the United States, and—

Mr. STERN. How did you learn this, Mr. Fain?

Mr. FAIN. Well, the various communications which I received or which our office there received, and various checks that the State Department—

Mr. STERN. Excuse me, by your office there what do you mean, Dallas?

Mr. FAIN. The communications would come over to me from Dallas from my supervisor.

Mr. STERN. Yes.

Mr. FAIN. And he would get the communications from the seat of Government.

Mr. STERN. "The seat of Government" is the way you refer in the Bureau to the Federal Bureau of Investigation?

Mr. FAIN. The Federal Bureau of Investigation or it might have come from the Washington field office here.

Mr. STERN. So the seat of Government can mean any communication from Washington, either from your field office here or from your headquarters?

Mr. FAIN. That is the way I have been referring to it as seat of Government.

Mr. STERN. I see. All right. Please continue telling us how this investigation was carried out.

Mr. FAIN. I was given the assignment to contact his folks, Mrs. Oswald, his mother, and—

Mr. STERN. By whom, if you recall, Mr. Fain? Was this an assignment that came from FBI headquarters or from—

Mr. FAIN. This incidentally, this communication, we got dated September 1, 1961, from the Washington field office. You see the seat of Government is the main headquarters, in D.C.

Then we have a field office there, Washington field office, that we refer to as WFO, which is an office similar to the Dallas division or the Buffalo division or other divisions, a working division that goes out and conducts investigations in the area. I was given the assignment to contact Mrs. Oswald, the mother, and to find out any information that she might have. They had been cooperative, and I wanted to see what the situation was, and especially when this boy was coming home. We wanted to interview him and stay on top of the situation, and in that connection I contacted Robert Lee Oswald again because she wasn't in town, I couldn't locate her.

Mr. STERN. Where in your report is that stated?

Mr. FAIN. On page 4. He gave me her address, said she had gone to a ranch

around Vernon, Tex., in the western area and our agent at Wichita Falls made contact with her. That is set out in the middle of the page—the results of of the contact.

Mr. STERN. That was at what time?

Mr. FAIN. On October 13 "Mrs. Marguerite Oswald, 1808 Eagle Street, Apartment No. 3, Vernon, Texas, advised that about 2 months previously she had received from her son," and so forth.

Mr. STERN. It took this period of time from your interview in September—

Mr. FAIN. September 18.

Mr. STERN. To locate Mrs. Oswald?

Mr. FAIN. Yes, sir. That is about 3 weeks, isn't it?

Mr. STERN. Yes.

Mr. FAIN. I think, my recollection is, he had difficulty locating her in that sparsely settled western country. I think he had to go to several different towns and finally located her.

Mr. STERN. So that the interview of Mrs. Oswald reflected at the bottom of page 4 was the interview conducted by another agent at your request; is that right?

Mr. FAIN. That is at the request of the Dallas office, that is right.

The CHAIRMAN. May I interrupt a moment, gentlemen? I have a commitment at the Smithsonian Institution for about 45 minutes, and so I will be obliged to leave at this time. Congressman Ford, will you preside during my absence, and if you should be obliged to leave for your congressional duties, leave it in charge of Mr. McCloy to do it. I expect to be back in three-quarters of an hour.

(At this point in the proceedings, the Chairman leaves the hearing room.)

Representative FORD [presiding]. Will you proceed, please, Mr. Stern.

Mr. STERN. Yes, sir. Was your interview with Robert Lee Oswald at your instance or did he volunteer?

Mr. FAIN. I located him for interview and tried to locate his mother and, incidentally, in that connection he was very cooperative, and I obtained all the information that he had that I could, and he volunteered a lot of this information.

Mr. STERN. Had you previously asked him to let you know if he had received any communication from his brother?

Mr. FAIN. I had asked him to be sure to let us know in case—I told him we wanted to talk to him when he came back.

Mr. STERN. You told him you wanted to know when Lee Harvey Oswald was coming back, but not whether he had any specific communication?

Mr. FAIN. We specifically wanted him to let us know if he had any contact with Soviet intelligence agents, anything like that, anything that he thought might not look right, to be sure and let us know.

Mr. STERN. Then on page 8 it says that "Mrs. Robert Oswald promised to advise upon his arrival." Were you—

Mr. FAIN. That was the wife of Robert.

Mr. STERN. Yes. Did you interview Mrs. Oswald, Mrs. Robert Oswald?

Mr. FAIN. Yes, sir; yes, I did.

Mr. STERN. What was the occasion for that interview, Mr. Fain?

Mr. FAIN. Well, to be sure and have someone let us know when this boy Lee arrived back in town.

Mr. STERN. You were willing to rely on her advice?

Mr. FAIN. We had no reason not to. They had been very cooperative, both Mrs. Oswald and Robert Oswald. Robert is an older brother of Lee. I think he was about 2 years older than Lee.

Mr. STERN. Did Mrs. Robert Oswald advise you voluntarily that she had received this postcard from Lee Harvey Oswald or did this come up when you stopped by? That is at the bottom of page 7.

Mr. FAIN. Yes; I believe she volunteered that. She had said or I might have asked her if she had any word from Lee. I don't recall now just how the conversation came up, but she said she had received a postal card from him on or about May 15, and it had been dated April 10.

Mr. STERN. When did you finally learn that he had arrived in Fort Worth, Mr. Fain?

Mr. FAIN. Let's see, that was on, it must have been, the morning of the 26th, June 26.

Mr. STERN. How did you learn this information?

Mr. FAIN. They hadn't let me know, and I began to think it was time for checking on this thing.

Mr. STERN. And by "they" you mean—

Mr. FAIN. Robert had not let me know, and Mrs. Oswald had not let me know, so I thought I had better make an independent check, and so I inquired of them, and she told me that he and his wife and child had arrived in Fort Worth on June 14, and I asked her, "Why hadn't you let me know about it?" And she said, "Well, actually the whole family had been so harassed and that he just didn't feel like letting his face be shown outside of the house." In other words, he was afraid that the newspapers would come and harass him again, I guess.

Mr. STERN. Were there newspaper stories about his arrival, do you recall?

Mr. FAIN. There were some that appeared in the paper which I have set out on page 8 and page 9. Yes; I refer to them on page 8 where they report his having gone to Russia.

Mr. STERN. Had these come to your attention before June 26?

Mr. FAIN. Yes, sir; yes, sir. I kept up with these and was careful to clip them and put them in the file.

Mr. STERN. So that is it true that you knew before June 26 that he had returned?

Mr. FAIN. No; I didn't know until that morning. I had no way of knowing that. There were some verifying communications which I set out on page 10 showing when he actually came in; page 10, you will notice, shows a check of records again back here showing when he actually left over there and when he arrived here. He arrived in New York City June 13 and then took a plane to Dallas, where he arrived on the 14th.

Mr. STERN. Yes; I thought I had understood you to say that the newspapers reflected his arrival in Fort Worth.

Mr. FAIN. No; they were over there on pages 8 and 9. June 8, 1962, in the Fort Worth Star Telegram, daily newspaper of Fort Worth, there appeared a photograph of the subject, Lee Oswald, and the headline "Ex-Marine Reported On Way Back From Russia."

Mr. STERN. But there was no news story actually reporting his arrival?

Mr. FAIN. No; he was staying in, apparently that was the reason, I guess he didn't want to get out because he was afraid he would be harassed by the neighbors or somebody and, at least, that is what Mrs. Oswald said. He just—

Mr. STERN. The harassment by newspaper reporters you referred to, probably did not mean reporters at the time of his arrival in Fort Worth.

Mr. FAIN. Well, she was—I suppose she indicated or she said that he just hadn't gotten out of the house. In other words, he came in there on the 14th and apparently, according to her story, he didn't show his face outside that house.

Mr. STERN. Then what did you do when you learned he had arrived?

Mr. FAIN. Well, I told her I would like to talk to him, he was there, and I made arrangements for him to come to the office and he said he could make it by 1 o'clock. I requested B. Tom Carter, my senior agent, to assist if he would me in interviewing Oswald, who came in about 10 minutes before 1. He came in the office like he said he would, and we talked to him on June 26, 1962.

Mr. STERN. Before you interview any subject, Mr. Fain, do you have a practice of giving him any cautionary statement, any warning?

Mr. FAIN. It was always my policy, and I am sure I did in this case, to tell them this substantially, that, "You don't have to furnish us any information. Any information you furnish can be used against you in court, and you have a right to consult with an attorney before giving us any information or statements."

Mr. STERN. Can you actually recall that you said this to Oswald?

Mr. FAIN. I don't recall specifically, but I know it was my religious practice to do it because we are always instructed to do that.

Mr. STERN. Fine.

Was the interview with Mr. Oswald recorded mechanically in any way?

Mr. FAIN. It was not.

Mr. STERN. How did you record what he was telling you, in your usual fashion?

Mr. FAIN. I was sitting behind the desk. He came up and sat down in front of the desk, and Mr. Carter was sitting to my left. We explained to him, we wanted to talk to him. I took the notes, and from my notes I dictated this, which we call an FD-302.

Mr. STERN. This is your memorandum and not Agent Carter's?

Mr. FAIN. That is right; I was more familiar with the case. I took the notes and did the dictation.

Mr. STERN. And the dictation was when?

Mr. FAIN. July 2, 1962; transcribed July 6, 1962.

Mr. STERN. These dates appear where?

Mr. FAIN. The date of dictation is shown on the lower right-hand corner; date of interview at the left, and date of transcription or typing was on July 6, upper right-hand corner.

Mr. STERN. What was Lee Harvey Oswald's demeanor in the course of this interview?

Mr. FAIN. He was tense, kind of drawn up, and rigid. He is a wiry little fellow, kind of waspy.

Mr. STERN. Did he answer all of your questions?

Mr. FAIN. No; he didn't. As indicated there in the fourth paragraph, he was a little insolent in his answers. He was the type of individual who apparently doesn't want to give out information about himself, and we asked him why he had made this trip to Russia, and he looked like it got under his skin, and I noticed he got white around the lips and tensed up, and I understood it to be a show of a temper, and in a show of temper he stated he did not care to relive the past. He didn't want to go into that at all.

We asked him, I think I asked him, in various ways, three or four times, trying to ascertain just what the situation was, and he finally stated, that Soviet officials had asked him upon his arrival why he had come to Russia, and he told us, "I came because I wanted to." That is what he said he told the Soviet People, "I came because I wanted to," and he said, he told them, "I came over here to see the country." That is the kind of answers he gave.

Mr. STERN. Do you remember any other details of this interview that you haven't set forth here? I can't stress too greatly that we are interested in any detail, any fragment of this interview that you recall that isn't set forth here, any elaboration you want to make.

Mr. FAIN. No——

Mr. STERN. Why don't you read it through carefully now and, as you go through, add to it in any way that you wish to, tell us anything else that you remember, any small detail that occurs to you. I don't mean read it out loud, read it to yourself.

Mr. FAIN. I see.

Our primary objective at this time was to ascertain whether or not the Soviets had demanded anything of him in letting him get out of the country and permitting his wife to come along with him, and you will notice down there in paragraph 12——

Mr. STERN. Page 12.

Mr. FAIN. Excuse me, page 12, paragraph 4 of page 12, he stated that the Soviets made it very difficult for him to obtain permission for his wife to leave Russia, and that the process of obtaining permission for her to leave was a long, difficult course requiring much paper work. But he was just referring there to the length of time, and he denied that they had attempted to get anything from him or demand anything from him; and he denied that they had ever sought information from him of detriment to our country.

I don't recall anything, anything in addition to what is set out here.

Mr. McCLOY. No suggestion that he was a secret agent?

Mr. FAIN. No, sir.

Mr. McCLOY. He had made no such suggestion to you as to that?

Mr. FAIN. No, sir.

Mr. McCLOY. Did you ever have any suspicion that he might have been?

Mr. FAIN. That he may have been rewarded by the Russians and asked to do something or certain things about him? Well, an FBI agent is naturally suspicious, of course, of anything like that. Of course, he denied it. He denied that they demanded anything of him.

Mr. McCLOY. And you never had any indication that he was a secret agent of any other country?

Mr. FAIN. No, no.

Mr. McCLOY. Including the United States?

Mr. FAIN. You mean that he might have gone over there and seek out information for us?

Mr. McCLOY. Yes.

Mr. FAIN. No, sir; no, sir; nothing like that.

Representative FORD. At the time you had this interview with Oswald, did you have the information, for example, that appears on the first page of Commission No. 823 under the heading "Details"?

Mr. FAIN. This information there was furnished by the Office of Naval Intelligence. I didn't check the records on that. That came in by communication. Does that answer the question, Mr. Ford?

Representative FORD. What I was inquiring about was did you have this information available to you at the time you interviewed him on July 13 or 14—

Mr. STERN. June 26.

Representative FORD. June 26?

Mr. FAIN. June 26; yes, sir. I am sure I did, because that is on March 20. I read they had sent it.

Representative FORD. In other words, you undoubtedly had—

Mr. FAIN. I had access to anything in our files there pertaining to this case.

Representative FORD. You had information. For example, you were familiar with the statement in a report that, and I quote, "Subject allegedly told the embassy he had advised unnamed Soviet officials that as a former Marine radar operator he would make available to them information about his Marine Corps specialty when he became a Soviet citizen."

Mr. FAIN. Yes, sir; that was an allegation that was made over there. As I recall that was obtained in a check at the embassy, United States Embassy.

(At this point in the proceedings, Mr. Dulles enters the hearing room.)

Representative FORD. Did you make any inquiry as to whether or not that was an accurate statement alleged to have been made by him to an embassy official?

Mr. FAIN. Mr. Carter and I asked him, all about those things. Of course, he denied it.

Representative FORD. Did he make any specific denial of that, as you recall?

Mr. FAIN. Yes; we asked him if he had been asked about anything concerning his specialty while in the Marine Corps and I think he said no, that he had not.

Representative FORD. What confuses me is, one, that he denied this to you, but then he apparently at some prior time had told the Embassy that he had advised unnamed Soviet officials that as a former Marine radar operator he would make available to them information about his Marine Corps specialty when he became a Soviet citizen.

Mr. FAIN. Yes, sir; we were aware of that, that statement. He denied it, and he also denied that he had ever denounced his United States citizenship, and he denied to Mr. Carter and me that he had ever applied for Soviet citizenship specifically.

Mr. STERN. Was it your practice, Mr. Fain, to review the files on a subject before you interviewed him?

Mr. FAIN. Yes, sir.

Mr. STERN. Can you recall whether you did that in this case?

Mr. FAIN. I certainly did, yes, sir; there were so many details and so many allegations you had to study it long hours to get the thing further in mind.

Mr. STERN. But you think you did that before you interviewed Oswald?

Mr. FAIN. Yes, sir.

Mr. STERN. In view of the purpose of the investigation, the interest that you had, what was your overall evaluation of Oswald as a result of this interview?

Mr. FAIN. Well, that was—of course, that would be calling for my opinion,

and we are interested only in getting facts on this case, facts, and all I could say is that he seemed tense.

Mr. DULLES. He seemed tense?

Mr. FAIN. Tense, yes, sir; and drawn up. I don't know whether he was just scared or what his situation was, but he was—he exhibited an arrogant attitude, arrogant, cold, and inclined to be just a little insolent.

Mr. STERN. When he did tell you something would you tend to believe that he was telling you the truth or not? Did you form an impression of his veracity?

Mr. FAIN. Well the information we had was that he had applied to renounce his citizenship, and he had applied for Soviet citizenship, and yet he denied that. It was just a flat denial and I had no way of knowing whether he was telling the truth or not. It is a thing that you cannot always tell. We got answers from him as set out here. He would give you some kind of answer.

Mr. STERN. Who was your immediate superior on a case like this, not his name, but describe his function.

Mr. FAIN. He was on the desk in Dallas, and all of these investigations, all of my work, went across his desk. He would make the assignments also.

Mr. STERN. Tell the Commission what you mean by "the desk," please.

Mr. FAIN. The supervisory desk in the Dallas office that handled security-type matters, and this report would go across his desk, and the assignments that would come to me would be made by him.

Mr. STERN. Did you discuss the Oswald case with your desk supervisor at this time, upon the completion of this interview?

Mr. FAIN. I don't recall specifically talking to him at this time. If I had been over there in the next few days I imagine I would have talked to him or did talk to him. You see, I was in Fort Worth.

Mr. STERN. Yes.

Mr. FAIN. And normally I would dictate my reports, and they would go by mail to Dallas and, of course, we were in telephonic contact, any time anything came up of any problem nature.

Mr. STERN. Would you have discussed the case with your supervisor if you thought that there was a particular and immediate problem?

Mr. FAIN. Oh, certainly; yes, sir.

Mr. STERN. Did you think that there was a particular and immediate problem following your interview?

Mr. FAIN. Well, I didn't feel satisfied because of his answers there as to why he went to Russia. He was evasive, and that was the reason I set out a lead to have him reinterviewed.

Mr. STERN. What do you mean by that, Mr. Fain?

Mr. FAIN. To talk to him again. You see, at this time he had just come to town and he was out there at his brother's place. He had a wife and a little 4-month-old baby that he had brought from Russia, and he didn't have any established place to live, and I can see how the newspapers may have harassed him, and it might have been, very likely was, that he didn't want to show himself out of the house, but I felt under the circumstances he ought to be talked to again, he ought to be interviewed in detail about these same things and, consequently, I did set out a lead.

Mr. STERN. What does that mean in terms of your procedures?

Mr. FAIN. In my report I just suggested that he be reinterviewed.

Mr. STERN. Is that in this report?

Mr. FAIN. That might have been my transmittal—no, it doesn't show here. It is probably on the transmittal to the chief of the Dallas office.

Mr. STERN. A recommendation that he be—

Mr. FAIN. A recommendation, yes, that he be reinterviewed because I wasn't thoroughly satisfied with some of the answers he gave.

Mr. DULLES. I wonder, Mr. Chairman, whether we should not have that transmittal letter; it seems to be pertinent to the case.

Representative FORD. I think it would be helpful in light of the testimony, Mr. Fain.

Mr. FAIN. It was a lead sheet, what we call a lead, and I recall that on that I suggested that the records of Immigration and Naturalization Service be



checked and incorporated, and also that he be reinterviewed. Those were the two things I remember specifically having put in the report.

Representative FORD. That would be a cover to Commission No. 823?

Mr. FAIN. A lead sheet; yes, sir.

Mr. STERN. We are going to have the testimony, gentlemen, of Mr. Alan Belmont, the third-ranking official of the Bureau, who can testify from an overall Bureau viewpoint on the way this case was handled and be able to respond to questions of that sort, what was in the internal memoranda, transmittal documents, and things of that sort.

Mr. DULLES. That is satisfactory.

Mr. STERN. Anything else at all, Mr. Fain, that you can tell us about this interview that we haven't covered already?

Mr. FAIN. No, sir; I put it all on this 302.

Mr. STERN. Mr. Chairman, may we have admitted Commission Exhibit 823 for identification?

Representative Ford. It will be so admitted.

(The document referred to was marked Commission Exhibit No. 823 for identification and received in evidence.)

Mr. STERN. Mr. Fain, I show you a report marked Commission No. 824 for identification, an eight-page report dated August 30, 1962. Can you identify this report?

Mr. DULLES. Off the record.

(Discussion off the record.)

Mr. FAIN. Yes, sir; this is my report of August 30, 1962. It is a closing report, a report that records the result of an investigation pursuant to the lead I set out in this other report, referring to the reinterviewing.

Mr. STERN. This followed your other report by some 7 weeks?

Mr. FAIN. Yes. I talked to him the last time June 26, 1962, and this interview was conducted August 16, 1962.

Mr. STERN. And the early report was dated July 10, 1962.

Mr. McCLOY. July 10, 1962.

Mr. FAIN. Yes, sir; and this report August 30.

Mr. STERN. August 30.

Mr. FAIN. Yes, sir.

Mr. STERN. Have you reviewed this report recently, Mr. Fain?

Mr. FAIN. I have.

Mr. STERN. In preparation for your testimony today?

Mr. FAIN. I have.

Mr. STERN. Is there any statement in it you would like to correct?

Mr. FAIN. No, sir.

Mr. STERN. Any information you would like to add to the data that are set forth?

Mr. FAIN. No, sir.

Mr. STERN. What was the occasion for the investigative work reported in this document, Mr. Fain?

Mr. FAIN. You will recall that I had set out a lead to reinterview him. I felt that he had just gotten back, from Russia on the previous interview, and that he might have been upset naturally, and a reinterview might be more productive. He might feel now settled down, so I set about to locate him and to talk to him again.

Mr. STERN. How did you locate him, Mr. Fain?

Mr. FAIN. On August 14 I contacted Robert again, Robert L. Oswald, the older brother, at 7313 Davenport, and he told me that Lee Harvey had moved, that he didn't have his house number, but he was on Mercedes Street, west of Montgomery Ward & Co., just off Seventh Street.

Mr. STERN. In Fort Worth?

Mr. FAIN. Yes, sir; in Fort Worth. And then I went there. He gave me the name of the street, and I went there and made some inquiries, and finally ascertained from an adjoining neighbor, just east of Lee's house—these were little duplex apartments—and she told me, yes, there is a Mr. Oswald who just moved in next door a few days ago.

Then on August—

Mr. DULLES. Could I ask, did she seem to know him at all well?

Mr. FAIN. No; she didn't, she hadn't met them, but she just said some people had moved in, and that was enough for me. Robert had told me, had indicated pretty much where it was, and the fact is he gave me pretty good directions as to where to go. As a matter of fact, he had been down there himself in the apartment apparently, but he just didn't have the house number.

Mr. STERN. What did you do after you located the house, Mr. Fain?

Mr. FAIN. After I located the house on the 15th, and I made arrangements to have another agent and I go out there and reinterview him. I didn't want to go to his house. I didn't want to contact his wife. I knew from the background we had conducted that she could not speak English. She could speak Russian only, and I didn't know any Russian, so it wouldn't have been any point in my contacting her and upsetting her.

So this agent and I in an automobile took up a surveillance at the end of the street out of sight of the house and away from the house, and waited until he came from work.

We observed him toward the end of the day, and I suppose it must have been around 5:30, something like that, in the late afternoon, walking down the street, and we then moved up in front of his house.

Of course, I knew him and he knew me from a previous interview, and I spoke to him, "Hi, Lee. How are you?" I said, "Would you mind talking with us just a few minutes?" So he got in the back seat. I remained in the front seat. Arnold J. Brown, the other agent, was in the back seat with him, and we talked with him there, and the results of the interview are set out here on page 4.

Mr. STERN. Was it your normal practice to conduct an interview in teams?

Mr. FAIN. Yes, sir.

Mr. STERN. This interview you conducted with Agent Brown, and your previous interview you conducted with Agent Carter, I believe?

Mr. FAIN. Yes, sir; Agent Carter was with me on the first one, and Arnold Brown was on the second one.

Mr. STERN. Why is that, Mr. Fain?

Mr. FAIN. Well, in case something comes up in these important interview cases which might have some evidentiary value, we like to have two agents present.

Mr. STERN. Is your general rule always to have two agents when you interview any subject?

Mr. FAIN. Subject, particularly if it is something other than routine; yes, sir.

Mr. STERN. This, as far as you were concerned, was something other than routine?

Mr. FAIN. In internal security cases, in a case of this magnitude and this importance, we would always have two agents present.

Mr. STERN. When you say a case of this magnitude and a case of this importance, what do you have in mind?

Mr. FAIN. Well, this man had been to Russia, and we wanted to try to find out whether he had been recruited by the Russians to do a job against the United States.

Mr. STERN. So this, in relation to your other cases, was an important case?

Mr. FAIN. It was important.

Mr. DULLES. Do you often conduct interviews in a car or was this rather unusual?

Mr. FAIN. We felt that in this case we could get his cooperation better if we could show to him that we weren't trying to embarrass him. I explained to him that afternoon, "We didn't contact you at your place of employment; we didn't want to embarrass you before your employer," and didn't want to upset his wife and, therefore, I hadn't bothered his wife, and we just felt if we talked to him there in the car informally, he would better cooperate with us.

Mr. DULLES. It wasn't because he showed reluctance to have you go in the house or didn't invite you or anything of that kind?

Mr. FAIN. Oh, no; no. Actually he invited us in when we stopped him. He said, "Won't you come in the house?" And I said, "Well, we will just talk here. We will be alone to ourselves and we will be informal, and just fine." So he got in the car with Agent Brown.

Mr. McCLOY. Was he actually less truculent than he had been before?

Mr. FAIN. Yes; he had actually settled down. He had gotten a job at Leslie Machine Shop, and he wasn't as tense. He seemed to talk more freely with us.

Mr. McCLOY. He indicated that he had been or his wife had been in constant communication with the Soviet Embassy here?

Mr. FAIN. Well, he told me on the previous interview that he would have to get in touch with the Russian Embassy and let them know that his wife was in this country, and to let them know his address, and I asked him if he had done that, and he said he had in this second interview. He said he would have to contact them. The way he termed it, his phraseology was, that the Soviet law was that a person in her position coming over here, a citizen from Russia, must notify the Soviet Embassy of her current address, and he said that should be done periodically.

Mr. STERN. Did you discuss his discharge from the Marine Corps?

Mr. FAIN. We actually went over substantially everything we had asked him before.

Mr. STERN. Did he seem concerned about that?

Mr. FAIN. The fact that he had been given the unfavorable discharge? I believe now, I don't recall just exactly whether I asked him right at that time whether there had been any disposition of that, and maybe I did.

Mr. STERN. The third paragraph on page 4 refers to that, and I just wondered if you could say more about it.

Mr. FAIN. Yes; he just advised about the matter of having been given an undesirable discharge had not been reviewed. We did ask him that because he brought it up and mentioned it before.

Mr. STERN. Did he seem——

Mr. FAIN. He didn't know when it would be heard at that time. He said he didn't know when it would be heard.

Mr. STERN. Did he seem angry about it, the status?

Mr. FAIN. No; just answered it and didn't seem ruffled.

Mr. STERN. At any point in the course of the interview did he display anger or irritation?

Mr. FAIN. The only point he did, was when we asked him again why he went to the Soviet Union in the first place, and I didn't like his answer there. That is set out on the bottom of page 5. He still declined to answer questions as to why he went to the Soviet Union in the first instance. He said he considered it nobody's business why he wanted to go to the Soviet Union. Finally he stated he went over to Russia for his own personal reasons. He said it was a personal matter to him. He said, "I went and I came back." He said, "It was something that I did." So he just bowed his neck and apparently wasn't going to tell anything further at all on that point.

Mr. DULLES. Could I ask a question? On the bottom of the earlier page, page 1, where it stated that Oswald was interviewed when he first arrived at the Soviet Union, and he stated he was interviewed when he was about to leave by representatives of the MVD, he was quite clear about the MVD and not the KGB?

Mr. FAIN. That is right; he indicated the MVD.

Mr. DULLES. And he clearly said MVD?

Mr. FAIN. Yes, sir; he described it as being—handling criminal matters among the population generally, is the way he described it.

Mr. DULLES. That might be. That is really the Ministry of the Interior, and the KGB is the secret security services, which has been sometimes controlling and sometimes has been under the Ministry of the Interior.

Mr. FAIN. Yes, sir; he indicated to us just the ordinary way. In other words, I gathered from him that the police interviewed him when he came in, and also he said the police interviewed him when he left. But he said he made no deals with them or with any intelligence agents of the Soviet system.

Representative FORD. On page 2, Mr. Fain, are written two words. One is "Texas," is that, and another is "Noloc."

Mr. FAIN. I have no knowledge of who put that on or how that came there. I guess that looks like maybe "Texas" up there at the top.

Representative FORD. Would the second be "no location." Is that an abbreviation for that?

Mr. FAIN. That probably has reference to somebody's notation. It may have been on the desk over there; no location for the uncle, no city stated for his location.

Representative FORD. Would that be something added by someone other than yourself?

Mr. FAIN. Yes, sir; I did not make that notation. I have no knowledge as to who did. It was made in Dallas.

Mr. STERN. Mr. Fain, apart from the question of why he went to the Soviet Union in the first place, was he reluctant to answer any other questions that you put to him?

Mr. FAIN. As I recall it, he answered the other questions fairly readily, and he appeared to be a lot more relaxed than he was the first time.

Mr. STERN. Throughout the interview?

Mr. FAIN. With the exception of this, he kind of bowed up there, and said, it was a personal matter as to why he went over there. He said he came and he went back. Just a little bit insolent. He said it was nobody's business.

Mr. STERN. How long did this interview last, Mr. Fain?

Mr. FAIN. I don't recall exactly, but I expect we talked to him about an hour, maybe an hour and 15 minutes, something like that.

Mr. STERN. How does that compare with the length of time of your first interview with him in your office?

Mr. FAIN. As I recall, the first interview, and again I don't recall it exactly, but I was of the opinion we talked to him for maybe an hour and a half, and maybe 2 hours. It was close to 2 hours because we couldn't cover all the questions in a lesser period of time. We approached the things in different ways and from different angles, and to see if he wouldn't give us the information.

Mr. STERN. Would you read over these three pages of your memorandum of the interview, pages 4, 5, and 6 of the report, and see if there is anything you would like to add or clarify, any detail that occurs to you now that you didn't cover there, any flavor or color of the interview that you wouldn't ordinarily put in your report that you can tell us about?

Mr. FAIN. All right, sir; it is in there. It is indicated in the last paragraph.

Mr. STERN. On what page?

Mr. FAIN. Page 6. Really there is no point in repeating, but he did play down during the entire interview—he seemed to be just a little bit derisive of our questions, and hesitated to bring out whether or not the Soviet intelligence officials might have been interested in him or might have contacted him, and he downgraded or played that down. He just didn't think he was that important; in other words, that they would want to contact him.

Mr. DULLES. How was he on that point, was he strong on that point, did he press that point?

Mr. FAIN. No; there wasn't anything remarkable about that different from the other. He saw no reason why the Soviets would want to contact him. He didn't feel like he was of any importance to them. He said that he would cooperate with us and report to us any information that would come to his attention.

Mr. DULLES. On the bottom of—excuse me.

Mr. FAIN. That is all right; I was through.

Mr. DULLES. On the bottom of page 1 of your report, page 4 of the exhibit, it is indicated that this report was made by Special Agent Arnold J. Brown and by you. Do you recall who dictated the report?

Mr. FAIN. I did.

Mr. DULLES. And was it concurred in by Special Agent Arnold J. Brown?

Mr. FAIN. Yes, sir.

Mr. DULLES. He saw it?

Mr. FAIN. Yes, sir.

Mr. DULLES. He concurred in it?

Mr. FAIN. Yes, sir; he saw the dictated, the finished document and initialed it.

Representative FORD. What kind of covering letter did you send with this to the Dallas office, if any?

Mr. FAIN. There would be none because this is closed. In other words, there didn't seem to be any evidence that he had a potential for violence or anything like that, and we just closed the case, and this went over there very likely without any transmittal.

Mr. DULLES. Where is there an indication here that the case was closed?

Mr. FAIN. "C." This letter "C" under the synopsis is a symbol we use just to save typing time, it stands for closed.

Representative FORD. Who makes that determination?

Mr. FAIN. As to whether the case would be closed or not?

Representative FORD. Yes.

Mr. FAIN. It was my determination and my recommendation it be closed. Of course, the report goes to the supervisor's desk in the Dallas office, and if he concurs he lets it go on through, and if he declines he would send it back for additional investigation or other action, whatever he deemed appropriate.

Mr. DULLES. Was there a written recommendation that this case be closed other than this?

Mr. FAIN. No; other than this, no.

Mr. DULLES. That "C" is all?

Mr. FAIN. Yes.

Representative FORD. Is that "C" put on by you?

Mr. FAIN. Yes, sir; in my dictation.

Representative FORD. In your dictation?

Mr. FAIN. Yes, sir; to show the case closed.

Mr. DULLES. Do you get any approval or disapproval of that, or, if it is not disapproved, you consider it conclusive?

Mr. FAIN. Well, if it is going to be disapproved, I would hear probably the third day, or if he wanted to get on the telephone and call me to do something additional that he thought ought to be done, then I would be told to do some additional work on it.

Representative FORD. What is the significance of the third day? Is this the usual time or what?

Mr. FAIN. No; I was just thinking about the mail time. You get a communication out, for instance, if I mailed this report it would get there the next day, and they would review it and then they would mail it out and I would get it the third day.

Representative FORD. Just the communication time.

Mr. FAIN. That is right; that is right.

Mr. DULLES. Did you get any comment back at all on this report from headquarters?

Mr. FAIN. No; I did not.

Mr. STERN. Would you elaborate, Mr. Fain, about your conclusions on this case and your evaluation of Oswald the man as of the time of your second interview. What led you to your recommendation?

Mr. FAIN. An evaluation as to what?

Mr. STERN. From the viewpoint of the investigation you were conducting. You told us how you felt about him on the first interview, and you felt a further interview would be necessary.

Mr. FAIN. Well, I felt in the second interview he was more relaxed, and I felt he answered the questions more readily and with less evasion.

However, he still didn't seem to want to go into the reasons why he went over there in the first place, and why he wouldn't do it. Evidently he had his own reasons for giving those answers. I don't know whether he just wanted to be—maybe he was just inherently insolent, and that is just typical of his personality is all I could figure out.

Mr. STERN. Will you tell us again the purpose of your investigation, what you were after.

Mr. FAIN. The purpose of this investigation was to determine whether or not he had been contacted by the Soviet intelligence agencies, whether he had been given an assignment or not, whether they had made any deal with him, and whether, as a demand, for permitting his wife to accompany him—you see,

for a long time, they told him he couldn't take her apparently, and there was quite a period that he was waiting to get her, and he refused to come back to the United States unless his wife came back with him. We wanted to find out whether or not the Soviets had demanded anything of him in return for letting her come on over.

Mr. STERN. As to that, had you formed a conclusion, after the second interview?

Mr. FAIN. As to—on that point?

Mr. STERN. Yes.

Mr. FAIN. Well he answered it and said, "No." He played it down all the way through. In other words, that was the main purpose we were talking to him, was to try to ascertain that point. He downgraded it all the way through, and belittled himself. He said, "I was not that important."

Mr. STERN. Was your recommendation that this case be closed, a recommendation that indicates that you had reached a conclusion on the question of your investigation?

Mr. FAIN. Yes, sir; even though he was arrogant and cold, from his answers, I couldn't see any potential for danger or violence at that point.

Mr. DULLES. Did Special Agent Arnold J. Brown concur in your decision with regard to marking the case "C," closed?

Mr. FAIN. Yes, sir; I remarked to him we were just going to close it, and he saw the finished report and initialed the report.

Mr. DULLES. He saw that conclusion and concurred in it?

Mr. FAIN. Yes, sir.

Mr. STERN. In terms of your FBI procedures, what is the difference between marking a case closed or marking it pending?

Mr. FAIN. Well, if it is a pending case, there is additional work to be done on it.

Mr. STERN. Specific additional work?

Mr. FAIN. Yes, sir; specific leads to be done on the case.

Mr. STERN. And closed means that there are no such specific leads, is that right?

Mr. FAIN. Yes, sir; that is right; it is closed.

Mr. STERN. But does that mean that the case is in dead storage somewhere?

Mr. FAIN. Not forever; no. If there is any reason for reopening it, it could be reopened the next day if necessary or the next 3 days or any time. But this assignment had been completed. He had been interviewed. That was the purpose of this contact, to interview him, and set forth the results of re-interview, and that was all that was to be done.

Mr. STERN. Are cases frequently reopened?

Mr. FAIN. Cases are reopened constantly. If there is any reason for reopening it, it certainly would be reopened.

Mr. STERN. Is it fair to say then that in this kind of situation, "closed" is really a shorthand for "no further work to be done at this time"?

Mr. FAIN. Correct, correct.

Mr. DULLES. Off the record.

(Discussion off the record.)

Mr. McCLOY. What is the date of this last report here?

Mr. FAIN. The date of this was August 30, 1962.

Mr. McCLOY. August 30, 1962.

Mr. STERN. Mr. Fain, do you recall discussing Lee Harvey Oswald with his brother Robert Oswald about this time?

Mr. FAIN. Discussing his brother with him?

Mr. STERN. Did you ever talk to Robert Oswald about any of your conclusions regarding Lee Harvey Oswald?

Mr. FAIN. Certainly not. I contacted him on August 14, but that was for the purpose of locating his brother for interview.

Mr. STERN. Is it possible that you might have said to him at some point, "I have interviewed your brother and I don't think he presents a problem," or "I do"? I don't suppose you would say that.

Mr. FAIN. Positively not. I never made that statement to him at any time.

Mr. STERN. This would be contrary to your operations?

Mr. FAIN. That would call for a conclusion, and we wouldn't discuss a matter like that with anyone, especially a relative.

Mr. STERN. With any unofficial person?

Mr. FAIN. Official—that is right. Of course with my supervisor and some official who is entitled to it, but I certainly did not talk to Robert Oswald about anything like that.

Mr. STERN. Do you have any indication from your interviews with Lee Harvey Oswald or from anything else you knew about him, from your investigation, that he was dangerous or potentially violent?

Mr. FAIN. No, sir; no, sir; if there had been any indication that he was potentially dangerous or violent or had a potential for violence, we certainly wouldn't have closed it.

Mr. McCLOY. You felt he constituted no security risk to the United States?

Mr. FAIN. Well, we couldn't prove that he was a member of the Communist Party in Fort Worth; had no report that he was a member of the party.

Mr. McCLOY. Quite apart from the party, from party membership, was it your conclusion that he was—he did not constitute a security risk?

Mr. FAIN. I couldn't see any potential for violence.

Mr. McCLOY. I am not talking about potential for violence. I am talking about security risk. You know what I mean by that. You are an experienced security officer.

Mr. FAIN. Well, I am suspicious of any Communist, obviously, and I think any Communist is a threat because I think they are atheistic, materialistic; I don't think they know what the truth is, and from that standpoint I would think he is—but he wasn't, we couldn't say. The checks we made were to the effect that he was not a Communist, was not a member of the Communist Party.

Mr. McCLOY. Was not a member of the Communist Party.

Mr. FAIN. But he went to Russia. Of course, we couldn't get him to tell us why he went. We tried on two occasions. He said it was personal with him. He wanted to go over there the first time, and in that first interview he said, "I don't care to relive the past."

Mr. McCLOY. I understand that. But if you had doubts about his security, about his loyalty to the United States, or put it the other way, or if you think he might have been a security risk to the United States, should you have closed this case?

Mr. FAIN. Yes, sir; we would have closed it because there was no reason to keep it open. We had the information. We re-interviewed him, no potential for violence appearing.

Mr. McCLOY. That isn't the test, is it, whether he can be capable of intrigue or he can be capable of espionage without violence. He could be a security risk without violence, couldn't he?

Mr. FAIN. Well, that might be, of course. Of course—if we knew then what did happen, was going to happen, we certainly wouldn't—

Mr. McCLOY. I am not talking about hindsight. I am talking about as of that time whether in your judgment this man was no longer, in your judgment, to be considered as a security risk to the United States. I am not trying to place any blame or criticism here. I am just trying to get the state of your mind as of the date of that report, whether that included your belief that he was not a security risk.

Mr. FAIN. Well, we like to let our reports stand for themselves, in other words on the situation, the answers given. In answer to your question, I would have been rather satisfied if he would have told me why he went over there and if he weren't so evasive.

Mr. McCLOY. You got an impression he was evasive and he was not telling you the truth?

Mr. FAIN. Well, he was inclined to be haughty and arrogant, and even though he was insolent, and that could have been, of course, a part of his personality makeup, that type of individual.

Mr. McCLOY. Let me ask you this: If you had felt in spite of his answers that he was a security risk, would it have been incumbent upon you to report to your superiors that he was, and that you thought he ought to be continued under surveillance?

Mr. FAIN. Yes, sir; if he would have met the qualifications we considered that he had been a security risk, and had a potential for any violence or dangerousness, why, we certainly would have stayed on him.

Mr. DULLES. And you would not have marked the report as closed, the case as closed.

Mr. FAIN. Well, I closed it because my investigation was completed. The assignment was to interview him and the case at the end of the interview with the information we obtained the case was closed. The man had found a job, he was working, he was living in this duplex with his wife, and he was not a member of the Communist Party. Of course, it was true he had been to Russia. He denied any contacts with a Soviet intelligence agent. He denied that he had any contacts. We considered all the facts and circumstances and closed the case, and that is what I did.

Mr. McCLOY. If you had not come to that, would you have put in another lead for another interview?

Mr. FAIN. Yes, sir.

Mr. McCLOY. Would it have been incumbent upon you to recommend to your superiors that he be continued under surveillance?

Mr. FAIN. I could have recommended that he be reinterviewed but I frankly didn't see any point in doing that.

Mr. McCLOY. I understand that. But assuming you did find some derogatory information, or some facts that made you fear that he was a security risk beyond a recommendation for further interviews, what would be your province to do? Would it be your province to recommend surveillance?

Mr. FAIN. Yes, sir; if there had been some facts there to indicate that he was——

Mr. McCLOY. A potential danger?

Mr. FAIN. A potential danger to the security of the United States, and for instance if we had found that he was a member of the Communist Party and meeting with them, made some contact with them, I certainly would have stayed right on it.

Mr. McCLOY. You would have recommended that he be kept under surveillance then?

Mr. FAIN. Yes, sir.

Mr. McCLOY. That is all I am getting at.

Representative FORD. Are you through, John?

Mr. McCLOY. Yes.

Representative FORD. On the top page of Commission Exhibit 824 it says, and I quote, "Oswald and wife unknown to confidential informant." Did you make that check?

Mr. FAIN. I did. I checked with the confidential security informants that we had there, and they said this man was not known to be a member of the party, and the party had not discussed him for membership purposes or anything like that.

Representative FORD. Do you have in this area, or did you have at that time in this area reliable confidential informants?

Mr. FAIN. Yes, sir; yes, sir. Excellent informants.

Representative FORD. During your experience in Fort Worth or otherwise, did you ever have a case similar to the Oswald case, a defector who had returned to the United States?

Mr. FAIN. No, sir.

Representative FORD. This was your only one?

Mr. FAIN. I had read in the newspapers about them occurring in various areas in the United States but this was the first one I had handled.

Representative FORD. This was the only one of a similar nature that you handled?

Mr. FAIN. I believe there were some cases back there too. We did handle one or two of those where the man in the service had made some kind of a remark, and we had interviewed him when he returned. I remember two or three of those cases when he returned to this country.

We contacted him to ascertain what his employment was, what his status was, what his present residence was, what his present attitude was, and whether



or not he would report to us if he were contacted under suspicious circumstances abroad or otherwise. We worked on several of those, that type of case.

Representative FORD. Your contacts with these confidential informants, were they prior to or subsequent to this interview with Oswald?

Mr. FAIN. This was subsequent. This was the day following. I had also previously interviewed them.

Representative FORD. I think there was a somewhat similar statement in one of your other reports.

Mr. FAIN. I believe in the other report, yes, sir.

(At this point, Chief Justice Warren entered the hearing room.)

Mr. DULLES. Do you recall any other instances where you have marked a case closed where headquarters has come back and suggested that it not be closed and that further investigation be made?

Mr. FAIN. Right now, I can't specifically recall any instances, but it has been done, and if the supervisor felt additional work should be done we would have no hesitancy in doing it.

Mr. STERN. Mr. Fain, your recommendation about closing a case is checked by how many supervisors that you know?

Mr. FAIN. One on the security desk there before it goes on here to the seat of Government.

Mr. STERN. This is one on the security desk in Dallas?

Mr. FAIN. Yes, sir.

Mr. STERN. Then what happens?

Mr. FAIN. Then the report goes on into Washington here, to the FBI.

Mr. STERN. As far as you know is it checked again here?

Mr. FAIN. Oh, yes.

Mr. STERN. And by whom or by what kind of official?

Mr. FAIN. Well, they have a desk up here that has that function, too, you see. I don't know just, Mr. Belmont can probably answer that better than I can because I am not familiar at all with the workings of it up here. But I know they are rigidly checked and rechecked.

Mr. STERN. Now, at the time you filed this report, in view of the fact that you didn't see, as you testified, any further work to be done at this time—

Mr. FAIN. That is right.

Mr. STERN. Could you have put the case in any other status besides "Closed"? Is there any other administrative procedure that might have been available to you under the circumstances where you had nothing further, no further work to recommend at the time?

Mr. FAIN. Any other status? I could have put it, of course, in a pending status and set out some leads.

Mr. STERN. No, no; assuming you didn't see any further work to be done, any further leads at that time, under your administrative practices?

Mr. FAIN. No; if the work has been completed, we put the recommendation that it be closed and as I say, of course, that is no ironbound thing, to keep it from being reopened. It can be reopened any time, any of these security cases, the very next day, if necessary or the next 5 days or the next month, anything comes in on it or we get any specific reason for reopening it, it certainly is reopened.

Representative FORD. A few minutes ago I asked you a question about checking with confidential informants. Did this check involve only confidential informants in Fort Worth as far as the Communist Party was concerned, or would it have a broader check?

Mr. FAIN. These were the confidential informants available to me in Fort Worth only.

Representative FORD. Would there be a different set of informants in Dallas?

Mr. FAIN. Yes; they had informants, I suppose, one or two from the area there, but we certainly had two when I considered to be excellent right in Fort Worth and I am sure they had good access.

Representative FORD. But would such a check of informants at Fort Worth necessarily mean there couldn't have been some relationship Oswald had with the Communist Party in Dallas, for example?

Mr. FAIN. Well, these in Fort Worth are familiar with some of the activity in Dallas, too.

Representative FORD. There would be a connection between your informants in Fort Worth—

Mr. FAIN. Yes, sir.

Representative FORD. And those that might exist in Dallas?

Mr. FAIN. Yes, sir. I contacted these on several occasions, on two occasions that I remember, and, I felt, if this man was a member of the Communist Party they would know about it.

Representative FORD. When one of the Secret Service agents went down to Dallas prior to the assassination in his preparation for the visit of the President he checked through informants in certain right-wing elements in Dallas to see whether or not there was to be any violence at the time of the President's visit. There have been allegations to the effect that Oswald was in some way connected with such alleged right-wing organizations. Did you have any knowledge of that?

Mr. FAIN. No, sir; no, sir.

Representative FORD. Did you have any reason to check it?

Mr. FAIN. No; all the information that I had and as these reports will reflect, he was along the lines of Marxist, Communist, if anything, and I don't think you will find any indication that he was on the other.

Representative FORD. You had no information that he was in any way whatsoever connected with the alleged right-wing organizations?

Mr. FAIN. That is right. That is right, I did not.

Mr. McCLOY. Did any Secret Service people get in contact with you prior to the visit of the President, or did you get in contact with them?

Mr. FAIN. No., sir. You see, I retired from the FBI October 29 of 1962. The President was down there November 22, of 1963.

Mr. McCLOY. I forgot.

Mr. DULLES. That was how long, I didn't catch the date, how long before the assassination attempt?

Mr. FAIN. I retired October 29 of 1962, and the assassination—

Mr. DULLES. The year before, about?

Mr. FAIN. Yes, sir.

Mr. DULLES. A little over a year.

Mr. FAIN. The assassination occurred in November of 1963, isn't that correct?

Representative FORD. Are you still living in the Dallas-Fort Worth area?

Mr. FAIN. No, sir; I am at Houston. I moved to Houston and retired on the 28th and went to Houston on November 1 of 1962.

Representative FORD. What is your present occupation?

Mr. FAIN. I am office manager and in charge of accounts receivable for my brother who is an orthopedic surgeon in Houston.

Representative FORD. You no longer have any connection with the Government?

Mr. FAIN. No, sir; I do not. The Bureau has been mighty good to me. I have enjoyed my tenure of service.

Mr. STERN. Mr. Fain, was there any procedure that you went through upon your retirement in turning over cases, cases you had worked on whether they were in closed status or pending cases? Did you discuss the cases with an agent who was taking them over?

Mr. FAIN. Yes, sir.

Mr. STERN. Was a closed case discussed in that fashion?

Mr. FAIN. Yes, in general, in other words—

Mr. STERN. Do you recall discussing the Oswald case with another agent?

Mr. FAIN. Not specifically, no; I do not.

Mr. STERN. But you do think you would have in connection with the procedures you followed upon your retirement?

Mr. FAIN. Maybe not. We might not, since this case was closed, I doubt very much that we discussed it.

Mr. STERN. You have no recollection of it?

Mr. FAIN. At least I have no recollection of having discussed it with him.

Mr. STERN. May we have this report, Mr. Chairman, which has been marked for identification 824, admitted?

Representative FORD. It may be admitted.

(The document referred to, previously marked as Commission Exhibit No. 824 for identification, was received in evidence.)

Mr. STERN. Mr. Fain, I show you a document, a letter from Director Hoover with attachments, which has been marked for identification Commission No. 825. Would you turn to the last two pages and can you tell us what the last two pages constitute?

Mr. FAIN. The last two pages constitute an affidavit which I gave to the Houston office of the Federal Bureau of Investigation.

Mr. STERN. Did you make it at the Houston office?

Mr. FAIN. Yes, sir.

Mr. STERN. What was the occasion of your making this affidavit?

Mr. FAIN. I was contacted by Mr. Ed Dalrymple, special agent of the FBI, and he explained to me that he would like to talk to me about this matter. He said he had had an inquiry concerning whether or not I had ever paid this man, Lee Oswald, any money for any information and he asked me if I would be willing to give an affidavit and I said I certainly would be glad to. I came down to the office and gave this affidavit to him on January 29, 1964.

Mr. STERN. Is there anything you would like to add to this affidavit or any correction you would like to make in it at this time?

Mr. FAIN. No, sir; I do not.

Mr. STERN. When you talk about an informant, does that term mean to you only someone who receives money for information?

Mr. FAIN. No, they have an informant that would furnish information without compensation. Informant in the generally accepted term is anyone who would furnish information to the FBI.

Mr. STERN. When you say no effort was made to recruit Lee Harvey Oswald's services in any capacity on behalf of the FBI or any other Government agency, you mean for compensation or otherwise?

Mr. FAIN. Oh, yes. That was my understanding for the reason of this affidavit was whether or not I had ever paid him or offered to pay him any money, remuneration or compensation for any information and certainly there had been no effort to recruit him along that line at all and no payment had ever been made to him.

Mr. STERN. Would you consider then the same question but without the element of compensation: Had you ever made any effort to recruit his services without compensation?

Mr. FAIN. Well, we, of course, interviewed him a couple of times and asked him for information and told him that if he were ever contacted by any Soviet individuals or under any suspicious circumstances to be sure and let us know about it.

Mr. STERN. Did you ever ask him to do anything more than that for you?

Mr. FAIN. No, sir.

Mr. STERN. Did you ever ask him to try to become a member of any group for you?

Mr. FAIN. No, sir; no, sir.

Mr. DULLES. Did he agree to supply the information?

Mr. FAIN. He promised to; yes, sir.

Mr. DULLES. In case he should be approached?

Mr. FAIN. He said he would cooperate with us.

Mr. STERN. The last paragraph of your affidavit describes his attitude as arrogant and hostile. Did you say that on the basis of both interviews with him?

Mr. FAIN. Predominantly as a result of the first, and frankly as I said a while ago, he was and continued to be evasive as to his reason for ever having gone over there, and I consider that uncooperative.

Mr. STERN. But did you feel he was arrogant and hostile at the time of the second interview?

Mr. FAIN. Not so much as he was the first. I would say he was more so, more arrogant and hostile at the first interview.

Mr. STERN. If there are no other questions in this area, I have just one other point I would like to cover with Mr. Fain, and that is what were your instructions, Mr. Fain, as a special agent of the FBI, with regard to referring to the Secret Service information bearing upon the protection of the President, not in this case but as a general proposition?

Mr. FAIN. As a general proposition, if there was any information coming to our attention, express or implied, or any implication that the President might be in danger or anyone had made a threat of that character, we would always refer it to the Secret Service, that was made clear to us from the very beginning of my service.

Mr. STERN. In your 20 years of service as a special agent did you ever have any occasion to refer information to the Secret Service?

Mr. FAIN. I don't remember any specific instances but I am sure there have been a few occasions where I have turned over some information like that and I have run several investigations out as to who this individual was and as to what he was, and so forth.

But any indication of, a threat or otherwise I would have contacted my supervisor—it happened at Fort Worth at that time we didn't have a representative of Secret Service, it was covered out of Dallas, but if there had been anything like that, any indication of potential for violence or any threats I would have called my Dallas office and they would have in turn advised the Secret Service.

Mr. STERN. Did you see any reason to refer Lee Harvey Oswald to the Secret Service?

Mr. FAIN. No, sir; no, sir. I didn't see any potential for violence at that time; no, sir.

Mr. STERN. Did he ever mention the President or the Presidency or—

Mr. FAIN. No, sir.

Mr. STERN. Or any elected official to you?

Mr. FAIN. No, sir.

Mr. STERN. Governor Connally?

Mr. FAIN. No, sir.

Mr. DULLES. Would the memoranda of these conversations be put in a file that was in any way special as to of doubtful character or suspicious character so that it might be referred to later under that category?

Mr. FAIN. They constantly review these, as I understand it, these matters.

Mr. DULLES. Who is "they"?

Mr. FAIN. The supervisory desk over there constantly is going over these matters, and if there is any—they check the files to see if anything has come in on it that would look like it ought to be reopened.

Mr. DULLES. But there was no mark on this file to indicate that this was a case that might have some pending interest from the point of view of security?

Mr. FAIN. No, sir; not that I am aware of.

Mr. STERN. Is there anything you would like to add to anything you have told the Commission this morning, Mr. Fain?

Mr. FAIN. I believe not. I don't recall anything additionally.

Mr. DULLES. Did you card all these files so that—and was there a card in your files under the name of Lee Harvey Oswald?

Mr. FAIN. Not in my files, but when it goes to Dallas they index all those.

Mr. DULLES. They do that in Dallas?

Mr. FAIN. Yes, sir; and the seat of Government.

Mr. DULLES. And there was a card on Lee Harvey Oswald, a special card, in addition to a file in the office?

Mr. FAIN. I am sure there was, there might have been an index.

Mr. DULLES. But you didn't know that yourself?

Mr. FAIN. No, sir; but we didn't maintain one in Dallas—in Fort Worth.

Mr. STERN. That is all.

The CHAIRMAN (presiding). Well, Mr. Fain, thank you very much, sir, for your courtesy and your help to us. We appreciate it. Sorry to disturb you in your retirement.

(At this point Senator Cooper entered the hearing room.)

(At this point Representative Ford left the hearing room.)