

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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: :
HAROLD WEISBERG, :
: :
Plaintiff, :
: :
v. : Civil Action No. 77-1997
: :
CENTRAL INTELLIGENCE AGENCY, :
: :
et al., :
: :
Defendants :
: :
.....

AFFIDAVIT OF JAMES H. LESAR PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 56(f)

I, James Hiram Lesar, first having been duly sworn, depose and say as follows:

1. I am the attorney for plaintiff in the above-entitled cause of action. I make this affidavit pursuant to the provisions of Rule 56(f) of the Federal Rules of Civil Procedure because it is apparent that plaintiff cannot fully and effectively oppose defendants' motion for summary judgment without engaging in discovery.
2. At the only status call in this case, the Court indicated that the government would have 30 days in which to produce any remaining nonexempt documents and file a dispositive motion. The Court further indicated that plaintiff would have 50 days in which to engage in discovery.
3. Immediately after the conclusion of the status call defendants' attorney suggested to plaintiff's counsel that plaintiff hold off on his discovery until the government had released the forthcoming documents. Plaintiff recognized that he could not make maximum use of the depositions he intended to take until after he

had received the requested records and any affidavits purporting to support the inevitable excisions and withholdings. As an initial phase of discovery, plaintiff did file a request for production of documents which the government resisted completely. The government did not file its summary judgment motion until the end of May, 1978. Partly as a consequence of this, plaintiff has not yet begun discovery depositions as he had intended. (Plaintiff is indigent and must make maximum use of the few depositions he undertakes. In addition, both he and his attorney are continuously tied up in other litigation. The difficulties of this situation are further complicated by the fact that plaintiff's attorney is a sole practitioner with very little income at present and must do his own typing, filing, and legal research, thus making it impossible for him to prosecute his cases as promptly as he otherwise would.) However, now that the government's documents and affidavits are in hand, plaintiff is prepared to go forward with the discovery which is essential to resolving this case as law and justice require.

4. It is clear that discovery must be undertaken to ascertain the nature of the search conducted by the Central Intelligence Agency for records responsive to plaintiff's request. There are several circumstances which compel this conclusion. First, the affidavits submitted on behalf of the CIA do not state that all relevant files have been searched. Second, after plaintiff filed suit, the CIA produced records which apparently were not located during the search it had made before plaintiff brought suit. Third, plaintiff has positive proof that a thorough search has not been made. Thus Attachment 1, a March 31, 1971 memorandum on plaintiff's book, Frame-Up: The Martin Luther King/James Earl Ray Case, was not produced by the CIA in connection with his June 11, 1976 FOIA request or this lawsuit. Yet it should have been. In addition, both as a matter of logic and because of the internal

evidence of Attachment 1 itself, the CIA is likely to have generated memorandums and other records pertaining to books or articles by other authors, such as Mark Lane, George McMillan, Jim Bishop, Gerold Frank, and William Bradford Huie. Yet no materials of this kind have been furnished plaintiff. Fourth, the documents provided indicate that multiple copies were made and sent to different file locations. For example, Attachment 2 shows that in addition to the copy sent to the addressee, Mr. Hoover, it was distributed to six different locations. Yet plaintiff has received but a single copy of this document. The other file locations seem not to have been searched. Fifth, the records which have been provided plaintiff in this lawsuit contain materials which should have been provided me as the result of a Freedom of Information request I made, yet I received nothing. Similarly, as a result of this lawsuit plaintiff has received materials on the Committee to Investigate Assassinations and its Executive Director, Mr. Bernard Fensterwald, which apparently should have been made available to Mr. Fensterwald in a suit he filed against the CIA, but he has informed me that they were not. All of the foregoing discredits any assertion that the CIA has conducted a thorough search of all relevant file locations in this case. Accordingly, discovery must now be undertaken to ascertain the nature of the search which was made.

5. Discovery is also essential if plaintiff is to effectively challenge the CIA's claims to exemptions in this case. I have used discovery procedures in other Freedom of Information Act cases to establish that the FBI had in fact conducted scientific tests which it had sworn were not performed and to rebut the government's claim that Warren Commission executive session transcripts had been properly classified under the authority of Executive order 10501. For example, in Weisberg v. General Services Administration, Civil

Action No. 2052-73, the government submitted affidavits by National Archivist James B. Rhoads and and former Solicitor General and Warren Commission General Counsel J. Lee Rankin which swore that the January 27, 1964 Warren Commission executive session transcript was classified Top Secret pursuant to Executive Order 10501. Mr. Rankin even swore that the Warren Commission had ordered him to classify it. Through interrogatories, documentary evidence, and the affidavits of plaintiff Harold Weisberg, we established that the government's representations were not true. As a consequence, the court concluded that the January 27 transcript had not been classified in accordance with the procedures set forth in Executive Order 10501. (See Attachment 3) Although the court did conclude that the transcript was exempt under investigatory files exemption, the government "declassified" the transcript, forgot about its exemption 7 claim, and released the transcript before the decision could be appealed, perhaps because the answers to interrogatories showed that the transcript had not been made available to any law enforcement official until at least three years after the Warren Commission went out of existence, and arguably not even then.

6. There are two compelling reasons why discovery is even more essential in cases where national security is claimed as an exemption than it is in cases which do not involve this claim. The first is that courts are generally intimidated by claims that the release of information will jeopardize national security. As a result of this fear, courts tend to accept national security claims at face value, even where the circumstances suggest that the claim is pretextual or even false. Because intelligence agencies are well aware of this, they have an incentive not to be honest. They know they can get away with their dishonesties most of the time, and that even if they are perchance caught, there will be no sanctions or other consequences worse than divulging the embarrass-

ing information they sought to hide. Inevitably, this subverts the integrity of the judiciary in much the same manner as the Warren Commission's integrity was undermined by its fear of investigating J. Edgar Hoover's FBI and the CIA. (See Attachment 4) According Freedom of Information Act plaintiffs their right to use traditional discovery techniques to ascertain whether or not records are procedurally and substantively classified in conformity with executive order guards against this insidious result.

7. The second reason which compels discovery is that the CIA has a long history of dishonesty with respect to disclosures which may embarrass it. The lack of veracity on the part of intelligence operatives has long been publicly known. In recent years one CIA Director, Richard Helms, was accused of having committed perjury during congressional testimony. Another, William Colby, is currently under attack from present and former CIA officials because he wouldn't cover-up matters which were the subject of inquiry by Congress and the Rockefeller Commission. A third, Allen Dulles, confided to members of the Warren Commission--to the evident shock of Chief Justice Earl Warren--that CIA agents wouldn't tell the truth even under oath. (See Attachment 5. January 27, 1964 Warren Commission executive session transcript, p. 153)

8. Plaintiff has had direct personal experience with the CIA's deceptions in Freedom of Information Act matters. Thus, when the government released the January 27, 1964 Warren Commission transcript, its content made it clear that there had never been any basis for classifying it at all. Subsequently, during the course of another Freedom of Information Act lawsuit, Weisberg v. General Services Administration, Civil Action No. 75-1448, plaintiff learned through discovery that the CIA had requested that the National Archives withhold the January 27 transcript to protect "intelligence sources and methods." This is one of the main reasons which the CIA has given for withholding information in this case.

9. This case is replete with circumstances which suggest that the CIA has not acted in good faith in responding to his Freedom of Information Act request of June 11, 1976. Some of the specifics which indicate bad faith on the part of the CIA are as follows:

a. The CIA did not release any records in response to plaintiff's request until April 26, 1977, even though virtually all of the records were only newspaper clippings and thus required only xeroxing.

b. The CIA exacted a \$500 deposit from plaintiff and has still not refunded it even though it is evident that the xeroxing charges in this case are but a fraction of that amount.

c. As a condition for going forward with the processing of plaintiff's request, the CIA demanded privacy waivers be obtained from James Earl Ray and Mrs. Coretta King. Yet it appears that the question of privacy had no application whatsoever to the records pertaining to James Earl Ray and was invoked only in one instance with respect to Dr. King. It is apparent, therefore, that this was but another pretext for delaying plaintiff's access to these records.

d. The CIA did not refer records within the scope of plaintiff's request to the NSA until November 4, 1977, nearly 17 months after the CIA had received and acknowledged plaintiff's request.

e. The search conducted by the CIA after plaintiff filed suit turned up records which were not provided in the response to plaintiff's request which the CIA made before suit was filed.

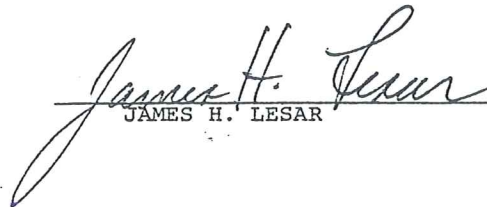
f. Notwithstanding the fact that there have been two alleged searches, plaintiff himself has been able to show that the CIA did not provide all the records that should have been supplied in response to his request. (See Attachment 1)

g. The CIA has failed to state directly and unequivocally that all files which might contain records responsive to his request

have been searched.

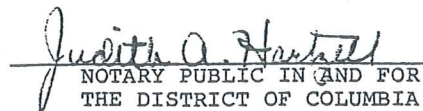
h. The CIA has failed in its affidavits to set forth facts essential to determining whether or not purportedly classified information was classified in accordance with Executive Order 11652. For example, there is no statement as to when the records withheld under Exemptions 1 and 3 were classified or even that they were classified as of the time of origination.

These circumstances necessitate discovery by plaintiff, and after that is completed, may also require in camera inspection of the CIA's claims that certain information must be withheld because its release could reasonably be expected to damage the national security.


 JAMES H. LESAR

WASHINGTON, D.C.

Subscribed and sworn to before me this ²⁷~~28~~th day of June,
 1978.


 NOTARY PUBLIC IN AND FOR
 THE DISTRICT OF COLUMBIA

My commission expires

7/31/79



Item #20

31 March 1971

MEMORANDUM FOR THE RECORD

18281

SUBJECT: Book by Harold WEISBERG
Entitled "Frame - Up"

Subject book follows the pattern and line of disparagement in others of its ilk regarding the assassinations of President Kennedy and his brother, Robert Kennedy. This book concerns the assassination of Martin Luther King and the case of James Earl RAY. Key paragraphs in the book are the following:

"..... Once again the federal government was preventing the workings of our own law, frustrating the concepts of our own kind of justice - contriving evidence and shaping it to fit a predetermined political need."

"This is what it did in the Warren Report. Here it was accomplishing exactly the same ends."

Attached is a summary on Harold WEISBERG dated 11 January 1968 prepared by undersigned in connection with the

WEISBERG's references to CIA in Subject book are concerned with Ray's first lawyer, Arthur HANES. Most of the references merely say "HANES former FBI and CIA man." In one instance WEISBERG is more specific about HANES. On p. 46 - "In addition to his career as an FBI agent, HANES is also 'a one-time contract employee of the Central Intelligence Agency.' (Part of the Bay of Pigs preparations were in Birmingham.)"

16 MAY 1968

MEMORANDUM FOR: Director.
Federal Bureau of Investigation
Attention: Mr. S.J. Papich

SUBJECT : Investigation in [redacted] of Report on Suspicious
Actions of [redacted] Originally
Described as Resembling Suspected Assassin of
Dr. Martin Luther King, Jr.

1. Reference is made to the report concerning the above
subject made by telephone to Mr. S.J. Papich at 0830 on 17 April
1968. Following is a full account of the investigation made in
this case:

A. On 15 April 1968 a United States [redacted]
[redacted] in [redacted] reported that one
[redacted], who bore a general physical
resemblance to the description given of the suspected
assassin of Dr. Martin Luther King, Jr. had arrived
in [redacted] about 15 April 1968 and requested a position
[redacted] became
agitated when asked for a contact address in [redacted]
and refused to divulge his [redacted] residence. The
[redacted] described [redacted]
as 5' 10" tall, 155 pounds, with brown hair, a receding
hairline on both sides, and a not very prominent scar
two and one-half inches long traversing the center
forehead, his most outstanding characteristic being a
disconcerting, idiotic grin resembling a constant
grimace. According to [redacted] documents and state-
ments, he was born 8 April 1937, applied for [redacted]
[redacted] California, 15 June 1964 and
registered there as a [redacted]
[redacted] on 21 February 1968 but never [redacted]
His Social Security Number is [redacted]

APPROVED FOR RELEASE

Date 17 February 1978

RECORD COPY

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87-0832-152

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)
)
Plaintiff,)
)
v.)
)
UNITED STATES GENERAL)
SERVICES ADMINISTRATION,)
)
Defendant.)

Civil Action No. 2052-73

FILED
MAY - 3 1971

MEMORANDUM AND ORDER JAMES F. DAVEY, CLERK

Plaintiff invokes the Freedom of Information Act, 5 U.S.C. § 552, in an effort to gain access to a transcript of the Warren Commission's January 27, 1964, executive session, presently in the custody of the National Archives. The defendant General Services Administration, which operates the Archives, has moved for summary judgment on the ground that the transcript at issue is shielded by the Act's first, fifth and seventh exemptions. 5 U.S.C. § 552(b)(1, 5, 7). The issues have been thoroughly briefed by all parties and are ripe for adjudication.

Initially, the Court probed defendant's claim that the transcript had been classified "Top Secret" under Executive Order 10501, 3 C.F.R. 979 (Comp. 1949-53), since such classification would bar further judicial inquiry and justify total confidentiality. 5 U.S.C. § 552(b)(1); E.P.A. v. Mink, 410 U.S. 73 (1973). However, defendant's papers and affidavits, supplemented at the Court's request, still fail to demonstrate that the disputed transcript has ever been classified by an individual authorized to make such a designation under the strict procedures set forth in Executive Order 10501, 3 C.F.R. 979 (Comp. 1949-53), as amended by Executive Order 10901, 3 C.F.R. 432 (Comp. 1959-63).

Defendant's reliance on the seventh exemption, on the other hand, appears to be fully justified by the record. The Warren Commission was an investigatory body assigned to look

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1/22/64, 5:30 - 7:00 P.M.

Gentlemen:

I called this meeting of the Commission because of something that developed today that I thought every member of the Commission should have knowledge of, something that you shouldn't hear from the public before you had an opportunity to think about it. I will just have Mr. Rawkin tell you the story from the beginning.

Mr. Rawkin: Mr. Wagner Carr, the Attorney General of Texas, called me at 11:10 this morning and said that the word had come out, he wanted to get it to me at the first moment, that Oswald was acting as an FBI Undercover Agent, and that they had the information of his badge which was given as Number 179, and that he was being paid two hundred a month from September of 1962 up through the time of the assassination. I asked what the source of this was, and he said that he understood the information had been made available so that Defense Counsel for Ruby had that information, that he knew that the press had the information, and he didn't know exactly where Wade had gotten the information, but he was a former FBI Agent.

That they, that is, Wade before, had said that he had sufficient so that he was willing to make the statement.

Ford: Wade is?

A: The District Attorney.

Ford: Carr is the Attorney General.

Boggs: Right, of Texas.

Rawkin: I brought that to the attention of the Chief Justice immediately, and he said that I should try to get in touch with Carr and ask him to bring Wade up here, and he would be willing to meet with him any time today or tonight to find out what was the basis of this story. I tried to get Carr

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Q: And the other man, Carr, is the Attorney General?

A: That is right.

Q: And the other people who have knowledge of this story?

A: He indicated that the press down there had knowledge of this story, and that the information came from some informant who was a press representative, and he, that is, Wade, could guess who it was but his assistant knew and he never asked him. They were trying to get more explicit information.

A: Lee, would you tell them?

Mr. Dulles: Who were you talking with when you got this information, Wade himself?

A: I was talking with Carr.

Boggs: There is a denial of this in one of these FBI records, as you know.

A: Yes.

Cooper: In this file we had yesterday, one of the lawyers for this fellow who claims to represent --

Boggs: Thornhill, I think.

Cooper: Oswald or one of them, Ruby, told about this, do you recall it, he said it was being rumored around.

Rawkin: Yes, it was being rumored that he was an undercover agent. Now it is something that would be very difficult to prove out. There are events in connection with this that are curious, in that they might make it possible to check some of it out in time. I assume that the FBI records would never show it, and if it is true, and of course we don't know, but we thought you should have the information.

A: Lee, would you tell the gentlemen the circumstances under which this story was told?

A: Yes, When it was first brought to my attention this morning --

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Boggs: No doubt about it, it would ruin many.

A: And Jaworski is an able lawyer, mature and very competent. We have complete confidence in him as a person. Now that is the evaluation of the situation.

Ford: He hasn't made any investigations himself?

A: No, he has not.

Ford: Was Wade or anyone connected with Wade?

A: No.

Dulles: Talking about Story, just a few minutes ago just telling him I wasn't going to be down in Texas, I had told him I was going to be down at the time, he didn't indicate that he had anything of any importance on his mind. Maybe he won't offer it to him obviously.

Rawkin: I don't know that it was even brought to his attention.

Dulles: I don't believe it was, now. Of course, he is not in the hierarchy.

A: Well, I think they were planning on telling the Attorney General and Jaworski.

Ford: How long ago did they get a feeling that there was some substance to the rumors that apparently had been — I just assumed, and I didn't ask them that, that Carr called me and seemed to be in a matter of great urgency at 11:10 this morning, and that he was fearful that they would bring in the papers before we would even get to know about it, and that is the way he was talking and acting about it.

Cooper: He felt there was ... He didn't know the name of the informant?

A: No, he did not.

Q: What then would lead him to think it had substance?

A: Well, he said that the reason he thought it might have substance was because Wade had heard these rumors constantly, and his assistant had gotten

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agents. You have really got to know. Sometimes you make a mistake.

Ford: He was playing ball, writing letters to both the elements of the Communist parties. I mean he was playing ball with the Trotskyites and with the others. This was a strange circumstance to me.

Dulles: But the FBI get people right inside you know. They don't need a person like this on the outside. The only place where he did any at all was with the Fair Play for Cuba Committee.

Boggs: Of course it is conceivable that he may have been brought back from Russia you know.

A: If he was in the employ from 1962, September 1962, up to the time of the assassination, it had to start over in Russia, didn't it, because didn't he get back in February? When did he get back here from Russia?

A: I think it was February; February of this year.

Q: Of '62. Was it of '62?

A: Oh yes, that is right, it was '62.

Dulles: They have no facilities, they haven't any people in Russia. They may have some people in Russia but they haven't any organizations of their own in Russia.

A: Yes.

Dulles: They might have their agents there. They have some people; sometimes American Communists who go to Russia under their guidance and so forth and so on under their control.

Cooper: Of course there are rumors all around Dallas, of course the FBI is acquainted with rumors too.

A: One of the strange things that happened, and it may have no bearing on this at all, is the fact that this man who is a defector, and who was under observation at least by the FBI, they say they saw him frequently, could

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Dulles: Yes, I don't think the State Department or in the Passport Bureau, there was no record. It didn't get down to the Passport offices. That is one of the things we ought to look into.

A: The State Department knew he was a defector. They arranged for him to come back.

Dulles: But it don't get passport files or the passport records. They are issuing hundreds and thousands of passports. They have their own particular system.

A: Yes.

Dulles: They don't run around from time a man comes in. If they don't find any clue, and they don't according or our record here they don't find any warning clue in his file -- they should have a warning clue in his file but as I recall they don't.

Cooper: That is what they admitted, that they had not supplied the warning.

Dulles: And the Passport Office don't on its own usually go around and inquire. They wait until it is assigned there. Then they follow it up.

Cooper: This may be off the point a bit, but as I re-read the report, the chronology of the FBI checks on Oswald, they knew that he had gone to Texas. They learned from Mrs. Payne: they knew where Mrs. Oswald was living. They talked with her. They knew where he was working.

Boggs: Sure. That is all in the file.

Cooper: I know that. I say they knew where he was working.

Boggs: I am sure you went over that material that we received a few days ago. You will find the report from the FBI dated back last summer, and months before that and then months after that, why some agent would make a report on it.

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A: I thought first you should know about it. Secondly, there is this factor too that a consideration, that is somewhat an issue in this case, and I suppose you are all aware of it. That is that the FBI is very explicit that Oswald is the assassin or was the assassin, and they are very explicit that there was no conspiracy, and they are also saying in the same place that they are continuing their investigation. Now in my experience of almost nine years, in the first place it is hard to get them to say when you think you have got a case tight enough to convict somebody, that that is the person that committed the crime. In my experience with the FBI they don't do that. They claim that they don't evaluate, and it is uniform prior experience that they don't do that. Secondly, they have not run out all kinds of leads in Mexico or in Russia and so forth which they could probably -- It is not our business, it is the very --

Dulles: What is that?

A: They haven't run out all the leads on the information and they could probably say -- that isn't our business.

Q: Yes.

A: But they are concluding that there can't be a conspiracy without those being run out. Now that is not from my experience with the FBI.

Q: It is not. You are quite right. I have seen a great many reports.

A: Why are they so eager to make both of those conclusions, both in the original report and their experimental report, which is such a departure. Now that is just circumstantial evidence, and it don't prove anything about this, but it raises questions. We have to try to find out what they have to say that would give any support to the story, and report it to you.

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Boggs: This closes the case, you see. Don't you see?

Dulles: Yes, I see that.

Rawkin: They found the man. There is nothing more to do. The Commission supports their conclusions, and we can go on home and that is the end of it.

Dulles: But that puts the men right on them. If he was not the killer and they employed him, they are already it, you see. So your argument is correct if they are sure that this is going to close the case, but if it don't close the case, they are worse off than ever by doing this.

Boggs: Yes, I would think so. And of course, we are all even gaining in the realm of speculation. I don't even like to see this being taken down.

Dulles: Yes. I think this record ought to be destroyed. Do you think we need a record of this.

A: I don't, except that we said we would have records of meetings and so we called the reporter in the formal way. If you think what we have said here should not be upon the record, we can have it done that way. Of course it might. . . .

Dulles: I am just thinking of sending around copies and so forth. The only copies of this record should be kept right here.

Boggs: I would hope that none of these records are circulated to anybody.

A: I would hope so too.

Rawkin: We also give them to you Commissioners. Now if you don't want them, those are the only ones who get them but Sides himself: off the record.

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E.O. 11652, Sec 1.4

By 121A NARS Date 3/27/65

President's Commission
on the
Assassination of President Kennedy

EARL WARREN, *Chairman*
RICHARD B. RUSSELL
JOHN SHERMAN COOPER
HALE BOGGS
GERALD R. FORD
JOHN J. MCCLOY
ALLEN W. DULLES

J. LEE RANKIN, *General Counsel*

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The Chairman. Well, gentlemen, the meeting will come to order.

I am sorry that I was a little late but the Senator knows I wasn't out playing golf or anything.

Well, gentlemen, since we met last week, Mr. Rankin and I have explored this situation we discussed considerably. We talked to the Texas people, and we have given considerable thought to it since, and I am going to ask Mr. Rankin to start at the beginning and just tell you the story as we have got it.

Mr. Rankin. I received a call from Waggoner Carr, the Attorney General of Texas, and in that call he was quite excited. He was on his way to Texarkana from Austin.

Mr. Dulles. This is after our meeting the other night?

Mr. Rankin. This was before.

Mr. Dulles. Going back?

Mr. Rankin. Yes.

He said he thought he had some information that he thought should get to me immediately and it was to the effect that the F.B.I. had an undercover agent who was Oswald, and he said it came up this way, that the matter was developed at a meeting in chambers with the judge, Brown, of the court, and it was in relation to the production of evidence where Ruby's attorney asked that part of the evidence that the F.B.I. developed be furnished to them, and during that time the District Attorney had responded or opposed the motion for the evidence by saying

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Attorney General, Special Counsel with the Attorney General, Leon Jaworski, and Bob Stoney, and Mr. Alexander, the Assistant District Attorney at Dallas.

I We asked them to all come up, and they did on Friday. At that time they were -- they said that the rumors were constant there, that Oswald was an undercover agent, but they extended it also to the C.I.A., saying that they had a number for him assigned to him in connection with the C.I.A. and gave that to him, and none of them had any original information of their own.

C They said that the source of their information was a man by the name of Hudkins who was a reporter for the Houston Post, and that it had been circulated by a greater portion of all the reporters in the Dallas area who had been working on this matter in various forms.

Sen. Russell. Did he explain why it hadn't been published? This would have gone across the country like wild fire.

Mr. Rankin. Well, they said part of it had been published.

The fact that it was claimed that Oswald was an undercover agent, and I noticed The Nation, although I hadn't seen it before, refers to an article in January, the first of January by Hudkins from which he referred to the undercover agent's story.

But he does not give the number or the \$200 a month at that time.

⊙ We then asked if they asked Hudkins of where he had got his story and they said they had not. We asked if there was

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of the report.

The explanation since has been that they were trying to check it out, that there was no purpose to withhold it from us even though it seemed like kind of a long period since they hadn't gotten any further report from Mr. Sweatt at all.

Mr. Dulles. What was the origin, who was Sweatt?

Mr. Rankin. He was the Deputy Sheriff of Dallas County.

Mr. Dulles. He was the one who gave it to the Secret Service?

Mr. Rankin. Yes.

Mr. Dulles. He didn't say where he got it?

Mr. Rankin. No.

They have since then, the Secret Service, has investigated, we asked them to, and they have gone to Sweatt and Sweatt has said he got it from Hudkins. Back to the same source.

Mr. Dulles. Back to the same source?

Mr. Rankin. And there is nothing that we have received from any investigative agency checking out Hudkins in regard to this report.

You probably saw the New York Times story, saying that the F.B.I., Sunday, that the F.B.I. denied that he was acting as an undercover --

Sen. Russell. That is from Mr. Hoover somewhere in this material I read in which he denied this report. It apparently was current at some earlier date, that he wrote a letter

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indicated they had ever taken his statement or anything like that.

Now, Mr. Wade, the District Attorney, was a former F.B.I. agent, and we thought possibly there was -- he might have left under a cloud and there might be something of that kind and so we inquired into that.

He was an agent between 1939 and 1943, I think it was, and was claimed that he had no difficulties with them, that when he was ready to leave the F.I.B. they gave him three weeks and told him to go to New York and have a good vacation, and they would like to have him come back to see if he wouldn't be willing to continue, and he did come back and he said he wanted to go into the law practice and didn't want to stay with the F.B.I. But there was no ill feeling between them. He said he was stationed in South America for a year, and the other part of the time within the Continent of the United States.

He said he got a commission from the Navy, and when he was called up for that commission the F.B.I. indicated that they thought he was qualified for their work and he should take the commission and that he should come back to the F.B.I.

I think probably that would be some automatic -- it would come up that way anyway.

He said they did make that request and he was able to get around it and told them he didn't want to go to the F.B.I., and wanted to go to the Navy, but he told about that to indicate there

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all. He just indicated that it was a possibility, and some of the things that had happened he thought were curious.

My impression of Wade was that he was a very canny, able prosecutor, that he would do a good job on this Ruby case, and that defense counsel had a man to deal with that knew his business.

Sen. Russell. He has that reputation out there as being a very effective prosecutor.

Mr. Rankin. I was well impressed with him that way.

Sen. Russell. What steps, if any, have we taken to clear up this matter, Mr. Rankin, if it can be cleared up, to determine whether there is anything to this or not?

Mr. Rankin. Well, we have discussed various possibilities, that is the Chief Justice and myself have, and I want to tell you about them, and I think you will have to instruct us what you want us to do.

We thought, first, about approaching the Department with a request that the Attorney General inform us as to the situation, not only as to what he would say about whether Oswald was or was not an undercover agent, but also with the supporting data that the commission could rely upon, and there is some difficulty about doing that. As the head of the department, the F.B.I., of course, is under the Attorney General, but I think we must frankly recognize amongst ourselves that there is a daily relationship there involved in the handling of the problems of the

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time, the Commission would have to feel free to make such other investigation and take testimony if it found it necessary, in order to satisfy the American people that this question of an undercover agent was out of the picture.

Rep. Boggs. What other alternatives are there?

Mr. Rankin. Well, the other alternative would be to examine Hudkins, the reporter, to examine Sweatt, who says now that he --

Mr. Dulles. Where is Hudkins now, do you know, down in Dallas?

Mr. Rankin. In Houston, yes, I assume.

Mr. Dulles. What paper is he with?

Mr. Rankin. The Houston Post.

Mr. Dulles. That would be the Hobby paper, isn't it?

Rep. Boggs. No, I think that is Scripps-Howard.

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believe it couldn't happen. He just couldn't believe that the FBI would ever let that happen to get to that position.

The Chairman. Well, Lee and I both agreed that we shouldn't leave this thing in this present posture, that we should go ahead and try to clear the matter up as best we can. We did argue a little about the approach, whether we should go first to the FBI and ask them for an explanation or whether we should first go and try to see if there is any substance to the claim by interrogating the newspaperman who claims that he has the knowledge of the situation, or whether we should first go to the Bureau.

Now, my own suggestion was to Lee that we find out first from these people as far as we can if there is any substance to it or whether it is just plain rumor.

We were told that Sweatt says he got his information from one fellow, Alexander claims he got it from Sweatt, and somebody else claims he got it from the newspaper man.

Now I thought that if it were necessary we could get those three people in one room at the same time, and find out if anybody claims or has claimed in the past to have had actual knowledge of it, and if they don't claim to have it, we will find out why they spread the rumor.

It may be that Houston will, or whatever his name is, Hudkins would claim privilege. If he did, I thought that after we tried to get him to see that it was in the interest of his country to state the facts that we might go to the publisher of his paper.

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these facts are not true, and they are inconsistent with what would be the way of operation of their Bureau.

Now I don't know, whatever you agree to would be all right with me. Lee thought that if he went down and asked those people to come up here and testify that they might use the fact that we had asked them to testify as the springboard for an article which would blow this thing out into the public domain, and that we might do a disservice in that way.

But I am not so sure of that. I rather dislike going to the FBI and just ask them to establish to us that a rumor can't be true until we have at least looked into it.

Sen. Russell. There are two reasons for that, Mr. Chairman. One would be if you went down there in the first instance to the FBI and got a statement and when you start pursuing it you would look like you are impeaching.

The Chairman. That is my point.

Rep. Boggs. Exactly.

Sen. Russell. I think the best way to handle it would be to try to exhaust it at the other hand before you go to the FBI. That would be my judgment.

Rep. Boggs. Well, the point you make is the thing that has been running through my mind all through this discussion. If you get a statement from responsible officials in that agency and then you say, "Well, we are not going to take this statement on face value, we are going to go behind it", this could become a

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been on the payroll for five years.

Sen. Cooper. Yes.

Mr. Dulles. But it is out in the domain, it is in the public domain.

Sen. Cooper. If you know, if you have these people up and examine them, of course the FBI will know that.

Mr. Rankin. They already know about this apparently.

Sen. Cooper. That these people came up?

Mr. Rankin. Yes.

Rep. Boggs. You mean the other people?

Mr. Rankin. Yes, that is right. I had thought that the probabilities are that when we get these people under oath that they will say that they have heard this rumor, that someone told them but they can't remember now, and that is about as far as we go with it.

I just don't think that they are going to come out and say they fabricated this, if it is a fabrication. It is too serious for that.

Rep. Boggs. Of course, we get ourselves into a real box. You have got to do everything on earth to establish the facts one way or the other. And without doing that, why everything concerned, including everyone of us is doing a very grave disservice.

Sen. Cooper. There is a point I want to raise. If it is possible the FBI knows now, we should have these people up here

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this proof to the contrary, then the situation changes a little bit. It would appear to him that you are trying to impeach his testimony.

In the other way, it seems to me we are just telling him that it was brought to us and we ought to inquire into it.

Mr. McCloy. Do we have a statement from Mr. Hoover that this man was not an agent? Was that communicated in the record?

Mr. Rankin. Yes.

The Chairman. It was? A letter.

Sen. Russell. I know there was a letter, I don't know who it was written to, a very short letter.

The Chairman. It was in one of these letters we responded to last week, it was in that letter --

Rep. Boggs. I think that was a letter that had to do with a request directed to us on what degree of cooperation we should give the defense counsel in the Ruby trial, isn't that right?

Mr. Rankin. Yes.

The Chairman. That is right. It was one of those letters, there were three of them. It was in one of those letters, and I remember in the letter of counsel for Ruby, it was also stated that that accusation had been made but that in their opinion it was preposterous, and I wondered why at the time that the defense counsel for Ruby would put such a statement in the letter to us. It seemed as though it were dragged in by the heels.

Rep. Boggs. Deliberately.

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Rep. Boggs. That is exactly the kind of thing that you can anticipate being written.

Sen. Cooper. I would like to suggest something else. In view of all the rumors and statements that have been made not only here but abroad, I think to ask the President's brother, the dead President, to do this, it wouldn't have any backing in it. It would have no substance in his purpose but some crazy people would translate it from his official position to a personal position. It may sound far fetched but he would be implying as a person that something was wrong. You can't overlook any implications.

Mr. McCloy. I think that would perhaps be an element in the thing, but it still wouldn't divert me from asking this man who happens to be the Attorney General whose sworn duty it is to enforce justice, to ask him just what is within his knowledge in regard to such a serious thing as this. It is awkward affair. But as you said the other day, truth is our only client.

Rep. Boggs. Yes.

Mr. McCloy. I think we may have to make this first step, that the Senator speaks about, but I don't think that we could recognize that any door is closed to us, unless the President closes it to us, and in the search for the truth.

Mr. Rankin. I was asking the question and talking with the Chief Justice, and say we ran this out with Hudkins and these other people, and found that they said they would not give us the source

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And I don't know. I know that doctor-patient.

Mr. Dulles. They have an Official Secrets Act which we haven't.

Mr. McCloy. It is not recognized in law generally this privilege.

Mr. Dulles. You remember this one reporter for the Herald Tribune who went to jail rather than disclose her source up in New York. The court didn't recognize any privilege.

Mr. McCloy. This is a matter of tradition, perhaps of --

Mr. Dulles. But they don't generally prosecute.

Mr. McCloy. They don't generally prosecute but I don't think we can draw back from a non-legal privilege in the course of our inquiry, if it leads us to this relationship. I don't believe in any State that I know of that there is a statute which permits it.

Do you, Senator?

Sen. Russell. I am frank to say, I haven't studied it very closely. I was going by Congressional Committees. They generally recognize it.

Mr. McCloy. It is a sort of law, it is a sort of custom but I don't think it is a legal privilege.

Sen. Russell. I never had a case in this area when I was practicing law and I never had occasion to brief it but over in the Congress, I have never seen it pursued any further, if a reporter claimed that it was a matter of privilege not to disclose

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what harm would there be in talking to Hoover without waiving any right to make any investigation in the public?

Mr. McCloy. This is going to build up. In New York I am already beginning to hear about it. I got a call from Time-Life about it. Maybe it is prompted by this letter with these 12 perplexing questions -- no, it wasn't because it came before that. "What is there to this story?"

Mr. Dulles. There is a terribly hard thing to disprove, you know. How do you disprove a fellow was not your agent. How do you disprove it.

Rep. Boggs. You could disprove it, couldn't you?

Mr. Dulles. No.

Rep. Boggs. I know, ask questions about something --

Mr. Dulles. I never know how to disprove it.

Rep. Boggs. So I will ask you. Did you have agents about whom you had no record whatsoever?

Mr. Dulles. The record might not be on paper. But on paper would have hieroglyphics that only two people knew what they meant, and nobody outside of the agency would know and you could say this meant the agent and somebody else could say it meant another agent.

Rep. Boggs. Let's take a specific case, that fellow Powers was one of your men.

Mr. Dulles. Oh, yes, he was not an agent. He was an employee.

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States comes to you and says, "Will you tell me, Mr. Dulles?"

Mr. Dulles. I would tell the President of the United States anything, yes, I am under his control. He is my boss. I wouldn't necessarily tell anybody else, unless the President authorized me to do it. We had that come up at times.

Mr. McCloy. You wouldn't tell the Secretary of Defense?

Mr. Dulles. Well, it depends a little bit on the circumstances. If it was within the jurisdiction of the Secretary of Defense, but otherwise I would go to the President, and I do on some cases.

Mr. Rankin. If that is all that is necessary, I think we could get the President to direct anybody working for the government to answer this question. If we have to we would get that direction.

Mr. Dulles. What I was getting at, I think under any circumstances, I think Mr. Hoover would say certainly he didn't have anything to do with this fellow.

Mr. McCloy. Mr. Hoover didn't have anything to do with him but his agent. Did you directly or indirectly employ him.

Mr. Dulles. But if he says no, I didn't have anything to do with it. You can't prove what the facts are. There are no external evidences. I would believe Mr. Hoover. Some people might not. I don't think there is any external evidence other than the person's word that he did or did not employ a particular man as a secret agent. No matter what.

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is when you are, I don't know whether too much of this should be on the record as far as the Soviet is concerned. If you want to incriminate someone and tie them to you, you would give them money and give them a receipt. But that doesn't by any means over-
lap. But on occasion.

Sen. Russell. Is that when you would want to blackmail him?

Mr. Dulles. That is correct. Klaus Fuchs, take Hiss with the rug, they wanted to have some evidence, he couldn't run away. Then, he was caught, he was trapped.

Sen. Cooper. I was reading some place that it has been said in the Soviet papers that this man was in the employ of the FBI.

Mr. Rankin. Yes, the Information Service has given us that.

Sen. Cooper. The fact that these officials have come here give us something official in the way that we did not have before, I would think.

Mr. Rankin. Allen, how would you feel about it, if you were head of the CIA now, and the same claim was made and this Commission was worried about the claim being believed by the public, and they would ask you, would you want the Commission to come to you directly?

Mr. Dulles. Oh, yes, certainly I would.

Mr. Rankin. Or would you want us to go out and examine witnesses first?

Mr. Dulles. I think I would want you to come so I could

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Sen. Russell. There is no man in the employ of the Federal Government who stands higher in the opinion of the American people than J. Edgar Hoover.

Mr. Dulles. That is right.

Sen. Russell. Of course, we can get an affidavit from Mr. Hoover and put it in this record and go on and act on that but if we didn't go any further than that, and we don't pursue it down to Hudkins or whoever it is, there still would be thousands of doubting Thomases who would believe this man was an FBI agent and you just didn't try to clear it up and you just took Hoover's word.

Personally, I would believe J. Edgar Hoover, I have a great deal of confidence in him.

Mr. Dulles. I do, too.

Sen. Russell. But the other people -- I would believe, a simple statement as Holy Writ, this one statement without being under oath, but you can't try cases that way, and you can't base the conclusions of this Commission on that kind of material.

Sen. Cooper. I would like to have your idea about what I suggested.

Mr. McCloy. State it again.

Sen. Cooper. We know these people have been here, so this speculation or rumor is just some official, we will not say approval, but they don't disapprove it.

Mr. McCloy. They have cognizance of it.

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were doing it and why we were doing it.

Sen. Cooper. That is what I think.

Mr. McCloy. In other words, you would communicate with the head of the agency, whether it be the Attorney General or Mr. Hoover or John McCone, whichever it might be, at the same time you would be taking a look at Hudkins.

Sen. Cooper. Yes.

Mr. McCloy. The sources.

Sen. Cooper. I think if there was suspicion we ought to clear it up.

Mr. Dulles. They are on notice on it and they have not denied it. These are not official denials here but the other letter was.

Mr. McCloy. They are not on notice of these last developments in the Commission, the last information.

Sen. Cooper. They probably have notice that these people have been here, and therefore suspect already that we are looking into it because knowing exactly what we are doing.

Mr. McCloy. Have you talked to Katzenbach, Lee?

Mr. Rankin. No.

Mr. McCloy. Willens has indicated that Katzenbach says they will be embarrassed.

Mr. Rankin. Greatly embarrassed.

Mr. McCloy. Greatly embarrassed.

Sen. Russell. If what?

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I do believe, I am inclined to believe, if we just go and indicate to Mr. Hoover that we are now investigating his probity without having tried to determine whether it is fact or fiction, that he might have reason to believe that we were doing it.

Sen. Russell. Back to the way I felt about it.

Mr. Dulles. We ought to go to him.

The Chairman. That is the difference between my approach and his approach. We must go into this thing from both ends, from the end of the rumormongers and from the end of the FBI, and if we come into a cul de sac why we are there but we can report on it.

Now that is the way it would appeal to me. These are things where people can reasonably disagree. Whatever you want to do I am willing to approach it in that manner.

Mr. Dulles. I agree with that, Mr. Chairman. May I point out, I don't think there is necessarily a question of probity. It might look so to the country. It is Mr. Hoover's job to watch the Fair Play for Cuba Committee and to try to penetrate it in any way he could. The reason I don't believe it is this fellow was so incompetent that he was not the kind of fellow that Hoover would hire. If this fellow was hired, I wouldn't discredit this might be a normal thing to do but he was so stupid. Hoover didn't hire this kind of a stupid fellow but for him to want to penetrate the Fair Play for Cuba Committee and find out what it is doing in this country is just as much of his duty as it is to penetrate

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tell him about the situation and that we would like to go ahead and find out what we could about these --

Mr. McCloy. Hudkins' sources.

Mr. Rankin. Then if he reacts and says, "I want to show you that it couldn't be", or something like that, beforehand, what about that kind of an approach?

The Chairman. Well, Lee, I wouldn't be in favor of going to any agency and saying, "We would like to do this". I think we ought to know what we are going to do, and do it, and take our chances one way or the other.

I don't believe we should apologize or make it look that we are in any way reticent about making any investigation that comes to the Commission.

But on the other hand, I don't want to be unfriendly or unfair to him.

My own judgment was that the most fair thing to do would be to try to find out if this is factor fiction.

Mr. Rankin. What I was fearful of was the mere process will cause him to think, in light of these people being here and all, and the meetings of the Commission, that we are really investigating him.

The Chairman. If you tell him we are going down there to do it, we are investigating him, aren't we?

Mr. Rankin. I think it is inherent.

The Chairman. If we are investigating him, we are investigating

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Mr. McCloy. I remember that.

Mr. Dulles. That jurisdiction was transferred to the CIA after CIA was organized in '47. But the CIA has no charter. I don't say it couldn't possibly have done it but it has no charter of authority to run this kind of agent in the United States; that would be other departments of government, particularly the FBI. We wouldn't investigate the Fair Play for Cuba Committee in the United States, in the CIA. But there is no reason why an inquiry shouldn't go. I think it should, if the charge has been made, in my opinion.

Mr. McCloy. This is going to loom up in all probability to be one of the major issues in our investigation, I think. That and whether there is a relationship between Ruby and Oswald. It explains a good bit, this starts off, The Nation article, starts off, "Well, why wasn't the Secret Service notified that there was this defector in this building?"

If he was on the payroll of the FBI they would think he was all right, they would not think of his being a defector.

There are other things that you can put two and two together and make five out of but it is going to, I think, foment a good bit of comment, and we are going to have to have a very solid record on it.

The Chairman. Lee, what was that we were told today about, what was it today, about this FBI agent in Dallas who had gone to the police station shortly after the assassination and had

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visiting the police.

The Chairman. They did tell us that.

Mr. Rankin. Yes.

Sen. Cooper. May I ask a question?

Mr. Dulles. Do we know who these two people are? It might be important.

Sen. Cooper. Now this man Hudkins published an article in January. But if he were brought before us and put under oath and testified then he could publish whatever he wanted to, about his testimony.

Mr. Rankin. That is correct.

Sen. Cooper. And he relieved in some way from the possibility of libel.

Mr. Rankin. Well, he would certainly be free to tell what he had testified to himself. If he lied about it here, I don't think his testimony before this Commission would protect him against his own lie.

Sen. Cooper. No, that would be perjury.

The Chairman. He can write the same thing now with whatever privilege he would have after testifying, I would think.

Mr. McCloy. I wonder whether -- this brings up to my mind again, the desirability of our talking to the chief investigator of the FBI. We here, we don't know whether somebody checked up on Hosty again or whether he didn't. Why don't we get him in and just talk with him. I don't know whether we want to examine

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Now the difficulty with trying to get the man in charge and asking him those questions is how much do you know about what he is giving. If we get him here before the Commission, I think you could ask him a good many things but he would probably say two-thirds or more of the time, "I told you this and I told you this and my reports", and so forth.

So I don't think we have equipped you as Commissioners so that you could do that.

He would soon find you didn't know anything like what he did about the matter.

As far as we are concerned, the men are getting advised of the areas as rapidly as possible, and they are coming back with these further inquiries, but there are vast areas that are unanswered at the present time.

We have some differences between the Secret Service and the FBI, we have location of their cars and where the shots were and things where they differed as much as 17 feet, and we are trying to find out how they could have that much difference between them, and there is an explanation. It isn't as bad as that, because some of it is part of calculations.

Mr. McCloy. Calculating their speed, I suppose.

Mr. Rankin. That is right. And whether or not the first shot occurred behind the sign or just as he came out from behind the sign and matters of that kind.

Mr. McCloy. I can see the difficulty with that. But on the

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of reference we have to go beyond that.

Rep. Boggs. The most difficult aspect of this is the Ruby aspect.

Mr. Rankin. That is one very difficult area. Then you have some clear proof of some kind of a Cuban connection there, and there is a difference in regard to the testimony of what it is. You run into clear proof that his brother had some kind of a Cuban connection.

Mr. McCloy. Ruby's brother?

Mr. Rankin. Yes, in Detroit but that sort of dries up when we try to get at the detail of what it is. But I don't see how you can pass on these questions without really knowing about those things as far as it is possible to know, because it might just blossom out and give you the answer to a good many things here.

The Chairman. Well, Lee, as I understand your approach would be this: You would go to Mr. Hoover and say, "Now, Mr. Hoover, as you know, there are rumors that persist in and around Dallas and it is getting into the national press, to the effect that Oswald was an undercover FBI agent. The rumor has gone to the extent of stating the date on which he was employed, the number under which he was employed, and the amount of money that he received for his services, and that continued up until the time of the assassination.

"Now we are going to have to try to run that rumor down to

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Rep. Boggs. What about the point that Senator Russell makes. Assuming that you had these people who are involved here, that you had not talked to them, and you get a statement from the Justice Department, or from Mr. Hoover, or from whoever it may be which is categoric in its denial. Where does that place us where you decide to go talk to these other people?

Mr. Rankin. Well, I had in mind going to Mr. Hoover and asking him as the Chief Justice said, for more than his expression of the truth or falsity of it. Asking him for what he knows his organization presumably, what can he do to help us in regard to the proof of the facts in regard to this particular matter.

Now, it is like the questions you asked, Congressman, of Mr. Dulles, and if you would ask, I am sure Mr. Hoover knows many of those, he may not know about particular individuals, just like Mr. Dulles wouldn't, but he knows who to ask, and ring a button and say, for the record how could we establish this? I never had that kind of a problem when I was with the Department of Justice. But I am sure within the F.B.I. Mr. Hoover knows where to find out who was hired on any particular date and the basis of it, and I thought if it was my situation, and I was being reflected on that I had had somebody like this under my employ I would like to be approached, first, and I wouldn't feel that it was a reflection on me, or at least I would feel the reflection was already involved in these kinds of articles and claims, and I would rather you would come to me than to go to someone else and

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Mr. Rankin. And we have those.

Mr. Dulles. You have those reports?

Mr. Rankin. But we don't have any assurance that those are the only reports, you see.

Mr. Dulles. I see.

Mr. Rankin. There could be a report for this purpose and there could be more reports and all that kind of thing.

Mr. Dulles. You should ask him that, if there are reports.

Mr. Rankin. He had a report from, in October, from Mrs. Payne and from Marina Oswald, if you remember, but he didn't go directly to Oswald himself. That is a curious factor in itself, that he made no approach --

Sen. Russell. That has always been a queer thing to me before this rumor came up. I couldn't understand why they went to Mrs. Payne and Mrs. Oswald, but didn't go to him.

Mr. Rankin. That is correct. We have the August conversation when he returned to this country and the first time they approached him, Marina Oswald, the wife, said that the two F.B.I. agents talked to him for two hours, and when he returned to the house from talking to him out in the car or out in the yard he was very much disturbed -- that is her expression of it.

We don't have any report that would cover anything like a two hour conversation.

It is a relatively short report.

Now, what occupied the rest of the time -- well, it could have

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5 attack the F.B.I., and we don't want to be in the position of attacking the F.B.I.

Rep. Boggs. Of course not.

Sen. Russell. I don't propose to attack the F.B.I. unless there is some startling revelation that they have evaded their responsibility.

Mr. McCloy. I think the F.B.I. is an agency which has the security of this country, and a very important agency, as has this Commission.

Rep. Boggs. What we have to do is tell our counsel what to do.

The Chairman. Yes.

What do the rest of you think of the approach of Mr. Rankin, the way we have just laid it out here in the last few minutes?

Mr. Dulles. Doesn't that combine your idea, too, Mr. Chairman? It seems to me it is a marriage of the two.

The Chairman. It is just a question of whether you have the cart or the horse first. We disagreed a little on which approach to take, but if you think his approach is reasonable, is a reasonable approach to it, it is perfectly all right with me. I would be glad to go along with it.

Mr. McCloy. I think it is fundamentally the same as yours. It may be a little -- it is almost a collateral approach.

The Chairman. Yes, there isn't any great difference.

Sen. Russell. Do you propose to let Mr. Hoover send out some

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7 upon getting the conversations as they took place.

Sen. Russell. Do you have any contacts with any United States district attorneys in Texas in whom you have confidence? Is any one of them that you think you could get to interview this man?

Mr. Rankin. Well, I had in mind that the Commission should go directly with some member of its staff to interview him and interview each of these people, but as we proceed with that I thought we would have Mr. Hoover understand we were doing that and that he recognized that we had to do it and that was --

Sen. Russell. I have no objection to that.

Of course I think he is going to offer to interview them, if he hasn't already done it.

Mr. Rankin: I think the Commission needs to have its own record on that, and I think it might be very desirable to have them here under oath for the Commission to see them and be present when they give their story.

This is, in my opinion, one of the major points that is constantly raised to try to explain this situation. If we can put it to rest in any way, it is of major importance.

Sen. Cooper. That is the point I have felt, we have to interview these people. But I thought, also, that you have to let the F.B.I. know that you are interviewing them because all the other, the great bulk of the testimony we have got we have received from them.

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9 to do with hearing in chambers on some papers they wanted from the defense, and then after that was over he went out into the corridor and then down to the pressroom and he said they were all talking about it then, he said all the press were, it is a matter of common knowledge among the press, this rumor, and he just shrugged the whole thing off, and Carr was sitting here where the Senator is and he didn't object to anything that Alexander said, although it varied radically from what he told you a day or so before.

Sen. Russell. Well, Mr. Chairman, I was not primarily responsible for Mr. Rankin's employment by this Commission but he is our counsel and if that is the way he wants to do it, I will make a motion that he proceed as he thinks is best in respect to this matter.

The Chairman. Is there a second?

Mr. McCloy. I think that is all right.

Mr. Dulles. Along the lines he discussed here.

The Chairman. Those in favor say aye.

(Chorus of aye)

The Chairman. Contrary, no.

(No response)

The Chairman. Unanimously adopted.

Mr. Rankin. We were going to outline our approach to the ideas about the whole procedure of the staff in trying to develop this material for you. But in light of the time, I do not know

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11 the article about the President coming to Texas was in the paper on that day before he went to Mexico City as far as we can determine.

Now, we have difficulty determining the exact time that he went to Mexico City, because the exit record on the border is such that it extends from the period 8 in the morning until 7 at night, and he was shown to have passed through but the exact time is not shown by the materials we have yet.

However, we do have a record that he was supposed to have gone one way by car and one way by bus, and they haven't gotten the exact time on the bus for us, and they haven't got the story of what -- who he went with in the car.

So that it is important to keep in mind in connection with that the fact that he could have known that the President was probably coming to Dallas, because we think that, and we have checked this out somewhat, that if the President was going to Dallas on what was a political trip, and this was a political as distinct from a governmental.

Mr. McCloy. You said Texas, not Dallas.

Mr. Rankin. Presumably, he would not go to Houston or San Antonio without going to the Dallas area. That it has been in the nature of politics that Presidents in going to Texas make it a point to try to get to the middle area as well as the Houston area if they are going to go there on political trips.

So we believe that it is reasonable to assume that the moment

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Mr. Dulles. If he was making a speech in the evening would he have gone there, I rather thought not from something I read, probably would go to a big banquet room in a hotel. That might be worth looking into.

Mr. Rankin. That might be difficult, we didn't canvass it except for the luncheon, as I recall he was going on down as soon as the plans were announced to another locality.

Mr. Dulles. As soon as the plans were announced, the plans were fixed. But at this stage I don't think they could tell whether it would be luncheon or dinner, whatever it would be, midday.

Mr. Rankin. That is right.

So it is possible he could have made as part of his plans from the time he left to go to Mexico City to try to locate in this building and go ahead with the assassination.

Now, that would assume that it is possible that he talked to people about such plans, and had collaborators concerning them in Mexico City. We do not have enough information about that to know what happened there except we do have information that he tried to get a visa at the Cuban Embassy, and he tried to get a visa at the Soviet Embassy, and we know the hotel he stayed at, and we have a very limited report from the hotel keeper about most of it to the effect that they knew nothing about him, didn't even know that he came or went, although there were seven days between the time he went down on the 26th, and the third when he came back.

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15 information themselves rather than having the Commission supply the information it has received from any of the agencies to these -- the C.I.A. and other people that we will need help from.

Sen. Russell. Mr. Rankin, have you given any thoughts to the fact that Oswald was not familiar with Dallas. He had this road map to go around to inquire for jobs and yet you are assuming that he knew all about these routes and everything else, when he posted himself up there to shoot the President, if he did in fact shoot him, and of course the evidence seems to be overwhelming that he did. That has caused me to believe that he had to have someone somewhere to advise him about that.

Mr. Rankin. Well, that Nation article is very interesting, Senator, in regard to your question, because --

Sen. Russell. I haven't read that article, but that occurred to me at the outset. Everybody said he posted himself there and got this employment and all, but he was not familiar with Dallas. Apparently he hadn't lived there --

Mr. McCloy. It was published in the Dallas paper with an arrow showing what the direct line was to be two days before the President came, I mean the Dallas paper had a diagram showing him coming down the street and going --

Sen. Russell. But he has already been in Mexico City before that, some time before that.

Mr. McCloy. Yes, that is true.

Mr. Rankin. This article sets out in some detail there a

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17 story, her story, and that is three hours difference, and there isn't anything to explain that long period of time, and when he got home he was very much disturbed and excited, and at that point he turned on the radio later to find out what happened, and he told her that he had shot at General Walker. He didn't know yet whether he had been killed or not. In fact, he seemed to be thinking that he might have, and he later told her that a lot of people thought that in order to do anything like that they had to have a getaway car, an automobile or something like that, and he just used a bus, that was the most effective way, and apparently he had taken his gun on the bus, and then buried it, dug it up, and had it shot, buried the gun again, and from the reports that we have and the news accounts it looks like if Walker had not backed away from the desk at the time he did he might have gotten him.

Sen. Russell. The article I read Walker fortuitously moved just as the shot, otherwise it would have hit him in the head.

Mr. Rankin. He apparently turned out the light then so there was not an opportunity for another one.

She, on the other hand, threatened him if he ever did -- she asked him why he would do that, and he said he was such a terrible person because he was the head of the Fascists in this country and she said if he ever did that again she was going to report it to the police, and that was her explanation for the reason she kept this memorandum that she put away in the cookbook.

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19 went to, apparently, a bull fight and Jai alai and other things down there, according to his little notebook, and it is difficult to believe that he could be gone that long from her and come back and she would never ask him where he had been, and if he gave her this bracelet which she never says that she ever received, but we are going to have to ask her about all of that, how she could have not known something that was going on about that.

In addition to that, there is this Spanish dictionary, and the books about Spanish where he was trying to learn Spanish, although he had known some Spanish before he went to Russia, and we are trying to run that down to find out what he studied at the Monterey School of the Army in the way of languages because she used to make fun of him, according to some of their Russian friends, about his pronunciation of Spanish words, and he was very clumsy at it, and was embarrassed by her making jokes about that.

The Chairman. How would she know that, that he was mispronouncing Spanish words? She couldn't speak Spanish. She couldn't even speak English, she spoke Russian. How would she know that, I wonder.

Mr. Rankin. There is no explanation of her friends saying, and it is possible she got that from her other Russian friends, but there is no indication that they were Spanish-speaking so far as anything we have.

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the bullet went, the path of it, and, which is, we have to go into considerable items and try to find out how they could reconstruct that when they first said that they couldn't even feel the path beyond the part of a finger.

And then how it could become elevated; even so it raised rather than coming out at a sharp angle that it entered, all of that, we have to go into, too, and we are asking for help from the ballistic experts on that.

We will have to probably get help from the doctors about it, and find out, we have asked for the original notes of the autopsy on that question, too.

Now, the bullet fragments are now, part of them are now, with the Atomic Energy Commission, who are trying to determine by a new method, a process that they have, of whether they can relate them to various guns and the different parts, the fragments, whether they are a part of one of the bullets that was broken and came out in part through the neck, and just what particular assembly of bullet they were part of.

They have had it for the better part of two and a-half weeks and we ought to get an answer.

So the basic problem, what kind of a wound it is in the front of the neck is of great importance to the investigation.

We believe it must be related in some way to the three sheets from the rear.

Sen. Cooper. You mean in the back?

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to find them.

We think that the wound in the neck has to be related to one of these others, but the problem is difficult to determine because we have a statement from the hospital that the bullet that was more whole than the other was found on the stretcher which they brought the President in to the hospital on, and then we have other testimony later that goes back over the same ground in which the person in charge of the stretcher and the attendant said that this bullet was found under the blanket on the stretcher Governor Connally was on, and it is a complete --

Sen. Russell. I thought it was found on the stretcher of the President.

Mr. Rankin. That was the first story. And that is what we have to deal with, a story of that kind to try to reconcile it with people who actually handled the stretcher that Governor Connally was on and picked the bullet from under the blanket.

Now, that evidence is quite superior to the other man's, but we have to check it out some more to determine that.

Sen. Russell. This isn't going to be something that would run you stark mad.

Mr. Rankin. I don't know what we will run into, but --

Let me ask you about it because I have never seen anything about it. Whatever happened with that fellow who bought the front page ad and called the President a Communist?

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Mr. Rankin. We have considerable material and we are going to go into some extent and I wanted to get the Commission's instructions about this, into the atmosphere, this hate material that was very common in that area in many regards. It was in the newspapers, it was in circulars of various kinds, it was in letters to the editor in the newspaper. It was also involved in sermons from the pulpit in some of those, in at least one of the leading churches of the city was involved in financing various forms of hate literature in very large amounts from that particular area, and it may well be that it was a contributing factor in not just as was suggested by some as far as the extreme right is concerned but also in stirring up various elements of the community who were expressing themselves in very extreme forms against anybody in power from the President on down from time to time.

And it may very well be --

Sen. Russell. Who printed this now?

Mr. Rankin. Well, the newspapers had some of it, the pamphlets were commonly circulated there, and I presume you are familiar with some of the E. L. Hunt's financing of various--

Sen. Russell. Yes, we get that about every two weeks, I don't read it but I get it.

Mr. Rankin. And all kinds of things coming from out there in substantial amounts and it apparently was not only exacerbating the community in a number of ways, not only of the extreme right and the extreme left but also the elements of the people more

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Sen. Russell. He produced a card saying -- he had one or two cards with his name.

Sen. Cooper. He had it printed and set up an office.

Rep. Boggs. That was a fictitious name that he used.

Sen. Cooper. I have one suggestion about what we have been talking about, I would think if we find out who put these advertisements in the paper and all that is very important. The other can come in as it is developed, but I think we might talk about this hate element too much because, I will tell you why, because people will begin to get the idea as some have already expressed of going away from evidence and trying to build up some situation which is apart from the evidence.

Mr. Rankin. Yes.

Rep. Boggs. I think these factors such as that add, and these circulars should certainly be looked into.

Mr. Rankin. Then in the period that they lived in Russia there are manifold problems about the fact that the way he lived, the additional income he received under the name of the Red Cross, you will remember, the question of when that income terminated. She said he had never been to Leningrad. He said he had, she went to Kharkov, and there is no explanation of any communications between the two of them during that period of time. There is a period when they were there that she indicated she was fearful of her marriage, and whether it was -- it may not be maintained, there is no explanation of that in anything she has given in any of her

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Sen. Russell. You mean while they were in Russia?

Mr. Rankin. Yes, I mean not only Oswald but this uncle, too, and it would appear that he was much more than just a person of the Interior government like she had said. From what we have been able to get from the CIA and others about it.

Then the fact she was allowed to leave the country the way she was is not adequately explained by her testimony, her statements or anything.

Why they did it so relatively promptly when that is a very difficult operation with most people, and what he did in Moscow when he went there, and was there for better than a month, and was there, and there's no explanation of what he did there.

Mr. Dulles. The beginning of his trip, you mean?

Mr. Rankin. Yes.

Mr. Dulles. When he tried to commit suicide?

Mr. Rankin. Yes. And then this period that he belonged to the gun club, and there is no explanation by her of that or what he did in that. He might have had all kinds of training during that period, that is entirely unexplained.

The fact that they went to, when they came back, they went to Amsterdam and were there for, I think, it was two days before they went to Rotterdam to take a boat, and it is unexplained why they happened to go there and stay, and got a place to live, some little apartment, and what they were doing in the interim, that entire period is just full of possibilities for training, for

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Mr. Rankin. Yes.

Mr. Dulles. If she has any chance to tell the Russian embassy, I don't know whether she will do it or not, she might after this interview, she might ask, get in touch in some way with the Russian embassy, they would be very anxious to get in touch with her. I guess the guard is such that they couldn't do that.

Mr. Rankin. Well, the Secret Service has been with her constantly and all. I don't know how much longer after we would take her testimony you would want that to continue.

Sen. Russell. What interpreter have you arranged to have?

Mr. Rankin. We have asked the State Department to furnish one and they have said they would do so. And we also are going to have a man from the Secret Service here who has been talking to her and translated everything so we could be sure about anything she said we wouldn't have to rely on just one person.

Sen. Russell. There is a fellow here named Reuben Efrom who is one of the best that I ever saw.

Mr. Rankin. Is he with the State Department?

Sen. Russell. Do you know him, Mr. Dulles?

Mr. Dulles. I don't think I do.

The Chairman. Senator, is he with the State Department?

Sen. Russell. No, sir.

Mr. McCloy. There is another fellow named Akelovsky who is a star. He may be over in Geneva. It is awfully important that you get a bilingual man.

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9 Paine's, and it is a very curious situation. She is a member of the Friends Society, and they are separated, and he is a member of an old New England family, and apparently quite well educated. She was teaching Russian in a school there where she lived, and she said that she was very much interested in having Marina stay with her so she could become more proficient in speaking Russian.

Mr. Dulles. Paine's father was a member of the Trotskyite Society of, I think, 11 members.

Mr. Rankin. Yes, sir, and there was no indication --

Sen. Russell. Whose father?

Mr. Dulles. Paine's father, the man's father. And the grandmother is around and she is quite an extraordinary character, I understand, Mrs. Young, she might have a good idea on this family.

Mr. Rankin. She has said that she didn't ever receive anything from them for food or lodging or anything, and apparently that is true from Mrs. Oswald, from what she says, and she has had just to learn what she could about Russian.

Sen. Russell. Oswald said the same thing along that line, I read something along the line.

Mr. Rankin. She seemed to be fond of Oswald's little girl June, they wrote a number of letters in which she wrote back and wanted to send her love to the little girl. She went down to New Orleans and brought Marina back.

Sen. Russell. Is she living alone in this place?

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Sen. Russell. Pretty near all of them are sharpshooter if they work at it.

The Chairman. Thank you, Senator, for coming.

Lee, you probably couldn't get into the Ruby affair anyway tonight, could you?

Mr. Rankin. There is a tremendous bulk of material on it.

Rep. Boggs. Could you give us just a quick synopsis of it?

Mr. Rankin. Apparently Ruby was born in Chicago, and after some years he went to the West Coast, Los Angeles, and then he came back to Chicago, and he changed his name, and then he went to Dallas, and then he came back from Dallas to Chicago, and then he goes back to Dallas, that is a brief history about what he did.

He has apparently all kinds of connections with the underworld, and he had a number of petty arrests, but the convictions were very unimportant. There weren't any -- I can't even remember one that amounted to anything.

Mr. Dulles. He never got to jail, did he?

Mr. Rankin. No, he paid a small fine on one or two. There are stories about his being a homosexual, and those don't pan out as far as any real proof, but it seems to be very current. There are also all kinds of stories about his girls and striptease girls and that they-- he spent time with them all the time, and there are some stories that he is a bisexual.

There isn't any question but what he planned to go down to Cuba, and he did, and the story was that it was in regard to arma-

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ever run across that, and he was in the back of the room, and then they had the screen where they lined up Oswald and several others for the lineups, to see if they could be recognized and the reporter said they couldn't take a decent picture through the screen, wouldn't they take Oswald to the side away from the screen so they could take some good pictures and so they did that, and they got him over to the side and they took the pictures and then Ruby came up, and he said, "Hello, Henry," and seemed to know Wade about as well as he knew all the police people, too, and he said, "Hello" to him.

And then they took Oswald out, and took him down the corridor, and then Ruby went out, and Wade talked to the press for two or three minutes, and then as he was going out, went out, started down the corridor, Ruby called to him from one of the inner offices of the police, and said that the TV station wanted to talk to him on the telephone.

Apparently he had called the TV station and told them that Wade was there, and they said call him to the telephone and we will get an interview with him.

So, apparently that is another thing that Wade thought was particularly important, you will be interested in it from the standpoint of premeditated action on his part, because this was -- this is a day and a half beforehand, and he was there, and showed no animosity at all at that time, but around -- but Wade doesn't know whether he had his gun that day or not, but he had a consider-

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Rep. Boggs. It is a very fine presentation.

Mr. McCloy. February 5th I go out of the country for a week.
The plot thickens, doesn't it?

Mr. Rankin. Would you have time tomorrow?

Mr. Dulles. yes.

Mr. Rankin. About the meeting with the CIA and the FBI and
the State Department, would you have time tomorrow if I can set
that meeting up?

The Chairman. Yes, I will do it.

All right, gentlemen, thank you.

The meeting is adjourned.

(Whereupon, at 5:50 o'clock p.m., the President's Commission
adjourned subject to call of the Chair.)

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