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Chapter 12

*Earlier
Draft*

The FBI and the Warren Commission Report

The Bureau will never live this down and will be viewed
as a second rate outfit henceforth.

----J. Edgar Hoover 9/28/1964

On 27 September 1964 the U.S. Government Printing Office made available to the general public some 50,000 copies of the "Report of the President's Commission on the Assassination of President John F. Kennedy." The so-called Warren Report was an instant best seller as the public rushed to buy up the long-awaited historic document. Interest was sky high and the price was right, \$3.25 for a cloth bound copy and a paperback copy went for two dollars and fifty cents. Some newspapers announced that they would make available \$1.50 hardback edition printed by the Associated Press. Instant editorial commentary raised the issue as to whether the Report would lay to rest the suspicions prevalent in Europe and at home that Kennedy was the victim of a conspiracy.¹

On September 25 Acting Attorney General Katzenbach¹ delivered two copies of the Report to FBI Washington headquarters. By all indications Hoover and his executive officers had no forewarning that the Report would find fault with the FBI for its slipshod pre-assassination handling of the Oswald case. Under "Conclusions," the Report found that "the FBI took an unduly restrictive view of its role in preventive intelligence work prior to the assassination. A more carefully coordinated treatment of the Oswald case by

the FBI,” the Report continued, “might well have resulted in bringing Oswald to the attention of the Secret Service.” While the Commission laid out the incriminating dots it did not connect them. But for the general public the inference was inescapable: Had the Hoover agency not been derelict in its responsibilities Oswald would never have had access to President Kennedy. Predictably, the Commission’s criticism created a combustible atmosphere at FBIHQ. The Commission’s “Conclusions” with supporting details in the Report’s Chapter Eight (“The Protection of the President”) was viewed by the director as an unmitigated public relations disaster and a likely inexpugnable embarrassment that would compromise the image of the Hoover Bureau for all times. The director’s immediate response was to order his executive officers to review Chapter Eight “as pertains to the FBI shortcomings” laid out in the Gale Report. “Chapter 8 tears us to pieces,” Hoover vented. Veteran FBI officials at FBIHQ knew that some of them would feel the sting of “The Boss’s” anger; some heads would roll.²

In fact, there was nothing in the Warren Report’s detailed contention about the FBI’s “unduly restrictive role in preventative intelligence” that was not already anticipated in Inspector James H. Gale’s secret 10 December 1963 report to Associate Director Clyde Tolson. Gale “definitely felt” that Oswald should have been on the FBI’s Security Index because of eight “overt acts,” which he itemized in his report. This was nine months before the Warren Report was published. Because of these investigative deficiencies, Assistant Director Gale recommended that 17 FBI employees be disciplined. Since Gale’s December report was an in-house document meant for only limited circulation within the upper reaches of FBIHQ, Gale central purpose was to make recommendations for the future on how the bureau could plug the holes in its current

criteria for dissemination of classified security information. For example, in his December report Gale never directly faulted the FBI, or more particularly the Dallas field office, for not altering the Secret Service about Lee Harvey Oswald even after he concluded that Oswald should have been on the FBI's Security Index. But after the Report came out with its criticism of the FBI, Gale, at Hoover's direction, submitted a follow up report. This time Gale did not skirt the issue. He concluded that Oswald's name should have been circulated to the Secret Service. That the bureau failed to do this, Gale concluded was a crippling example of the FBI's "unduly restrictive" dissemination policies.³

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Stunned by the Commission's criticism of the FBI, Hoover's first impulse was to assign blame. He singled out Assistant Directors Belmont and Sullivan who had opposed Gale's recommendations for disciplinary action in his December report, arguing that the FBI was not derelict in its responsibilities. A contention, Hoover curtly reminded them, that he had opposed.⁴ With President Kennedy gone, the only purpose in raking up this old disagreement was to serve notice that in the Hoover Bureau the director was always right. The unstated but unmistakable corollary to this proposition was that when the director was not happy no one under his control would be happy or feel secure in their employment.

For FBI executive officers at Washington headquarters mollification and damage control became the order of the day. Belmont, the senior executive officer in charge of the FBI's investigation, sent to Hoover an instant analysis of the Warren Report based on a review by four headquarter division heads and the FBI Laboratory. In his seven-page summary Belmont tried to rally Hoover's spirits. He pointed out the indispensable

contribution of the FBI's investigative effort—its 25,000 interviews and 25,400 pages of reports—to the Commission's findings; noting that the Report credited the agency for its stellar performance. (Lost in this self-promotional, of course, is the recognition that what is investigated matters and not the magnitude of the investigation. The larger a bad or dishonest investigation is, the worse it is. The investigative record of the FBI in the JFK assassination allows for only one indisputable conclusion: this was a bad investigation.)

“The official facts of the assassination,” Belmont reported, were the same as “we knew and reported them in substance to the Commission on 12-9-63.” (The date is when the Commissioners received the FBI's CD 1). One of the Report's “official facts” cited by Belmont was Oswald's “capacity for violence,” evidenced, the Report asserted, by his attempt on the life of General Walker.⁵ The Commission's only evidence for this, as discussed earlier, came from Oswald's widow, Marina. But Oswald's FBI case officers, Hosty especially, had pre-assassination reports that Lee had a history of spousal abuse. Belmont either conveniently forgot or ignored that all along the FBI's party line was that Oswald showed no propensity for violence; a contention that Belmont, Hoover, Hosty, and other bureau agents faithfully adhered when testifying before the Commission.⁶

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More importantly, in his efforts to assuage Hoover by emphasizing that in all the “official facts” of the investigation the Report and the FBI's CD 1 were in lock-step agreement, Belmont's report neglected the one critical area where Commission and FBI versions hopelessly clashed. As developed earlier, there came a time when Rankin and his staff were forced to acknowledge the missed shot, the missile that completely missed the motorcade and struck the curb and slightly wounded bystander James Tague.⁷ In order to account for the missed shot, while still maintaining that the lone assassin fired

only three shots, the Commission invented the “single-bullet” theory. In retrofitting the missed shot into the shooting scenario in the Report, the Commission abandoned the FBI’s version of three shots and three hits, that had JFK and Connally hit by separate bullets.⁸ The variations in these two official accounts placed the Commission and the FBI on opposite sides of an irreconcilable divide. They could not both support the government’s conclusion that a lone gunman assassinated the president. There was no way to square the circle. The awkward fact was that any objective reading of the FBI’s CD 1 and the Warren Report could not avoid the conclusion that these two historic documents were reporting on two different assassinations. Of course, the FBI’s Commission Document One was not incorporated into the Warren Report or the 26 volumes of Hearings and Exhibits. It was not available to the public until well after the Commission’s findings had been established in the public mind as the repository of the official reality of the Kennedy assassination.⁹

Belmont’s efforts to console Hoover proved futile. Interspersed throughout his summary, in four separate instances the director agreed with the Warren Report that the FBI’s policy was “unduly restrictive” and demonstrated poor judgment.¹⁰ Several days later Belmont came back to Hoover to urge a postponement of disciplinary action against FBI personnel recommended in the Gale Report. He acknowledged that punishment had to be meted out, but he argued that it would be a “tactical error” coming immediately on the heels of the Warren Commission’s criticism. Any strong action at this time, Belmont feared, “admits that the Bureau was in error.” Having backed away from following up on Gale’s recommendations in his December report, the one exception was Hosty’s 10 weeks on probation, the director would not be deterred. Hoover was now in no mood to

play internal politics. Faced with a scandal Hoover feared would drive his agency to its knees and compromise his national reputation, the director was determined to punish those who mishandled the investigation. “We were wrong,” he told Belmont. “The administrative action is approved.”¹¹

Assistant Director William C. Sullivan, number three in the FBI hierarchy, had no more success with the director than Belmont. Sullivan was at a loss to explain why the Commission assigned so much weight to Secret Service special agent Robert I. Bouck’s testimony. The FBI had aggressively lobbied James J. Rowley, Chief of the Secret Service, and a former FBI agent, and Rowley “flatly assured” the bureau that neither he nor Bouck would charge or infer that the FBI should have alerted the Secret Service about Oswald. Convinced that the Secret Service was “on message,” FBI headquarters never bothered to get a transcript of Bouck’s April 23 Commission testimony. Congressman Ford, the FBI’s source on the Commission, would probably have leaked Bouck’s testimony upon request in time for Hoover and Belmont to prepare a rebuttal to Bouck when they were scheduled to testify before the Commission several weeks later. All Sullivan had to fall back on was that Rankin had privately assured FBIHQ that the Commission members did not “buy” Bouck’s testimony, confiding that they regarded it as evasive and self-serving. Hoover brushed this explanation aside with the laconic put down, “Well they bought it.”¹²

They “bought it” because some of the Commissioners and, equally important, if not more so, some of the staff, found the collective testimony of FBI witnesses relating to presidential protection verging on the incredible. Commission Assistant Counsel Samuel A. Stern had sole responsibility for drafting Area VI of the Warren Report on

“Presidential Protection”. Stern had impeccable credentials. Editor of the Harvard Law Review, clerk to Chief Justice Earl Warren, and at the surprisingly young age of 34 was made a partner in the Washington, D.C. law firm of Wilmer, Cutler & Pickering. In his 11 years of legal practice Stern had plenty of trial experience. While serving in the U.S. Air Force he volunteered to act as defense counsel in a number of courts martial, gaining experience in the examination of witnesses.¹³

Stern interviewed all the witnesses for Area VI. He was especially impressed with what Bouck and Inspector Thomas J. Kelley, the Secret Service’s liaison with the Commission, had to say in their private sessions about the failure of the FBI to share timely preventive intelligence about potential threats to the president prior to the assassination. During his months on the Commission Stern developed a jaundiced view of the FBI, coming to regard them as a “bunch of clerks on roller skates.”¹⁴ This opinion was only reinforced when he compared Bouck and Kelley’s testimony against that of the trifling, and unintended self-deriding impression FBI agent Hosty left with the Commission. The Warren Report’s Chapter 8 was based largely on Stern’s August draft but some Commission members shared his conclusions critical of the FBI. Senator Cooper went even further. He wanted to strengthen the language in Stern’s draft dealing with the Revill-Hosty exchange in the basement garage of the Dallas Police Department. Cooper had such a low regard for Hosty’s professional judgment and veracity, he wanted the Report to state as fact that Hosty told Revill that the FBI had information that Oswald was “capable of committing the assassination.” For the Kentucky lawmaker there was no need to bend over backwards to be fair to both disputants. “I think proof is against Hosty,” was Cooper’s unequivocal conclusion. (As mentioned in the previous chapter,

Hoover also privately believed that Hosty made the statement.) Based on his review of the FBI's pre-assassination intelligence file on Oswald, and his interviews with Bouck and Kelley, Stern's draft itemized the reasons why Oswald's name should have been disseminated to the Secret Service. As mentioned earlier, Stern's list was a virtual carbon copy of the deficiencies that appeared in Gale's in-house report to Director Hoover. Commissioner McCloy adopted Stern's reasons and added some of his own, all supporting the view that the accumulation of these facts known to the FBI should have been sufficient enough to warn the Secret Service of the risk Oswald posed to the president.¹⁵

It was not surprising that FBIHQ was caught flatfooted and befuddled by the Warren Report's criticism. To begin with, the destruction of the Oswald note to Hosty remained a closely held secret known to only a few executive officers at the pinnacle of the Hoover agency. Right up until the Commission's findings were published, every indication was that the FBI would emerge unscathed.

In April the CIA's James J. Angleton, after an agency conference with Warren, Rankin, Cooper, and some Commissioners staffers, confided to FBI liaison Sam J. Papich, that it was his strong impression that the Commission would not fix blame on any individual or agency in the assassination. The following month Rankin notified Belmont that the Commission dismissed Lt. Revill's account of his exchange with Hosty as a "put-up job." The general counsel even let drop that some of the Commissioners were speculating about recommending that the FBI take responsibility for White House security. According to Belmont, Rankin was exceedingly friendly, praised Hoover's

> Commission testimony, and ◡ added in passing, "As you know, the Commissioners

like the Director.” FBI headquarters’ assurance ramped up even higher in July when a source, presumably Ford, leaked a copy of the Commission’s third and penultimate draft of its report. Assistant Director Alex Rosen was quick to point out in the first paragraph of his summary that the draft contained “no criticism of the FBI or any other agency Federal or local.” To FBI’s subsequent chagrin, the third draft did not contain Chapter 8 or the Commission’s final conclusions and recommendations. But Rosen did note that the final draft, scheduled for completion three weeks later, would be “available through a source.” Rosen’s summary added in passing, without editorial comment, that the Commission’s draft concluded “two bullets caused all of the wounds suffered by President Kennedy and Governor Connally” and the third shot missed “the Presidential car and its occupants.” He concluded his four-page summary with the glaring non sequitur, testimony to the Hoover Bureau’s capacity for self-delusion, that the “FBI’s investigation of the assassination . . . was essentially correct, and that the Commission had not uncovered any startling information that was not developed in our investigation.”¹⁶ If the news that the Commission had scrapped the FBI’s model of the shooting hit a nerve Hoover never picked up his pen with the familiar blue ink to comment in the margins of Rosen’s memo. The fact that the third draft of the report contained no criticism of the FBI was all that mattered to the aging director. The public record is clear on this point: Hoover focused his energies exclusively on the politics of the investigation. At the very outset of the tragedy in Dallas, he had fingered the dead Oswald as the lone assassin so it was no surprise that interest or even a rudimentary grasp of the evidence of the crime was rarely, if ever, visible on his scale of priorities.

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Obsessed with the FBI's public image, the real nightmare for Hoover began when the press started to run stories on the Warren Report's conclusions. A story by Les Whitten of the *New York Journal-American* cut right to the bone. Whitten noted that while both the FBI and Secret Service came in "for sweeping criticism," the Commission's report "suggested" that if the FBI had not been derelict in its preventative intelligence role Oswald "might have been under scrutiny" and the assassination prevented. When Hoover read the Whitten piece he winced, "A real debunking of the FBI which we will never live down." The day the Warren Report was available to the public, the ultra-conservative Fulton Lewis, Jr., had a short editorial in the same paper. The essence of Lewis' piece was a defense of the Hoover Bureau while he dismissed most of the Commission's recommendations for strengthening presidential security as "wasteful futility." But he did acknowledge that better liaison between the FBI and Secret Service was necessary. This admonition was all that registered with Hoover. "There is another friend," the director bemoaned, "who cracks us!" National syndicated columnist Drew Pearson, an old Hoover nemesis, drew blood by quoting excerpts from the Report's Chapter 8. Pearson even implied that the FBI attempted to cover up its actions in the Oswald investigation. The beleaguered director seemed to be a man in desperate need of a place to hunker down. "We are being clobbered by everyone & it will get worse," he lamented, "just because we were too smug and took too restrictive a view of our responsibilities." A UPI story from Austin, Texas, carried by the Washington Post, reported the conclusions of the so-called "little Warren Commission report," the Texas Court of Inquiry's findings to the people of Texas. It noted that the 20-page loose-leaf document fully supported the Commission's conclusions and added that it criticized the

FBI for failing to provide the Dallas police with advance information about Oswald. Despairing that the 40 years he spent building his agency's public image was going down for the count, all Hoover could muster in response was, "We get walloped again."¹⁷

Hoover was not without his legions of supporters. Letters of support from ordinary Americans flooded the mailroom at FBI headquarters in the nation's capital. Their common theme was indignation at the insinuations in the Warren Report that the Hoover agency could have prevented the assassination. Most of the writers regarded the Commission's criticism as an injustice to Hoover, the FBI, and the country. The euphemistically designated Crime Records Division, responsible for FBI public relations and the agency's dealings with Congress, graciously responded to all these letters in the director's name.¹⁸

FBIHQ was aware, of course, that these letters and the hundreds of phone calls of support were not enough to repair the FBI's public image after the Commission and its critics in the so-called "liberal" press accused it of being derelict in its responsibilities as an intelligence agency. To answer its enemies and restore the FBI's reputation, Hoover turned to his trusted lieutenant and surrogate, the head of the Crime Records Division, Assistant Director Cartha "Deke" DeLoach. On October 1 there was a meeting in Belmont's office to game plan a public counterattack against the Commission and its Report. It promised to be a ugly affair as Belmont noted that the FBI "owe[d] no courtesy to the Commission." In addition to Belmont, Assistant Directors DeLoach, John P. Mohr, Alex Rosen, and William C. Sullivan were present at what was shaping up to be a "war counsel." For the first salvo in the campaign it was suggested that a letter be sent to Walter W. Jenkins, Special Assistant to President Johnson, indicting Commission for the

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“serious inaccuracies” in its report where the FBI was concerned. The Commission, Belmont vented, unfairly shifted blame onto the bureau to pump up its public image and “avoid possible criticism” of its own shortcomings. The White House and Katzenbach were to receive a copy of the letter. After some discussion, it was decided not to send the letter until the FBI had prepared the public mind for its counteroffensive. Belmont was concerned that the letter might be premature and the Commission “would make the letter public, together with a defiant answer.”¹⁹

When it came to sustaining or repairing the FBI’s public image, Hoover turned to the smooth, energetic, and personable “Deke” DeLoach. DeLoach became head of the Crime Records Division in 1959 and while his name was not a household word, he was a formidable player in Washington’s power game. Like his predecessor at Crime Records, Louis B. Nichols, DeLoach was firmly committed to the notion that the FBI knew best what should or should not appear in printing about itself. On October 2, DeLoach leaked Hoover’s Commission testimony to the *Washington Evening Star*, more than a month before the official scheduled release by the U.S. Government Printing Office of the Commission’s 26 volumes of Hearings and Exhibits. DeLoach used his special source on the *Star*, reporter Jeremiah O’Leary, a Hoover favorite and DeLoach’s personal friend, to get the FBI side of the controversy before the public and “clear the air concerning our responsibility.” DeLoach boasted that after the director’s testimony appeared in the *Star*, some 500 newspapers carried Hoover’s words, information he could only have received from the *Star*.²⁰

The leaking of Hoover’s testimony was the first phase of what the FBI privately referred to as its “Mass Media Program.” DeLoach followed up by reaching out to trusted

journalists, almost all of them were on Crime Records' Special Correspondents' List, to write editorials with the proper spin to present Hoover and the FBI in a favorable light while alluding to the culpability in the JFK assassination of liberals like Justice Warren, and the security failures of the Secret Service and the State Department. The names on DeLoach's list were impressive: John Chamberlain, who was syndicated in over 200 newspapers, Hoover's close friend, Walter Trohan of the Chicago Tribune, labor columnist Victor Riesel, William F. Buckley, Jr., John T. O'Rourke, editor of The Washington Daily News, Ralph de Toledano, and the Star's Jeremiah O'Leary. The cut and thrust of all of their editorials was that phony liberals had forced the FBI to scale back its surveillance and security measures against the Communist menace at home by constantly harping on the theme that the Hoover Bureau was fostering a hysterical Red witch-hunt. It was the liberal camp that was unduly naïve, according to these editorials, and the regrettable proof was that a self-professed Marxist with a history of dalliance with communism assassinated the president. The other half of this orchestrated defense of the FBI was to cite those sections of Hoover's Commission testimony where the director intoned that short of turning America into a Gestapo state there was no way to guarantee presidential security. Almost every one of these editorials managed to squeeze in some reference to Hoover as a modern day embodiment of our liberty-loving Founding Fathers and a champion of American civil liberties.²¹

DeLoach's impressive media campaign receiving favorable coverage in the Copley Press, the Newhouse chain, the Chicago Tribune syndicate, AP and UPI wire services, and 18 large metropolitan newspapers, went forward against the backdrop of the FBI's official public policy of "No Comment" where the Warren Report was concerned.

Obviously, it was essential that this FBI operation in manipulating public opinion remain in the shadows, fostering the illusion that this great outpouring of support was spontaneous, heartfelt and genuine.²²

The hidden and sordid reality was something quite different. The FBI's defense of itself against the mild and justified criticism of the Warren Commission was based on a lie and on the suppression and destruction of evidence. The Gale Report, Hoover's own authorized internal investigation, was FBI headquarters' own convincing proof that it was derelict in its responsibilities. What could have been more dramatic evidence that the alleged assassin harbored a potential for violence than Oswald's note to agent Hosty? The proof that FBIHQ ordered destroyed and kept it all a secret until 1975 when it was leaked to the press. If the Hoover agency had acted responsibly on what it knew prior to November 22, 1963, the history of the JFK assassination would have been different in ways that are now only open to speculation and tantalizing "what ifs." Once the Commission findings were public, the FBI's primary concern was self-exoneration while attacking the Commission and marshalling its friendly media sources to point a finger of blame at the Secret Service and State Department.

There is nothing in the public record to indicate that the Hoover Bureau made an effort to learn whether the Commission's criticism was justified and whether it could improve itself by heeding that criticism. DeLoach caught perfectly the all-absorbing sense of urgency at FBIHQ immediately after the Warren Report was released. "What is the public image of the FBI at the present time?" was the question he posed to his fellow executive officers. He followed this up outlining the media blitz operation Crime Records was undertaking to get the FBI image "on the road back to good prestige." Two days

after the Warren Report was released, Katzenbach forwarded to FBIHQ a document from Treasury Secretary Douglas Dillon's office. The document contained Secret Service proposals to upgrade security for the president including ideas for improving liaison arrangements with other federal agencies. Secretary Dillon wanted the director's reactions to the planning document. Smarting from what he regarded as the Commission's "smear" of the FBI, Hoover told Belmont "I haven't the time to read 26 pages. I want a summary of the document." The director did find time from his busy days, however, to dictate personal thank you letters to those trusted journalists and Hoover loyalists DeLoach mobilized to help restore the FBI's public image.²³

Despite the success of the Crime Records Division's media campaign against the Commission and the FBI's "fake liberal" critics Hoover was still inconsolable. "The FBI will never live down this smear," he told DeLoach, "which would have been so easily avoided if there had been proper supervision & initiative." It appeared that only support from the White House could relieve the director from his bout with soggy self-pity. Belmont decided it was time to send the aforementioned letter to Walter Jenkins at the White House carrying Hoover's signature. The three-page document pointed to all the "serious inaccuracies" in the Warren Report. The gist of the itemized rebuttal was that the Commission's criticism was self-serving and unfairly based on hindsight, lacking any "evidence of potential violence on the part of Oswald" Acting Attorney General Katzenbach received a copy of the letter and wrote Jenkins supporting the FBI's position.²⁴

Weeks passed without a response from the White House. In the meantime, the FBI's news clipping service spotted an editorial in the *Palm Beach Times* with the

sympathetic title “‘Quash’ Get Hoover Campaign.” The editorial appeared on October 24 and warned that the Warren Report’s criticism of the FBI was playing into the hands of anti-Hoover, leftist forces in the country who were intent on forcing “Mr. G-Man” to resign. The editorial closed with the admonition that the “campaign” should be “nipped in the bud . . . by an unequivocal statement from President Johnson.” Hoover lamented on his copy of the editorial, “This the President has never done.” At the end of October Johnson called Hoover to personally thank him for the way the FBI handled the scandal involving Walter Jenkins. On October seventh, the presidential assistant was arrested for making homosexual advances to a park policeman in a YMCA’s men’s room. With the presidential election only a month away, LBJ willed himself to believe that Jenkins was being set up by the Republican National Committee to embarrass Johnson—another example of the unseemly moral lapses of the LBJ White House—in the upcoming election. Hoover used the phone call to express his “outrage” over the inaccuracies in the Commission’s report and the “dirty tactics” that Warren indulged in by highlighting in the Report the ex parte testimony of certain witnesses. Bouck was certainly at the top of the FBI’s list of what it regarded as a prejudiced Commission witnesses. The President assured the director that he sympathized with the situation and “would find the opportunity to publicly reaffirm his confidence in the FBI and its Director.”²⁵ But with the election imminent, and the conflict in Southeast Asia at a critical turning point, LBJ was not about to plunge into the middle of the “FBI-Commission war”; one “Vietnam” was enough.

Since image was mother’s milk to Hoover, he ignored Belmont’s plea to postpone disciplinary action for several months against FBI personnel identified in Gale’s Report

for dereliction of duty in the Oswald investigation. Hoover ordered the punishment of the 17 agents cited by Gale to go forward even while the FBI's public position was that the Warren Report's criticism was not only "tinged with hindsight" but was out-and-out unfair and undeserved. FBI insiders began referring to the "October Massacre," attributing the mass punishment to the aging director's penchant for striking out wildly and blindly. Most of those named in Gale's Report received their October letters of censure in their personnel jackets. According to Hosty, a ^{u YK.} ten-year FBI veteran, these were laughingly referred by agents as "Ah, shucks" letters, as innocuous as they were plentiful in the Hoover agency. Belmont, Sullivan, and FBI liaison with the Commission, James Malley, along with other agents at headquarters received letters of censure. But some agents did not get off so lightly. Milton Kaack, the field agent in New Orleans who briefly had control over Oswald's file, retired rather than accept disciplinary transfer to a non-preference posting in Springfield, Illinois. Hosty's Dallas supervisor, the 25-year [<] veteran Ken Howe, was demoted to field agent and transferred to Seattle, Washington. Two supervisors in the Soviet espionage section at FBIHQ were demoted and assigned to field offices in the Midwest.²⁶

The FBI agent's name that received the most attention in the Gale Report and in the Warren Report's Chapter 8 was James P. Hosty, Jr., Hoover's "problem child."

In April 1964 the director was confronted with another Hosty flap. Hoover learned that Lt. Jack Revill's affidavit charging that Hosty told him that the FBI knew Oswald was capable of assassinating Kennedy was leaked to George Carter, a police reporter on a Dallas paper. Hoover immediately ordered the transfer of Hosty to a non-preference office. Hoover wisely cancelled the transfer when the Commission disclosed it

planned to call Hosty as a witness the following month. The last thing Hoover wanted was a loose cannon like Hosty explaining to curious Commissioners the reasons for his removal from the Dallas office. Hosty's performance before the Commission was anything but stellar. But he faithfully hewed to the FBI's party line that Oswald never showed a propensity for violence and volunteered nothing about the Oswald note. The day after he testified, Hoover rewarded him with an audience where he praised Hosty for his "mature personal appearance" before the Commission and the way he fielded the questions. Hosty returned to Dallas certain he had weathered the storm until several months later when the Warren Report was released. In Gale's follow-up report on FBI shortcomings in the Oswald case after the release of the Commission's findings, he selected a section of Hosty's exchange with Commissioner McCloy from the Report that Stern had featured in his August draft. Gale's purpose was to underscore how Hosty made the "FBI look ridiculous and definitely taints our public image for efficiency."²⁷

By October, Hoover was more than ever determined to end his "Hosty problem" once and for all. His resolve must have redoubled when he learned that Rankin, feeling the sting of the Bureau's resentment, confided to Malley that the Commission's criticism of the FBI was "actually aimed at an individual Agent [sic] rather than the Bureau as such." There was no secret about the identity of the agent. Hoover ordered the Administrative Division to take the Hosty case before the Civil Service Board to determine whether he could be summarily dismissed "since his derelictions have now publicly disgraced the Bureau." The director learned to his dismay that since Hosty was a veteran of World War II he could appeal his dismissal before the Civil Service Commission (CSC). It was explained to Hoover that since Hosty had previously been

disciplined back in December for mishandling the Oswald investigation the almost certain likelihood was that the CSC would rule against the FBI on the grounds that Hosty was placed in double jeopardy if the agency tried to fire him on the charge of dereliction of responsibility. Hoover did not need any more convincing. The idea of Hosty openly airing his grievances before the CSC was enough to get the director to back down. In Hoover's mind the 10¹¹-year FBI veteran was a "pop-off," who once cut loose, and having nothing to lose, might speak out in public about the destruction of the Oswald note.²⁸

On October 5 Hosty received the director's "Dear Mr. Hosty" letter. He was suspended without pay for a month, placed on probation for three months, and immediately assigned to Kansas City, Missouri, a non-preference field office. In essence, the reason provided for this action was his failure to recommend that Oswald be placed on the FBI's Security Index.²⁹ The loss of a month's pay and freezing him at his current salary scale was a hardship considering that as a GS-13 Hosty made less than \$13,000 a year. But this was nothing compared to the uprooting of Hosty and his large family. The Hostys had eight children. The oldest was in seventh grade, and Mrs. Hosty was five months pregnant when her husband received his October 2 letter from headquarters. Hosty appealed to Hoover to delay his disciplinary transfer to the end of February until after the baby was born. The other pressing concern was Hosty's disabled three-year-old son who was under special care for problems with his vision. He appealed to the director to reconsider Kansas City and transfer him instead to a larger metropolitan city where the child could receive the special medical attention his condition required.³⁰

J. Gordon Shanklin, the SAC of the Dallas office and Hosty's boss, interceded with Hoover on Hosty's behalf. Shanklin, like most FBI special-agents-in-charge during

the Hoover era, was not a boat rocker. He may have felt compelled to support Hosty's appeal out of a troubled conscience and because he felt that headquarters was scapgoating the ten-year veteran. After all, it was Shanklin who commended Hosty in a January letter for the "splendid manner" in which he "conducted the investigation" in the Kennedy assassination. It was Shanklin, the senior officer of the Dallas office, who read the contents of the Oswald note the day Oswald dropped it on Nannie Fenner's desk. He directed that the note be placed in Hosty's workbox and took no further follow up action. There is no real dispute that it was Shanklin who ordered Hosty to destroy the note after he received a phone call from Washington headquarters after Ruby gunned down Oswald. Shanklin was one of the 17 agents Gale recommended for disciplinary action in the Oswald investigation. But compared to Hosty, Shanklin emerged from the "October Massacre" relatively unscathed. All he received was one of Hoover's "Ah, shucks" letters of censure. The hardship appeals to Hoover from the Dallas office fell on deaf ears. Hoover wrote a brusque letter to Hosty noting that his reason was "understandable," but "favorable action cannot be taken." Hosty was told to report to the Kansas City Office "as soon as public business permits."³¹ While Hoover had to accept the unpalatable fact that he dare not fire Hosty he could take some small satisfaction by refusing any administrative relief.

For obvious reasons FBIHQ wanted the transfer of Hosty to go forward as "quietly" and "expeditiously" as possible. The Dallas office was directed to take all possible precautions to keep Hosty's name and news of his transfer out of the papers. Poor Shanklin knew that this was a mission impossible. Hoover had assured this when he brushed aside Hosty's family matters and ordered him to report at once to his new

posting. Hosty had worked out of the Dallas office since 1953 and the Hostys were very active in church, school and other organizations in the community. Moreover, Agent Hosty gained a certain notoriety and high profile in the Dallas media as a result of the attention he received in the Warren Commission Report. As soon as Shanklin learned of FBIHQ's disciplinary action against Hosty he called Inspector Robert Wick, a DeLoach satellite at Crime Records Division, to alert him that he expected a "deluge of telephone calls from the news media" concerning Hosty's transfer. The Dallas SAC was instructed that official FBI policy on this matter was "No comment." On October 7, Shanklin called a conference of all agents and clerical staff to notify them that they were not to discuss official matters outside the office. It was made clear to Hosty that the "gag order" applied to him as well.³²

As Shanklin anticipated, it would have been just as impossible to secretly relocate ten Dallas cemeteries as it was to uproot Hosty and his family without unwanted and unfavorable attention. Less than a week after Shanklin's employee conference, James C. Lehrer, a reporter for The Dallas Times-Herald, was on the phone with Shanklin. Lehrer had all the pertinent details about the disciplinary action against Hosty's and was only sounding out Shanklin for background material. Shanklin dutifully responded with a "no comment," and Lehrer returned the "favor" by refusing to divulge his sources. There quickly followed a series of press stories in both of the Dallas daily papers. In addition to reporting on Hosty's suspension, probation, and transfer, the stories also covered in some detail the actions taken against Ken Howe, the veteran Dallas agent, and Milton Kaack of the FBI's New Orleans office. Clearly, the source or sources for some of this information could only have come from within the FBI. Lehrer did mention

Should I skip this business
Hosty
note - Query.

to Shanklin that his paper was checking with some of its Washington, D.C. sources.³³ The other Dallas daily reported that sources described the morale among Dallas FBI agents as “shot.” There was strong feeling among some of Hosty’s fellow agents, the story continued, that FBI Washington was making him a “fall guy.” There were enough agents in the Dallas office that not only knew about the Oswald note but that Shanklin and his assistant, Kyle Clark, had read the note and failed to take action. The fact that FBI headquarters came down hard on a fellow “brick agent” and only censured Shanklin and Clark did not sit well. By their actions, some of the citizenry of Dallas showed a spirited disapproval of what was happening to one of their own. The Knights of Columbus, where Hosty held the post of Grand Knight, set up “the Hosty Fund.” A group of Dallas businessmen established a trust fund to pay the monthly mortgage on Hosty’s house until they could find a buyer.³⁴

Hoover’s rancor over the Commission’s report ran deep and he was not about to keep it bottled up. The day the first DeLoach-inspired editorials defending the FBI appeared Rankin received a phone call at his New York office from FBI Inspector James Malley. As FBI liaison to the Commission Malley was instructed to deliver a message. He told Rankin “the Bureau feels he did a great disservice and had out-McCarthyed McCarthy.” When asked the meaning of the remark Malley had no further comment. This was probably the closest thing to an obscene phone call the former U.S. Solicitor General and genteel general counsel ever experienced. Rankin was stunned. After he composed himself he told Malley that the Report’s criticism had the Commission’s unanimous backing. The general counsel thought Malley should also know that the original version was “much more critical than the version which was published.” This assertion was true

Skipped the
Hoover
Spells

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and not a case of a back-peddling Rankin trying to soft-soap his FBI accusers. Rankin had assigned assistant counsel Howard Willens of the Justice Department, Katzenbach's man on the Committee, to tone down Stern's August draft of Chapter 8.³⁵

That same day the FBI thumped the Commission again. Rankin and Willens had requested that the FBI find space for all the exhibits being held by the Commission at its temporary, and soon to be vacated, offices at the Veteran's of Foreign Wars Building. FBIHQ had no intention of coming to the Commission's rescue. Instead, Seat of Government notified Rankin that it had its own problem with storage space and awaited his instructions on when the Commission could relieve the FBI of the more than 1000 JFK assassination exhibits currently in the bureau's custody. Hoover, who enjoyed pulling the nose of his perceived enemies as much as any one, must have relished the opportunity for this little spiteful reprisal, considering that one of the exhibits was the mammoth FBI model of the assassination. The Commission was now stuck with trying to find a home for the 480 square foot three-dimensional scale model of the FBI's rendition of the assassination at Dealey Plaza. The FBI version of the shooting that the Commission unilaterally rendered inoperative when it was forced to adopt the lone-bullet theory to account for the missed shot.³⁶

Pick up
here

When the FBI launched its media war against the Commission and its report it was confident it would receive no return fire. To begin with, the Commission as constituted had a limited mandate and disbanded after it released its findings. None of the Commissioners, all eminent men with active and prominent roles in the political life of the nation, would not have considered for a moment publicly matching ripostes with the Hoover Bureau. Moreover, the first media salvos in the "FBI-Commission war"

originated from ambush, as it were, not officially from the bureau itself but from DeLoach's surrogates, his special sources in the news business.

It was not until the middle of November 1964, a month after the Commission disbanded, before Hoover took his case against the Commission to the public at large. The occasion was a November 18 FBI background briefing for senior Washington journalist Sarah McClendon and a group of other newswomen. In response to a question about the Commission's "unduly restrictive" remarks the director let loose, charging that the criticism as "unwarranted, untrue, and a classic example of Monday morning quarterbacking." Hoover followed up this distortion of the truth with another falsehood. When McClendon asked him if the FBI was still investigating the Kennedy assassination, the director, according to DeLoach's account, responded, "Yes—as long as any additional evidence is received." The reality was that internal FBI files designated the case as "closed." Once the director started down this path there was no holding back. The background briefing became a free-fire zone for the superheated Director of the Federal Bureau of Investigation. The FBI, he intoned, had no evidence that Oswald was capable of violence or a threat to the president and therefore "there had been no need to furnish his name to the Secret Service or the Dallas police." While he was whitewashing his own agency the director, in addition to rebutting the Warren Report, found occasion to level blasts at the State Department and the Dallas police. Only the Secret Service escaped excoriation. He assured the newswomen that there was "not a scintilla" of competitive jealousy between the agencies. All in all, the background briefing was a classic display of the Hoover Bureau's culture of arrogance, infallibility, and self-righteousness. The next

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→ Note this was favorite newspaper source for Hoover (See Hoover in FBI account on WC)

day *The Evening Star* ran Jerry O'Leary account of Hoover's indictment of the Warren Commission.³⁷

For more than 15 years former members of the Commission staff refrained, by and large, from commenting about their work on the Commission. In the late 1970s the House Select Committee on Assassinations provided a forum for Rankin and some of his former assistant counsels to place into the public record their impressions about Commission-FBI relations during the nine-month investigation into Kennedy assassination.

Rankin, ever the cautious and circumspect bureaucrat, was not hesitant to admit that relations with Hoover soon shifted from the "Edgar" and "Lee" end of the teamwork spectrum to the "surlly" and disagreeable on Hoover's part. The disturbing abuses of power by the Hoover FBI disclosed by congressional investigations in the early 1970s influenced Rankin to be more open than he might otherwise have been. It was Rankin's view that relations began to deteriorate when the FBI was asked to re-investigate areas in the case that the Commission thought should be re-examined. He stopped short of using the word "adversarial," oddly characterizing the relationship as a "partnership of convenience rather than enjoyment." Rankin would have been shocked to learn that the FBI viewed the relationship from the outset not as a partnership, however troubled, but perceived the Commission as an intrusive and unwanted burden, and an adversary to be controlled, circumvented, deceived, and possibly even threatened with the black art of blackmail to assure silence if necessary.³⁸

What emerged from this collective testimony was the revelation that some of the Commission staff did not trust its own investigative arm. For example, Norman Redlich

thought the FBI's report on the assassination was a "grossly inadequate document." In addition to questions of competency, Rankin and his staff were doubly frustrated by the bureau's chosen tactic of leaking to the press and their inability to do anything about it. When Rankin was asked about his reaction to the leaking of CD 1 intended to preempt the Commission, he lamely responded, "Who could protest against what Mr. Hoover did back in those days?"³⁹ Equally upsetting was the realization that Hoover was constantly engaged in trying to limit the scope of the Commission's investigation. Burt W. Griffin was skeptical about the FBI before he joined the Commission. Prior to his appointment as an assistant counsel, Griffin was an Assistant U.S. Attorney for two years, a position that brought him into frequent contact with the FBI. Before he came to the Commission Griffin did not think the FBI was very competent. After nine months with the Commission he had not changed his opinion. If anything, his skepticism was upgraded to a distrust incurred by what some of the staffers referred to as "the Hosty incident." This was the FBI's removal of Hosty's name, work phone number, and license number from the copy of Oswald's address book it made for the Commission. Most of the Commissioners, Judge Griffin recalled, he was an elected judge from Ohio at the time, were not happy with the bureau's explanation. However, a decision was made to drop the matter because it was one of what Rankin identified as an FBI "tender spot." It was Griffin's contention that "the Hosty incident" generated a "healthy skepticism" among the staff and "diminished their trust" in the FBI. Howard Willens agreed with Griffin to the extent that he reported that most of the staffers thought the omission had "considerable importance." The hanging question left confronting the Commission was whether Oswald was an FBI informer. This was an angle in the investigation that was

never satisfactorily resolved because the Commissioners settled for allowing the FBI to investigate itself. While Redlich said he was generally satisfied with the work of the FBI in the case, he disclosed that he was disturbed at the omission of Hosty's name from the transcript sent to the Commission. He was annoyed at the FBI's explanation for the omission and "remain[ed]" he stressed, "annoyed to this day."⁴⁰

*Redlich
Matters*

Redlich's attitude toward the FBI might have been considerably stronger had he known that it had an interest in him long before he was invited to serve on the Commission's staff. In 1977 when he appeared before the House Select Committee, Redlich candidly testified that when he joined the Commission he viewed the Hoover Bureau as a serious threat to American civil liberties. In 1963 Redlich was a Professor of Constitutional Law at New York University School of Law. As a committed civil libertarian he did not limit his passion for basic guaranteed Constitutional rights to the classroom. Like millions of men of his generation who were born in the 1920s, Redlich came of age when free societies came under their greatest threat of the century. From 1943-1945 he served with 100th Infantry Division and received the Combat Infantryman's award. After he was demobilized Redlich took advantage of the GI Bill to attend Williams College where he graduated in 1947 Magna Cum Laude. He went onto Yale Law School, was Editor of the Yale Law Journal, and graduated in 1950 first in his class. In 1955 he received his Master of Laws (LL.M) from New York University School of Law; after a stint at business and private legal practice he took a full-time position teaching law at NYU's law school.⁴¹

Rein?

In 1961 Redlich started along a path that ultimately brought down upon he and his family a whole world of trouble. True to his commitment to civil liberties, Redlich

Redlich - aka his will record - Communist in Europe -

openly aligned himself with the Emergency Civil Liberties Committee (ECLC). The declared goal of the ECLC was the abolishment of the House Un-American Activities Committee (HUAC). He was particularly incensed by the way HUAC members were manipulating and abusing the Fifth Amendment protection against self-incrimination to promote their own political careers by crude bullying and headline-grabbing tactics. In March 1961 he lectured on the historical development of the Fifth Amendment and how HUAC was distorting its original meaning for cheap self-aggrandizement purposes at a forum sponsored by *The National Guardian*, a leftwing weekly. Redlich signed a petition to Congress calling for the abolishment of the Committee. In March 1961 he spoke at a forum at NYU sponsored by the ECLC, a member of the panel was an FBI source and reported him. Two months later Redlich appeared before HUAC as counsel for a Harry Magdoff. HUAC in collaboration with the FBI had tied Magdoff to Victor Perlo, the wunderkind of the so-called "Ware Group,"--named after a Washington spymaster Harold Ware--a group of highly placed federal government officials accused of spying for the Soviets in the 1940s. Magdoff, on his counsel's advice, took the Fifth Amendment rather than answer any of the Committee's questions.⁴²

Almost as soon as Redlich's name publicly surfaced as a member of the Warren Committee staff the red baiting began. The first week in January Inspector Malley, FBI liaison with the Commission, handed Rankin an unsolicited 10-page memorandum listing Redlich's activities on behalf of the ECLC. The slug line on FBI Letterhead Memorandum (LHM) was SM-C (Security Matters-Communism.) The LHM pointed out that HUAC and the Senate Internal Security Subcommittee had listed the ECLC as a Communist-front organization and that Redlich was a member of the group's executive

committee. Rankin told Malley he had never heard of the ECLC and gave the FBI liaison no indication what he would do with this information.⁴³ Rankin soon learned that the “Redlich question” would not be allowed to lay dormant. At the end of the month the general counsel learned through the General Services Administration that the Civil Service Commission (CSC) had requested that the FBI do a loyalty check on the NYU professor.⁴⁴

Rankin had all he needed to realize that there was an orchestrated campaign underway to force his hand to cancel Redlich’s Commission appointment. According to Executive Order 10450, hiring and firing decisions in the Executive Branch were the prerogative of each department head. In the Commission’s case that meant Chairman Earl Warren or Rankin, his general counsel who hired the staff on a consultant basis for a six-month period. Redlich’s appointment was hardly a month old when the CSC had already conducted a background investigation of Redlich and requested a FBI loyalty-type investigation. All this took place *before* Rankin asked the FBI to carry out an investigation on any of the staff. It was not until mid-March before mounting pressure forced Rankin to formally request that the FBI come in on the Redlich case and do a full field investigation.⁴⁵

Rankin was more put off by pressure to dump Redlich than he was troubled by questions about his loyalty. In the late 1950s Rankin taught a night course at NYU law school. He came to know Redlich and developed a high opinion of the man, his devotion to his teaching and his scholarship. When Redlich joined the Committee he gave Rankin no reasons to change his opinions. In time, Redlich’s work ethic, his willingness to put in long hours, time away from his physician wife and three young daughters who remained

in New York City, meant that he came to know the whole Commission case better than any one with the exception of Rankin. In time, Rankin came to regard him as the “top gun” on his staff. Moreover, Rankin was apparently not overly impressed with the HUAC’s legislative record, or want of one, and appalled by its latter-day McCarthyism that had become the hallmark of the House Un-American Committee. The Committee’s May 1960 provocative performance in San Francisco thoroughly discredited it as an unreformable early Cold War relic that was fast losing its credibility. Another factor that weighed heavily with Rankin was the recognition that the ECLC was not on the Attorney Generals’ List, which would have barred Redlich from serving on the Commission.⁴⁶

When Edwin E. Willis (D.La.), HUAC’s chairman, alarmed about Redlich’s Commission appointment and Rankin’s failure to take measures against the alleged fellow-traveling professor, contacted Congressman Ford. It was no secret that HUAC and the FBI were as close as the proverbial two peas in a pod. One historian of HUAC’s turbulent career likened the Committee and the Hoover Bureau as a “pair of mischievously indiscreet lovers” forced to “maintain a certain distance in public, yet so fond were the glances they exchanged, so endearing the sentiments,” that onlookers could not help speculate over “what they did when the lights were out.”⁴⁷ Since Ford was the FBI’s source on the Commission probably either Hoover or DeLoach directed Willis to recruit the Michigan Republican to be the spear-carrier on the Commission in their joint campaign to oust Redlich.

After Willis had spoken to Ford, HUAC’s director, Francis J. McNamara, sent Ford a summary of Redlich’s ECLC activities from its voluminous files dating back to 1955 when the law professor spoke on the Fifth Amendment at a forum sponsored by the

committee. There was significant overlap between HUAC and the FBI's raw files on the NYU professor. Three days later McNamara sent Ford an instant update of HUAC's "Norman Redlich Report," adding to the charge that Redlich was a Communist-fronter. McNamara was an old-line anti-Communist zealot of the 1950s. He edited the anti-Communist organ ^{Stalset} Counterattack, a blacklisting service of the 1950s. *Counterattack* was one of the many newsletters and broadsides like *Tocsin*, *Combat*, *Heads-Up*, *Facts for Action*, and *Herald of Freedom*, ^{Stalset} that genre of countersubversive publications that emerged in the 1950s and specialized in documented "exposes" of alleged Communists and fellow-travelers. McNamara, regarded by fevered anti-Communists as an "authority" on Communism, was an old hand at red baiting and using newsletters to incite the harassment and sanctioning of targeted individuals. In his February 27 letter McNamara drew Ford's attention that *Tocsin*, a newsletter originating in Oakland, California, was carrying a story on Redlich with the alarming headline, "Red-Fronter in Death Probe. He noted, "certain facts on Redlich's background are now in the "public domain."⁴⁸ In that same edition, *Tocsin*, which boasted that it was "The West's Leading Anti-Communist Weekly," managed to link by inference the Women Strike for Peace, Linus Pauling, the campaign to ban the bomb, and the civil rights movement, as dupes and front groups of the world-wide Communist conspiracy.⁴⁹

As soon as the "Redlich question" entered the public domain it opened up a floodgate of letters, mostly from outraged citizens, to their representatives in Congress, to the Commission, and FBI Director Hoover. They demanded an explanation as to why a Communist sympathizer was serving on the Commission charged with investigating the assassination of the president who was gunned down by a known Communist.

↳ allegedly

As night follows day, scores of letters from House and Senate members were directed to the Commission asking or demanding an explanation for Redlich's appointment and continued Commission service. By March some Congressional members submitted speeches into the record castigating the Redlich appointment as an insult to the martyred 35th President.⁵⁰

On March 16 Rankin requested the FBI to undertake a full field investigation of Norman Redlich. Two weeks later Rankin followed up this formal request with a letter to Hoover. He asked that the FBI's loyalty probe of Redlich furnish "basic facts and supporting data" legitimizing HUAC's allegations that ECLC was a Communist front organization. In short, Rankin was letting Hoover know in no uncertain terms that he was not ready to cave in to the pressure and throw Redlich to McNamara and his HUAC wolves. If the FBI wanted Redlich off the Committee it would have to make the case for his dismissal. FBIHQ had already marked Redlich. His attacks on HUAC were by extension interpreted as attacks on the Hoover agency given its long-term and cozy collaboration with the House committee. FBIHQ characterized Redlich, Ball, Hubert, and Jenner as "a bunch of real crackpots" and instructed the Dallas office to be "extremely cautious" in dealing with them when they came to Dallas. "Keep quiet" and do "not volunteer any information," were headquarters' hostile instructions to SAC Shanklin. Redlich drew special attention because he "had been over in Russia and is on the borderline." Judging others by its own operational standards, FBIHQ suspected that the crusading NYU professor sought a position on the Commission to gain a security clearance so he could ferret out information from FBI and HUAC files concerning ECLC.⁵¹

On May 19 at 4:00 p.m. all the Commissioners and Rankin met in the Hearing Room on the fourth floor of the Veteran's of Foreign Wars Building to decide Redlich's fate as a Commission staff member. That was the only item on the agenda and circumstances dictated that the "Redlich question" had to be settled. Unlike the January 22 emergency executive session dealing with the "dirty rumor" that Oswald was a FBI informer, Rankin did not need to brief the membership to get them up to speed. By May each Commissioner had read or heard enough on their own about the 38-year-old assistant counsel's career as a civil libertarian crusader and his affiliation with ECLC and were prepared to air their views.

There were no flashes of brilliance or dazzling rhetorical feats during the lengthy session, but enough good judgment and adherence to principle to earmark the May 19 session as the Commission's finest hour. By the time of the meeting all of the Commissioners had read the FBI's full field report on Redlich. It was a vintage FBI leave-no-stone-unturned investigation including interviews with the obstetrician who delivered him, the elevator operators in his New York apartment, and the Redlichs' neighbors at their Vermont summer home. According to Ford, the report gave Redlich "a clean bill of health without any question whatsoever."⁵²

When the FBI delivered its report to the Commission, Hoover noted in his cover letter to Rankin that the report was "not intended as an approval or a disapproval" of Redlich's employment by the Commission. Hoover had backed away from Rankin's challenge to show cause for Redlich's removal by forcing the FBI to make a persuasive documented case in support of HUAC's allegations. Before the Commission received the FBI report Hoover had already tipped his hand, indicating that the report on Redlich

would strike a pose of pious neutrality. On April 6 he wrote Rankin that it was not within the FBI's prerogative to question or comment on the basis for HUAC's conclusions. Confronted by Rankin's unswerving defense of Redlich, FBIHQ did not want to get into a "dog fight" between HUAC and the Commission. In short, the ball was back in Rankin and the Commission's court. But the director could not resist a parting shot. He provided a synopsis of the FBI file on ECLC that proved to Hoover's satisfaction that the committee was a front for the Communist Party.⁵³

The May 19 executive session opened with some preliminaries to ease the tensions of what all agreed was a "soul searching" moment in the life of the Commission. Ford was the first to meet the issue head on. He readily conceded that Redlich's loyalty, competence (Ford called him "brilliant"), and dedication to the Commission's purpose was not the issue. Ford's expressed concern was that Redlich's involvement in controversial activities "clouded the image of the Commission." Boggs was quick to agree that Redlich was an "image problem." He noted that there had already been a spate of speeches in Congress about Redlich and questions raised about the credibility of the Commission's upcoming final report. Russell was the most outspoken and forceful on this point. Because he had absented himself from most of the Commission's work Redlich was just a name to him. But he had read the FBI report and concluded that Redlich was a "born crusader," a controversial figure who would only add to the controversy that Russell anticipated would be the fate of the Commission in years to come. While the conservative Russell was not sympathetic with Redlich's "addiction" to controversial causes, he was not devoid of compassion; he did not want to tarnish a promising career. But if it was a choice between the Commission's image and keeping

Redlich, the Georgia senator showed no hesitation in opting for dismissal. Where Redlich was concerned, Cooper and Dulles were firmly in the Russell camp. Dulles even offered up a way out for this vexing problem. The former CIA director suggested that Redlich could be terminated around the first of June with the three other assistant counsels who had already given Rankin notice that they could not extend their contracts because they had to return to their professions in the private sector. Dulles obviously thought this was an opportune way to unload Redlich with minimal public attention.⁵⁴

Whether this proposed ruse was original with Dulles or originated from a source close to or inside the Commission is open to speculation. Curiously, the day before the May 19 executive session, an article by Jerry terHorst appeared in *The Washington Star*, the paper where Jerry O’Leary was the desk reporter for all stories covering the Hoover agency. TerHorst’s piece was entitled, “Warren Probe.” At that time terHorst was Washington bureau chief of *The Detroit News* and had enjoyed a long-time friendship dating back to 1948 with Michigan Congressman Jerry Ford. Years later, when Ford became our first un-elected president he appointed terHorst as his press secretary. Terhorst’s “Warren Probe” was freighted with all the implied authority of a story based on information from a tipster inside the Commission. The story only narrowly avoided predicting outright that Redlich would be ousted in the June cutback of Commission staffers. “The idea in being breached quietly,” terHorst confided, “as one way to avoid the distasteful alternative of firing Mr. Redlich . . . because of his affiliation with the Emergency Civil Liberties Committee.”⁵⁵

Warren was aware of the terHorst story and may even have suspected it was planted to influence the Commission’s proceedings. In any case, he was anything but

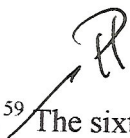
calm and judicial when Dulles broached the cutback stratagem for dumping Redlich. He branded the suggestion as “an un-American thing to do,” an action that would mark the Commission down in the minds of many people as taking the coward’s way out. The chief justice offered a counterproposal: either approve Redlich or grant him an administrative hearing. Warren would not be a party to buckling under pressure in order to avoid facing up to the Commission’s certain responsibility. This was the first time over the six months of the Commission’s life that the entire membership had ever witnessed the usually detached and deferential chairman take to the warpath. Warren was livid. For him, the persecution of Redlich had gone on too long and had sunk to intolerable sleazy and dangerous depths. He noted that “some reporting” had divulged Redlich’s home address for the sole purpose of “harassing his wife and children.”⁵⁶

While Warren planted his flag on the high ground of principle, Rankin complimented the chief justice’s arguments by underscoring the practical consequences of dropping Redlich: morale among the staff would plummet. “They feel deeply offended at the present time,” he cautioned, “that one with whom they have worked so closely and so fraternally” had been treated so shabbily and so unjustly accused. Then Rankin went right to the heart of the problem, anticipating it would work wonders in concentrating the collective mind of the membership—getting out the report. He reminded the Commissioners that three staff members—Jenner, Eisenberg, and Hubert—planned to leave in June; Francis Adams had already “jumped ship;” and if Redlich was dismissed the staff of assistant counsels would be reduced by one-third. “It is very rough,” he confessed, adding that since they were “all terribly busy men” he did not assume they wanted the task of writing the first drafts. McCloy, who was late to the meeting, agreed

that Redlich was not a security risk and since the Commission hired him, and he had been employed for five months handling classified material, it was the responsibility of the Commission to stand by him. McCloy succinctly summed up the Commission's dilemma: having employed the man for five months there were no other "sensible" or "respectable" alternatives in an affair that had already dragged on too long. He thought if they fired Redlich the Commission would look like it was pandering to his red baiters and could expect criticism from the liberal end of the political spectrum.⁵⁷

In the end, Ford moved to get the Commission to take a straight up or down vote on the continued employment of the controversial assistant counsel. The Michigan congressman made it repeatedly clear that he would vote for Redlich's dismissal. He knew that the majority sentiment had shifted in favor of keeping Redlich, but he belabored the point that they had an obligation to go on record. The rest of the Commissioners, except for Russell who had left to attend another meeting, did not want a recorded vote revealing that the Commission was split on Redlich, adding more fuel to the controversy. None of the Commissioners were willing to support Ford's motion for a vote on Redlich; it died a-borning, meaning that Redlich would continue his employment as an assistant counsel. The next day the Commission released a statement to the press that after reviewing all the "field investigations of its employees, the Commission unanimously cleared all of the members of the staff to handle classified information."⁵⁷

The FBI's officially declared neutrality in the Redlich investigation was, of course, pure cant. Having failed with Redlich, Hoover did not drop his vendetta against the Warren Commission. The director ordered the preparation of dossiers on the Commission members and the staff *after* the Warren Report was published and the

Commission had disbanded.⁵⁹  The sixteen page memorandum was thrown together from extant FBI files and reported finding derogatory information on sixteen “individuals or their relatives.” It was vintage old Hoover stuff: inferred suspicion by association, wanton character assassination and personal attacks without any convincing supporting evidence. For example, Dr. Alfred Goldberg, the Commission historian, received a clean bill of health, but a source reported that his mother once berated Senator Joe McCarthy for his attack on Owen Lattimore. His file did go on to report that Goldberg had been “active in local nonpartisan politics in Arlington, Virginia.” Howard Willens’ father was on the mailing list of the Chicago Council of American Soviet Friendship. Willens senior also exhibited the uncommon poor judgment of living next door to Tony Accardo, a known Chicago mobster. Staff member Richard M. Mosk’s father was a member of the National Lawyers Guild in the 1940s. HUAC had cited the Guild as a subversive organization. According to a letter from the “Anticommunist Committee of the Americas,” Leon D. Hubert was a protégé of a Tulane University professor who was “allegedly an admitted addict of Russian communism” and a one-time vice president of the National Lawyers Guild. Former Commission assistant counsel Joseph A. Ball fell from grace because as a young lawyer he supported the civil rights movement and opposed the California state loyalty oaths. Albert E. Jenner, Jr., another one of Rankin’s former assistant counsels, was, according to FBI files, a member in 1940 of the National Lawyers Guild. Jenner showed his “true colors” in 1951 when he opposed a bill by the Illinois Senate that would bar persons who failed state loyalty review tests from public office and teaching positions. Jenner was also suspected of leaking Commission business to the press, an allegation that was probably true. Burt W. Griffin, another assistant to Rankin, and a torn

in 1940 of the National Lawyers Guild. Jenner showed his “true colors” in 1951 when he opposed a bill by the Illinois Senate that would bar persons who failed state loyalty review tests from public office and teaching positions. Jenner was also suspected of leaking Commission business to the press, an allegation that was probably true. Burt W. Griffin, another assistant to Rankin, and a torn in the FBI’s side when he worked for the Commission, brushed up against the Red Menace when he was employed for the summer of 1957 doing research for a Alan F. Westin. In 1953 Westin notified the FBI that he had been a member of the Communist Party for a year.⁶⁰

Altogether, the FBI did a name check on all 84 of the staff and employees who worked for the Commission. There was nothing in this summary of the files that went to Hoover via Tolson indicating that there would be any further action taken on the compiled information. During its tenure the Assassination Records Review Board, empowered by the so-called 1992 JFK Records Collection Act to obtain all records relating to the assassination, requested that the FBI turn over any files it kept on all assistant counsels and staff who worked on the Commission. In response to the request, the FBI turned over to the ARRB all of its headquarters file references to the Commission’s staff members. The ARRB’s final word was that the FBI “did not systematically keep records on the Warren Commission staff members simply because they were employed by the Warren Commission.” This claim seemed basically accurate, but only in the sense that FBIHQ’s 16-page synopsis drew on previous information in FBI files that was collected when the individual was the subject of an applicant-type investigation for government employment.⁶¹

But the FBI's own secret records reveal that they prepared dossiers on the Warren Commission staff after September 29, 1964, as soon as the Commission went public with its Report. What they did with these dossiers on 16 assistant counsels and staff containing "derogatory" information, if anything, remains an unresolved question. As for Redlich, the FBI maintained two files on him (100-441512 and 140-29239) after its full investigation approved his security clearance to continue with the Commission. The NYU professor's name remained on the FBI's Reserve Index (RI). The RI listed persons considered dangerous to the national security and who would receive "priority consideration" after those on the Security Index were rounded up in the event of a national emergency. During its existence the RI files were kept only by the bureau's field offices and not at FBI Washington. In time, the FBI prepared sex dossiers and political files on critics of the official version of the JFK assassination.⁶²

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that Redlich was not a security risk and since the Commission hired him, and he had been employed for five months handling classified material, it was the responsibility of the Commission to stand by him. McCloy succinctly summed up the Commission's dilemma: having employed the man for five month there were no other "sensible" or "respectable" alternatives in an affair that had already dragged on too long. He thought if they fired Redlich the Commission would look like it was pandering to his red baiters and could expect criticism from the liberal end of the political spectrum.⁵⁷

In the end, Ford moved to get the Commission to take a straight up or down vote on the continued employment of the controversial assistant counsel. The Michigan congressman made it repeatedly clear that he would vote for Redlich's dismissal. He knew that the majority sentiment had shifted in favor of keeping Redlich, but he belabored the point that they had an obligation to go on record. The rest of the Commissioners, except for Russell who had left to attend another meeting, did not want a recorded vote revealing that the Commission was split on Redlich, adding more fuel to the controversy. None of the Commissioners were willing to support Ford's motion for a vote on Redlich; it died a-borning, meaning that Redlich would continue his employment as an assistant counsel. The next day the Commission released a statement to the press that after reviewing all the "field investigations of its employees, the Commission unanimously cleared all of the members of the staff to handled classified information.⁵⁷

The FBI's officially declared neutrality in the Redlich investigation was, of course, pure cant. Having failed with Redlich, Hoover did not drop his vendetta against the Warren Commission. The director ordered the preparation of dossiers on the Commission members and the staff *after* the Warren Report was published and the

Chapter 12

The FBI's "Counterattack" on the Commission and the Report

The Bureau will never live this down and will be viewed
as a second rate outfit henceforth.

----J. Edgar Hoover 9/28/1964

good in front release
On September 27, 1964, the U.S. Government Printing Office made available to the general public some 50,000 copies of the "Report of the President's Commission on the Assassination of President John F. Kennedy." *take* The so-called Warren Report was an instant best seller as the public rushed to buy up the long-awaited historic document. Interest was sky high and the price was right, \$3.25 for a cloth bound copy *whole* and a paperback copy went for *\$ 2.50* two dollars and fifty cents. Some newspapers announced that they would make available a \$1.50 hardback edition printed by the Associated Press. Instant editorial commentary raised the issue as to whether the Report would lay to rest the suspicions prevalent in Europe and at home that Kennedy was the victim of a conspiracy.¹

On September 25 Acting Attorney General Nicholas Katzenbach delivered two copies of the Report to FBI Washington headquarters. By all indications Hoover and his executive officers had no forewarning that the Report would find fault with the FBI for its pre-assassination negligence in handling the Oswald case. Under "Conclusions," the Report found that "the FBI took an unduly restrictive view of its role in preventive intelligence work prior to the assassination. A more carefully coordinated treatment of

Aggravation

Add to note 31. The 24-hour physical surveillance ("fisur" in FBI argot) of Marina was a hardship for the 29 Dallas agents Shanklin assigned to this task. Groups of 4 to 6 agents were assigned to 12-hour shifts. Those who took over the 7:00 p.m. to 7:00 a.m. shifts were expected to put in at least three hours on their other work to fulfill an eight-hour day before they reported to their "fisur" assignment, meaning that they had to put in a fifteen hour day. Shanklin complained to Assistant Director Sullivan that other pressing day-to-day matters were being neglected. He asked Sullivan to discontinue the physical surveillance. Shanklin to File, 2/28/1964, Dallas Main Oswald File, 100-10461-38(obliterated)8 and Shanklin to File, 3/5/1964, Main Dallas Oswald File, 100-10461-3783.

Stake out

Sur. dropped after technical sur. was in place

*Stake out
was cancelled
3/5*