

DID LEE HARVEY OSWALD ACT WITHOUT HELP?

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THE life and death of President John Fitzgerald Kennedy now belong to history and the historians. As with so many other aspects of history, his life, but particularly his death, will remain a riddle, a problem, a topic about which the last word will never be spoken, the last line never written. His successor, President Johnson, by his order of November 29, 1963, one week after the assassination, established a commission, headed by Chief Justice Earl Warren, to investigate thoroughly and independently the truth about the atrocious assassination.¹ No such investigation could be complete without an exhaustive examination of the conspiracy issue. Because of the numerous rumors that Oswald had not acted alone, "all assertions or rumors relating to a possible conspiracy, or the complicity of others than Oswald,"² had to be investigated by the Commission. As the result of this investigation, the Commission in Chapter VI of its Report concludes that:

there is no credible evidence that Lee Harvey Oswald was aided in the planning or execution of his scheme. Review of Oswald's life and activities since 1959 . . . did not produce any meaningful evidence of conspiracy.³

In Chapter VII, Oswald is described as a sort of "lone wolf":

Many factors were undoubtedly involved in Oswald's motivation for the assassination, and the Commission does not believe that it can ascribe to him any one motive or group of motives. It is apparent, however, that Oswald was moved by an overriding hostility to his environment. *He does not appear to have been able to establish meaningful relationships with other people.* He was perpetually discontented with the world around him. Long before the assassination he expressed his hatred for American society and acted in protest against it. Oswald's search for what he conceived to be the perfect society was doomed from the start. He sought for himself a place in history—a role as the "great man"—who would be recognized as having been in advance of his times. His commitment to Marxism and Communism appears to have been another important factor in his motivation. He also had demonstrated a capacity to act decisively and without regard to the consequences when such action would further his aims of the moment. Out of these and the many other factors, which may

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1. Exec. Order No. 11130, 28 Fed. Reg. 12789 (1963).
2. Foreword to Report of the President's Commission on the Assassination of President Kennedy at x [hereinafter Report].
3. Report 374.

directed remedial work, if it was indicated, before the findings were turned over to the less responsible or able critics.

CONCLUSION

In the years ahead it is not unlikely that other questions of overriding national importance will create a task which transcends the capability, or suitability, of existing fact-finding or adjudicative agencies. When such a need arises the morphology and *modus operandi* of the Warren Commission should be known.

Whether it is sound or not to enact legislation for a standby machinery, some of the principles of common law procedure may still lend themselves to an improvement of the next similar fact-finding body. Random selection and cross-sectional representation of professions or other qualified analysts certainly seem desirable to mitigate bias in approach or conclusion.

Moreover, a critical analysis of the success or shortcomings of the Warren Commission provides insights into the values or inefficiencies of existing procedures, such as are employed by the courts of common law. Because of their numbers and their extensive day to day task of administering justice, conventional tribunals cannot in a practical sense be staffed with the men of preeminence, or be aided so generously by the public and private facilities that worked in, or with, the Warren Commission. The necessity of sound and efficient controls on fact-finding processes is therefore more critical. Conventional courts are entrusted with matters of great gravity and their success or failure in serving justice is dependent upon procedures, or systems, which like habits of human conduct can become inflexible and resistant to change despite revolutions elsewhere in science and technology, and therefore merit continuous, radical assessment.

In any event reflecting upon fact-finding procedures in order to discriminate between the fundamental and the unnecessary is a healthy, if not, indispensable exercise for those of us entrusted with use of the various mechanisms. In doing so, we may find that the common law still has many lessons to teach to those interested in dealing with the limitations of human instrumentalities in the area of forensic fact-finding.