

Memorandum

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TO : MR. CALLAHAN

DATE: 12/31/75

FROM : H. N. BASSETT *HN*

SUBJECT: ASSASSINATION OF PRESIDENT JOHN F. KENNEDY
(LEE HARVEY OSWALD NOTE TO FBI)

The purpose of this memorandum is to advise that a detailed review has been made of the testimony of four current and former Dallas Office employees before the House of Representatives Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary (Edwards Committee), conducted on December 11 and 12, 1975. These employees, namely, Nannie Lee Fenner (clerical employee); J. Gordon Shanklin (former SAC, retired); SA James P. Hosty (now assigned Kansas City Office); and SA Kenneth C. Howe (now assigned San Diego Office) were called to testify concerning the visit of Lee Harvey Oswald to the FBI Office on an unknown date prior to the assassination of President Kennedy on 11/22/63, at which time Oswald left a note with Mrs. Fenner for SA Hosty.

This matter of Oswald's visit and note was investigated by the Inspection Division and the results of this inquiry were furnished to the Attorney General. Mr. J. B. Adams testified before the Edwards Committee concerning this inquiry on 10/21/75 and the testimony of the four cited individuals was a follow-up to this earlier testimony.

Fenner's Testimony

A review of Fenner's testimony on 12/11/75 generally followed that of her affidavits furnished under oath with the only major new information being that she testified that Oswald was still in the office when she took the note to then ASAC Kyle Clark. She testified that she immediately took the note to the ASAC in the event the contents were of sufficient importance that he would want to have Oswald detained. On her interview by the Inspection Staff she never mentioned this development to us.

When asked as to whether she had ever discussed the Oswald note and visit with anyone else in the FBI (other than Helen May, ASAC Clark, and

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1 - Messrs. Adams, Mintz, Walsh (Woodward), Wannall

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SA Hosty) Mrs. Fenner stated that she had not done so until after Joe Schott (now retired SA out of the Dallas Office) wrote his book, "No Left Turns" in 1975, at which time she discussed the matter with SA Ural Horton (now retired). Our inquiry clearly established that Fenner mentioned this matter on several occasions to personnel in the Dallas Office prior to 1975. It is interesting to note that during the testimony Mrs. Fenner was not asked concerning her statement to us that she had been instructed by Supervisor Howe sometime after the assassination to forget the Oswald letter. In fact, during the testimony Mrs. Fenner, after testifying that ASAC Clark told her to forget the note, was then asked if this was the only conversation she had with anybody in the immediate time frame following the assassination and according to the transcript she responded by nodding her head in the affirmative.

Mrs. Fenner testified that she was interviewed on two occasions by the Inspection Division on the 15th of July relating she was placed under oath immediately after admitting she had received this Oswald note. This is erroneous inasmuch as Mrs. Fenner was not placed under oath until the second interview on that date when she furnished the sworn statement.

In her testimony Mrs. Fenner advised that she and her husband were watching television on Sunday morning, 11/24/63, and observed Oswald being moved from the city jail and she stated to her husband, "Oh my God, that's the man who brought the letter to the office." In her affidavit to us Mrs. Fenner stated she initially identified Oswald from newspaper photographs as being the person who delivered the note for SA Hosty.

Shanklin's Testimony

Shanklin appeared before the Committee immediately after Mrs. Fenner and furnished a long opening statement in which he recited circumstances in the Dallas Office at the time of the assassination and immediately thereafter and unequivocally stated he has no recollection of hearing of Oswald's visit to the office or of the note prior to learning of this information in July of 1975. He stated he had no recollection of ever seeing the note and no recollection of discussing the note or Oswald's visit with anyone at the time prior to July, 1975. He stated that if, as Mrs. Fenner alleged, the note contained a threat to blow up the Dallas Field Office or any threat of violence and it had been brought to his attention he would remember it to this day. He was vigorously questioned by all Congressmen in attendance and Congressman Drinan was very forceful in attempting to pin Shanklin down to yes or no answers concerning these events.

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Hosty's Testimony

Hosty testified on 12/12/75, the day after Mrs. Fenner and Shanklin appeared. The initial questioning pertained to his assignment of the Lee Harvey Oswald and Marina Oswald cases and investigation he performed prior to Kennedy's assassination. Hosty also testified concerning his activities on 11/22/63, including his interview of Oswald on that date. Hosty's testimony closely followed that of his affidavits furnished to us during the course of our inquiry and contained no deviation as to his recollection concerning the Oswald note.

In response to a question, Hosty stated that when he testified before the Warren Commission, he was instructed before testifying that he was only to answer questions that were asked of him and he was not to expand or elaborate in any manner. According to Hosty, he was given these instructions by Shanklin, Dallas Agent Supervisor Gemberling and former Assistant to the Director Belmont. Hosty continued by explanation that any law enforcement officer, in testifying, is to stick to first-hand knowledge and not volunteer anything. According to Hosty, he was specifically instructed not to discuss FBI policy and if any such questions were asked by the Commission, he was to defer to Mr. Belmont. Hosty continued that with regard to his current testimony, he was instructed to tell everything and to hold back in no manner, shape or form.

The Committee members asked many questions of Hosty concerning the disciplinary action taken against him as well as others, both in the field and at Headquarters. Concerning his own disciplinary action, Hosty testified that he did not think his discipline was justified and explained that he responded by memorandum dated 12/6/63 to the SAC in answering the 16 questions then Assistant Director James Gale (Inspection Division) had telephoned to the SAC on 12/5/63. According to Hosty, he answered those questions applicable to himself in his memorandum. He continued that on 12/8/63 Supervisor Howe came out of Shanklin's office, obviously perturbed and upset, and handed both copies of Hosty's memorandum to Hosty and told him to keep these as he "might need these some day." Hosty testified he did keep the memorandum of 12/6/63.

Hosty testified approximately five or six years ago while assigned to the Kansas City Office, his personnel file was left unattended on his supervisor's desk and he perused his file as he was curious as to why he had been censured. He stated in his file he found a memorandum from the Agent in

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Charge (Shanklin) to Headquarters in which the SAC set forth answers to the questions propounded by Assistant Director Gale. According to Hosty, both his answers and those of Howe were set forth and at the end of the memorandum was an addendum by Mr. Shanklin. According to Hosty, two of the answers attributable to him were not the answers that he gave in his 12/6/63 memorandum to the SAC. He advised the SAC's memorandum to the Bureau stated that "I felt maybe I was wrong and should have done it differently." Hosty testified that he did not make such a statement and his letter of censure was based upon these false and changed answers. Hosty continued that his disciplinary action "had to do with administrative handling of my interviewing Marina Oswald in November of 1963 and my placing a memorandum in the file opposed to writing a letter to FBIHQ" in May of 1963. Hosty was asked if he had appealed his disciplinary action prior to discussing this matter with Director Kelley in 1973 and replied in the negative stating that he felt it would have been useless. In response to why he felt it would have been useless, Hosty said because it was obvious that the people he would have to appeal to were the ones that were responsible for the change. Concerning Hosty's 12/6/63 memorandum setting forth his response to Mr. Gale's questions, he advised that his attorney had two copies of his memorandum which were turned over to the Committee. Hosty further testified that each one of the copies had some corrections and additions in handwriting, Supervisor Howe writing on one of the copies and he, Hosty, making minor changes on the other copy.

During the questioning relating to the disciplinary action, Hosty stated that he felt he and Howe were penalized more than all the others who were censured and further commented that it was a normal procedure for Washington to focus the blame for some failure away from itself and onto some Agent out in the field. It should be noted during this questioning about the disciplinary action Hosty stated that Congressman Edwards wanted to bring up the disciplinary phase of the matter.

Hosty also testified that while assigned to the Kansas City Office, then SAC Carl Dissley, just prior to Dissley's retirement, told Hosty that he had recommended to the Bureau that Hosty be considered for promotion to the position of relief supervisor and according to Dissley, Hosty had been turned down for the reason that there was a stop on Hosty's file from Mr. Tolson. In subsequent questioning Hosty clarified this by stating that SAC Dissley did not make his recommendation in writing to Headquarters but he made a telephone inquiry to see if it was feasible to submit a written request, and when Dissley was advised in the negative, no written record was made.

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Hosty testified concerning the disciplinary action that in October, 1973, he orally brought this matter to the attention of Mr. Kelley and on his instructions reduced the matter to writing and sent the material personally to Mr. Kelley. He continued that about five weeks later he received a letter from Mr. Kelley which stated in essence that the action was taken under Director Hoover and he himself could do nothing about that previous action taken by another person. Hosty also related that he had presented his original answers to Gale's questions as an attachment to his letter of explanation to Mr. Kelley. Hosty did state that approximately eight months after bringing this to Mr. Kelley's attention he was given a small promotion which was the first favorable personnel action he had received since November, 1963. (Hosty received a quality within-grade increase on 4/10/75.)

Howe's Testimony

Howe's testimony on 12/12/75 immediately followed that of Hosty. His testimony closely followed that previously furnished to the Bureau with one notable change. Howe had advised us that following the assassination of President Kennedy he had learned from Fenner that Oswald had been to the Dallas Office and left a note for Hosty. However, he told us he had no distinct recollection of having gone to SAC Shanklin with this information. In his testimony before the Committee, Howe stated after learning of this information from Fenner he reported same to Shanklin.

Howe was questioned extensively concerning the disciplinary action meted out by the Bureau as well as the handling of the response to Gale's 16 questions as referred to above. Concerning the answering of these questions, Howe related that he and Hosty sat down together and answered the questions in rough draft form to the best of their ability and then they took the answers in to Shanklin's office where the proposed responses were discussed with both Shanklin and Jim Malley (Inspector James R. Malley who was on special assignment in Dallas at the time). According to Howe, he and Hosty went over the responses with Shanklin and Malley and there were some changes that they suggested as to how certain responses could be worded a little bit differently. Howe states he does not recall giving the rough draft copy with noted changes to Hosty but pointed out that Hosty was present when the changes were made. Howe also pointed out he and Hosty jointly prepared their responses to the questions and Howe stated he was satisfied with the changes that were made. Howe also testified that he had no knowledge that the answers prepared by Hosty and himself were changed without their knowledge.

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Howe was asked if it was a practice at that time in the FBI that whenever there was a possibility the Bureau might be criticized for some failure or alleged failure whether a scapegoat was made of some Agent in the field in order to get the focus away from Washington. In response Howe stated the Bureau is all one organization and a dereliction of an Agent is a reflection against the FBI as a whole and that is the reason derelictions of specific Agents were subject to disciplinary action because the dereliction reflected on the Bureau. Howe continued that Mr. Hoover was a strict disciplinarian and considered anything that happened to the Bureau as a reflection upon the Bureau itself. Howe pointed out that people at Headquarters were disciplined and given letters of censure the same as a street Agent in the field.

Details and Observations Concerning Gale's 16 Questions to SAC, Dallas, on 12/5/63, Hosty's Responding Memorandum of 12/6/63, and Resulting Disciplinary Action

With regard to Hosty's testimony on the 1963 disciplinary action and his allegations that portions of his explanations were changed, the following is set forth:

A review of Bureau files failed to locate any memorandum prepared by Gale concerning the questions he telephoned to SAC Shanklin on 12/5/63. Dallas files do contain a Shanklin memorandum to the file of that date setting forth that at 3:30 p.m. Gale telephonically requested that answers be furnished to the Bureau concerning 16 questions which are set forth in Shanklin's memorandum.

Bureau file 67-798, serial 3048, is an airtel from Dallas to the Bureau, dated 12/8/63, referring to Gale's telephone calls of 12/5 and 6/63, and enclosing among other things an undated 24-page letterhead memorandum (LHM) captioned "Lee Harvey Oswald, aka," responding to 15 of Gale's questions. It is noted that in his response Shanklin combined two questions into one, which accounts for the variance in the number of questions asked and those answered. In submitting the response SAC Shanklin did not enclose any memoranda from either Hosty or Howe, and a review of Bureau files, including Hosty's personnel file, fails to locate Hosty's memorandum of 12/6/63. Inquiry of the SAC, Kansas City, determined a review of Hosty's field personnel file likewise failed to contain a copy of his 12/6/63 memorandum, although a copy of Shanklin's 24-page undated response is in Hosty's personnel file bearing

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a block stamp date of 12/8/63. The ASAC, Dallas Office, made a search of the Dallas personal and confidential file (maintained by the SAC) and contained therein is Shanklin's undated 24-page LHM in response to Gale's questions; however, this file does not contain Hosty's memorandum of 12/6/63. The LHM does have a notation that copies were filed in personnel files of Hosty, Howe, and two other Agents.

When Hosty brought this matter to Mr. Kelley's attention by letter dated 10/24/73, he furnished to Mr. Kelley two copies of his 12/6/63, four-page, single-spaced memorandum, both copies bearing differing handwritten notations and/or corrections. Hosty also furnished to Mr. Kelley an undated routing slip directed to Hosty with the notation "Jim - for your disposition," initialed "H," presumed to be Supervisor Howe. A review of these two documents fails to detect any wording by Hosty, either direct or implied, that he "should have notified the Bureau earlier," or as set forth in Shanklin's memorandum, "Although it possibly would have been better to do so prior to 8/23/63." These items turned over to Mr. Kelley are now filed in Hosty's Bureau personnel file [REDACTED]. In his letter to Mr. Kelley and with reference to his 12/6/63 memorandum of explanations, Hosty acknowledged he was aware that Supervisore Howe did make alterations to his answers "without my advice or consent but with my knowledge." Hosty wrote that the answers appearing in Shanklin's overall memorandum of 12/8/63 are not "these answers either." Hosty continued that it appears his answers were changed a second time, probably on 12/8/63, without his knowledge and reiterated the most obvious change is the false answers to questions 5 and 6 in which he is falsely quoted as saying, "Perhaps I should have notified the Bureau earlier." Hosty contended this wording constituted an admission of guilt which he did not make at any time.

(It is noted the wording Hosty claims was changed is set forth in Shanklin's undated 24-page LHM, under question 5. A review of question 6 contains no similar wording but does state the "reason for not reporting to the Bureau the various investigative steps being taken are covered hereinbefore." It is assumed Hosty feels this phrase, particularly "are covered hereinbefore" encompasses the questioned wording referred to above in the response to question 5.)

It would appear that after Shanklin got Gale's telephone call to answer the 16 questions he had Hosty and Howe prepare their responses and furnish a memorandum to him, which he then incorporated into one overall response

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(the 24-page LHM) which was utilized by Gale in writing his memorandum to Mr. Tolson dated 12/10/63. A review of Shanklin's undated 24-page LHM, in responding to question 5 (Why was not a report submitted by Dallas from 3/25/63 until 8/23/63 concerning a lead to determine Oswald's employment? Why the delay?) and particularly the explanation attributed to Hosty states in part, "Although it possibly would have been better to do so prior to 8/23/63, (emphasis added) these investigative results were not reported to the Bureau until location of the Oswalds was established in New Orleans since they did not appear particularly significant and the investigation, looking toward accomplishment of the principal objective of it, interview of Marina Oswald under the SOBIR Program was going forward." The underlined phrase is the particular wording that Hosty objects to and states constitutes an admission of guilt on his part.

It was apparently on the basis of Shanklin's 24-page LHM that Gale made his recommendations and Mr. Hoover approved disciplinary action against Hosty and other field and Headquarters personnel for their part in the investigation. In this regard Gale recommended and it was approved that Hosty be censured and placed on probation for inadequate investigation, including earlier interview of Oswald's wife, delayed reporting, failure to put subject on Security Index, and for holding investigation in abeyance after being in receipt of information that subject had been in contact with Soviet Embassy, Mexico City.

It should be noted that in submitting his response to Gale's 16 questions, Shanklin made no recommendations for administrative action concerning any Dallas Office employees, either in his 24-page LHM or in his cover airtel. On the last page of the LHM Shanklin stated, "I have reviewed the two pertinent files and I agree with the comments made in the memorandum of explanations submitted by the Agents and Supervisor Kenneth C. Howe."

After Hosty brought this matter to the attention of Mr. Kelley in 1973 the Administrative Division prepared a memorandum (R. G. Hunsinger to Mr. Walsh) dated 11/14/73, setting forth the background concerning Hosty's involvement in the Oswald case and the resultant administrative action. This memorandum pointed out Hosty was determined to be derelict in some aspects of the Oswald investigation by Mr. Hoover and it recommended and was approved that Hosty be so advised by Mr. Kelley. By letter dated 11/14/73 Hosty was so informed. Hosty was also advised that the previous administrative action was Mr. Hoover's prerogative and Mr. Kelley had no basis for making a change in that decision.

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It should be noted this memorandum pointed out that no inquiries had been conducted to determine if and by whom changes were made in the memorandum submitted by Hosty on 12/6/63 to Shanklin. The memorandum pointed out the alleged changes did not significantly alter the status of this situation as the action taken against Hosty was not based on an admission of delay by him and it was recommended that in view of this fact and the lapse of time no additional inquiry was warranted.

Current Developments

Legal Counsel memorandum to J. B. Adams captioned, "Sub-committee on Civil and Constitutional Rights of the House Committee on the Judiciary," dated 12/23/75, advised that by letter to the Attorney General from Congressman Don Edwards dated 12/15/75, Edwards referred to Hosty's testimony before his Committee wherein Hosty stated certain information in his personnel file was erroneous. According to Edwards, the implications in Hosty's testimony were that his answers were intentionally misrepresented for purposes of allowing appropriate censure. Edwards requests that the Committee would like to review the appropriate portions of Hosty's file for the purpose of determining if such a misstatement occurred. Edwards also asked for information concerning policies and procedures utilized by the FBI in personnel matters. The Legal Counsel memorandum recommended the Administrative Division prepare the necessary response for forwarding to the Deputy Attorney General.

RECOMMENDED ACTION

1. Concerning Hosty's testimony relating to his 12/6/63 memorandum of explanations, it appears the stance taken in November, 1973, that the alleged change did not significantly alter the status of Hosty's disciplinary action should stand. There is no question but what Hosty did prepare a memorandum and that the specific wording in question alluded to above did appear in Shanklin's composite LHM but was not set forth in Hosty's explanations. The only one who could possibly furnish explanations would be Shanklin and in view of the fact that 12 years have elapsed, it is most questionable that he could furnish any additional light on the subject matter.

ADDENDUM BY LEGAL COUNSEL, 12/31/75, JAM:mfd.

In view of the interpretation by Congressman Edwards that Hosty's answers were intentionally misrepresented for purposes of allowing appropriate censure & the apparent intention of the Committee to inquire into that matter, I believe it would be prudent to resolve the doubt in favor of interviewing Shanklin in order that the Bureau will have covered all investigative possibilities in this matter. Therefore, I recommend that Mr. Shanklin be interviewed.

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2. The Administrative Division memorandum of 11/14/73 pointed out no inquiries had been conducted concerning Hosty's having access to his personnel file, in violation of Bureau regulations, and it likewise is recommended that this not be further pursued.

OK *not*

3. Concerning the response to the Edwards Committee for review of the pertinent portions of Hosty's file concerning the alleged misstatements, the Inspection Division will coordinate such response with the Administrative Division.

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Copies of this memo and
copies of Hosty's 12/6/63 memo
forwarded to Inspector Best of
D. Mass. Office 1/12/75 with instructions
to interview Blankin.
Jac