

# FALSE WITNESS

THE REAL STORY OF JIM GARRISON'S  
INVESTIGATION AND  
OLIVER STONE'S  
FILM *JFK*

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## FALSE WITNESS

a number of interesting threads. Garrison's paranoia and his "evidence" parallel James Phelan's experience in Las Vegas seven months earlier. "If a man walked by with a briefcase," Lifton wrote, "Garrison would point to him and whisper, 'That's an FBI agent.'" Garrison revealed to Lifton a telephone number that Garrison said was absolute proof of a link between Lee Harvey Oswald and Jack Ruby because it appeared in both Oswald's address book and on Ruby's telephone bill. Lifton hurried home, checked out Oswald's telephone book in the Warren Report's twenty-six volumes and discovered that the number (PE-8-1951) indeed was there. But it was a Fort Worth television station (KTVT, Channel 11). Oswald and Ruby were no more linked by this than they would have been by the gas company's telephone number. Anyone might have such a number in his address book; anyone might have called it and therefore have it appear on his telephone bill.

When Lifton pointed that out to Garrison the next day, he became "annoyed" and told Lifton to "stop arguing the defense." But Lifton persisted. He inquired what Garrison thought it meant. "Is there someone at the TV station who you can prove knew both men?" "It means," Garrison replied, "whatever the jury decides it means." "But what do you think, Jim?" Lifton demanded, "What is the truth of the matter?" At that, Garrison responded with a remark that fairly stunned Lifton: "After the fact," Garrison said, "there is no truth, there is only what the jury decides." (There is, there is only what works.) That admission explained "much of what has happened," Lifton wrote. "It is a convenient and accurate synopsis of Jim Garrison's approach to fact-finding, truth-finding, and justice."<sup>1</sup>

After his fifteen hours with the Jolly Green Giant and Kerry Thornley's indictment, Lifton was convinced that Garrison was "a reckless, irrational even paranoid demagogue," as Lifton wrote, who, before he was finished might "seriously hurt innocent people." Lifton was an early naysaying voice raised against Garrison from the ranks of the critics. Another was Sylvia Meagher, who excoriated her colleagues for failing to carry out a "disinterested evaluation of Garrison's evidence."<sup>2</sup> But most of the early critics jumped on Garrison's bandwagon and a number of them turned up in New Orleans volunteering their theories and some of them their

## THE MOVEMENT AND THE FILES

time. These Dealey Plaza Irregulars, as they were tagged, included Mark Lane, William Turner, Mary Ferrell, Harold Weisberg, Ray Marcus, Mort Sahl, and others. Garrison's thinking was deeply influenced by many of them, Lane and Weisberg in particular. But then, Garrison never encountered a conspiracy idea he didn't like. His constantly shifting public statements reflect that. Weisberg, who claimed he convinced Garrison of the Cubans' involvement and the CIA's, became disillusioned in time, as did others. The anti-Garrison camp grew after he revealed his evidence at Shaw's trial. Paul Hoch and many more joined it at that point. Today, Meagher is deceased and Lifton and Hoch are among the few visible members of the new movement willing to speak out against Garrison.

Oliver Stone and his organized effort to free the files created this new movement. Nothing like it existed before. The previous group of loose-knit researchers and writers, noted for their curious personalities and occasional stunning hostilities, squabbled among themselves, formed shifting alliances, and journeyed down decidedly independent paths. They agreed on little and rarely engaged in any unified action. Today's new movement nurtures consensus and organization, steered by Garrison-Stone disciples and their "Governing Boards," "Advisory Boards," "Executive Boards," and "Boards of Directors." They sponsor events, plan actions, publish newsletters, and rally the forces.

These Garrisonites are the public face of the movement but its larger "membership" is quite diverse, ranging from "Little Jims" who worship Garrison, to Lifton, the lone crusader against him. The large group occupying the middle ground "joined" for their own reasons and have little or no interest in Jim Garrison. They either don't know or care about him or they do know and, as Hoch says, they find "the Clay Shaw business embarrassing." The most vocal of the new movement, the "Little Jims," with their passionate belief in "Big Jim" and his case, have assumed his attitudes and investigatory techniques and appear determined to walk in his footsteps. They seem to believe, as he did, that all his critics were part of the government conspiracy out to stop him; that real evidence doesn't exist in this case and that his "application of models" is a legitimate way to find an alternative. They even seem to regard his propinquity theory as viable. But Garrison adopted these odd notions because they suited his nature, not because they were useful

\* Sylvia Meagher, letter, *The New York Review of Books*, September 3, 1967.

tools. Those embracing them today and creating their own wispy connections run the risk of appearing to be conspiratorial flat-earthers.<sup>7</sup>

Some are also attempting in a clumsy way to control what is written about Garrison. One, working at a private Washington archive, instructed me about what criticism was permissible. "You may say he abused his power" (presumably because Garrison himself admitted doing so), I was told. "You may go that far but no further." A favorite target of theirs is the media, having picked up Garrison's kill-the-messenger stance. Like him, they regard his negative press coverage as journalists in league with each other and with Washington to sabotage his case. Topping their enemies list are those whose work was the most influential: James Phelan, Hugh Aynesworth, George Lardner, Walter Sheridan, Rosemary James, and David Snyder. Yet all these individuals were assigned to cover the story and independently of each other concluded that Garrison was perpetuating a fraud.

For some reason, James Phelan has been singled out for special attention. After a forty-plus-year career in which he produced hundreds of magazine articles (only two about the Kennedy assassination) and completed his third book (his first was an international best seller),<sup>8</sup> Phelan died of lung cancer on September 8, 1997, at his home in Southern California. He was eighty-five. Anyone interested in this case should be grateful to him for his contribution to it. Instead, Garrison supporters have demonized him.<sup>4</sup> But if some government connection had sent Phelan to destroy Garrison's case, as the Garrisonites imply, he would have turned over the documents he obtained in Las Vegas to Shaw's attorneys. Irvin Dymond then would have made mincemeat of Perry Russo at the preliminary hearing, humiliated Garrison, and the whole charade would have collapsed right there. Phelan didn't turn the documents over because he was a reporter doing a job, not a sneak with a covert agenda.

The new movement wasn't the only unexpected consequence of Stone's film. It inspired a best-selling book from the opposition that challenged the conspiracy tenet—*Case Closed* by Gerald Posner. This 1993 examination of Oswald and the assassination was meant to restore confidence in the findings of the Warren Report and one of its major themes is that the critics of the report are the problem, not the

evidence. But Posner ignored and misrepresented data,<sup>\*</sup> and *close* anything. He did offer a sensible, objective-sounding *v* appealed to a wide audience, especially those put off by Stone's *noia* and his promotion of Jim Garrison. As Garrison himself *more* than two decades earlier, Oliver Stone produced a back *Posner* reaped the benefit. But anyone who thinks Posner set *ters* is overestimating his book and underestimating the *l* arguments on the other side that over the years have created *the* subject has on America's psyche. (Even George Lardner's *missed* shot was fired from the front.)<sup>5</sup> The one area where *might* have closed a door—the Garrison–Stone New Orleans *nario*—he left wide open. He dealt with Garrison in a single *cial* chapter that necessarily omitted much of the story. Some *is* there is wrong.<sup>†</sup> Stone's movie Posner mentioned only in passing *made* his only substantive comments about it in a handful of frames.

To believe Posner closed the door on Garrison is to deny the *film*. After more than fifty million moviegoers saw *JFK* in *around* the world,<sup>6</sup> Stone gave it a second life. In 1993 he released an *inexpensive* video version.<sup>‡</sup> New viewers are now renting it *and* it with no end in sight. Every night, somewhere someone watches *Jim* Garrison today is playing on the small screen to a new generation *and* with no caveat. Those who saw the original movie were for

\*Two of Posner's more serious lapses: 1) Presenting the work of Failure Associates as definitive evidence that the shots originated from the sniper's Texas School Book Depository (Posner, *Case Closed*, pp. 334–335, 477–478). Posner didn't reveal that Failure Analysis Associates prepared the material for an ABA mock trial of Lee Harvey Oswald (in August 1992, as a promotion by the company) and that the company also prepared material for the other side supported the opposite position. 2) Quoting the Warren Commission testimony of clinical psychologist Renatus Hartogs who testified that when he examined Harvey Oswald (at age thirteen) he had recognized in Oswald a "dangerous potential for explosive, aggressive, assaultive acting out" (Posner, *Case Closed*, pp. 334–335). Posner again omitted the core reality: that the Warren Commission attacked Hartogs' testimony as self-serving, after-the-fact and contradicted by the report Hartogs wrote at the time (WC vol. VIII, pp. 220–221).

†For example, Posner attacked the trial testimony of "Andrew Dunn" who conflicted with Dunn's earlier statements (Posner, *Case Closed*, p. 334). The conflict, however, was Posner's own creation. Andrew Dunn, who made earlier statements, died in 1968, the year before the trial. The man on the witness stand was William Dunn, Sr. (The two were not related.)

‡Stone restored seventeen minutes cut from the feature release.

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evidence. But Posner ignored and misrepresented data,<sup>\*</sup> and he didn't close anything. He did offer a sensible, objective-sounding voice that appealed to a wide audience, especially those put off by Stone's paranoia and his promotion of Jim Garrison. As Garrison himself had done more than two decades earlier, Oliver Stone produced a backlash and Posner reaped the benefit. But anyone who thinks Posner settled matters is overestimating his book and underestimating the legitimate arguments on the other side that over the years have created the grip the subject has on America's psyche. (Even George Lardner believes a missed shot was fired from the front.)<sup>5</sup> The one area where Posner might have closed a door—the Garrison–Stone New Orleans scenario—he left wide open. He dealt with Garrison in a single superficial chapter that necessarily omitted much of the story. Some of what is there is wrong.<sup>†</sup> Stone's movie Posner mentioned only in passing. He made his only substantive comments about it in a handful of footnotes.

To believe Posner closed the door on Garrison is to deny the power of film. After more than fifty million moviegoers saw *JFK* in theaters around the world,<sup>6</sup> Stone gave it a second life. In 1993 he released an inexpensive video version.<sup>‡</sup> New viewers are now renting it and buying it with no end in sight. Every night, somewhere someone watches it. Jim Garrison today is playing on the small screen to a new generation and with no caveat. Those who saw the original movie were forewarned

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† For example, Posner attacked the trial testimony of "Andrew Dunn" because it conflicted with Dunn's earlier statements (Posner, *Case Closed*, p. 146). The conflict, however, was Posner's own creation. Andrew Dunn, who made the earlier statements, died in 1968, the year before the trial. The man on the witness stand was William Dunn, Sr. (The two were not related.)

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## FALSE WITNESS

to some extent about Garrison by the media uproar. But all those shouting back then have fallen silent now. The video viewers today hear no dissenting opinion. Garrison is the hero. Clay Shaw is the villain.

Some of those who support that vision squared off, after a fashion, with some who don't at the public hearing held by the JFK Assassination Records Review Board on June 28, 1995, in New Orleans. Steve Tyler, the producer-director of an interesting 1992 documentary film on the Garrison case, "He Must Have Something," was one of those who testified. Tyler described his conversion from a pro-Shaw position when he was making the film, to anti-Shaw afterwards, from believing Shaw innocent to thinking him probably guilty of something. It was Oliver Stone who "planted the first seeds of disillusionment and doubt," Tyler said, because despite having "access to all the available research on the assassination," Stone felt "so strongly about Shaw's guilt."<sup>\*</sup>

Also testifying that day was the lovely, petite, red-haired daughter of Edward Wegmann, now deceased. Cynthia Wegmann—who became an attorney because of the injustice she saw inflicted on Clay Shaw—spoke movingly on Shaw's behalf and handed over her father's files to the review board, saying she believed "that anyone who takes a look at these records will realize how amorphous, how little evidence, if any, there was [against Clay Shaw]."<sup>7</sup> It was her hope, she said, that once the public saw how "little there was" to Garrison's case that "they would allow [Shaw] to remain at rest," a commendable, if unlikely, wish. But by relinquishing her father's records to the National Archives, she established for Clay Shaw a small but significant beachhead.<sup>†</sup>

That was dramatically enlarged in the Spring of 1997 when a friend of Shaw, at the urging of Dave Snyder, turned over to the review board seven boxes of Shaw's personal papers, including the journal he kept shortly after his arrest.<sup>‡</sup> In its pages, the voice of Clay Shaw may still be heard. It is quietly desperate at times, unpretentious and humane, edged with a writer's eye for detail. He recorded his daily life (meals, drinks, conver-

<sup>\*</sup> Actually, Stone has stated that Shaw's guilt or innocence is of little concern to him.

<sup>†</sup> Previously, Edward Wegmann had offered to donate this material to Tulane University, but the offer was declined. (Cynthia Wegmann, telephone conversation with author, September 8, 1993.)

<sup>‡</sup> This is the document that Snyder first revealed to the public in July 1996.

## THE MOVEMENT AND THE FILES

sations, kindnesses of friends and strangers),<sup>\*</sup> his impressions, ideas, anger, his sometimes black depression, and his inward journey. The "shock" of his arrest made him "think about the great issues of God and eternity," he wrote, five days after that watershed day. "I can no longer avoid the fact that the time has come for some commitment to be made . . . and in a sense I am ashamed that it took such a catastrophe, that it took the iron of affliction to enter my soul, before making my decision. However, I begin to see now the path in which I must go."<sup>8</sup> His writings reveal an introspective man, intelligent and gifted, growing increasingly philosophical and spiritual as he coped with an impossible situation.

Above all, the voice in these pages is rational. That alone sets him apart from those who became his tormentors. Describing his interview at Garrison's office on Christmas Eve 1966, Shaw wrote, "like all the DA's assistants, and indeed the DA himself, [Andrew Sciambra] wore a pistol, which I found rather unnecessarily dramatic." It is impossible to imagine Jim Garrison entertaining such a thought.<sup>9</sup>

About that same interview, Shaw penned this passage:

I explained to Sciambra that I had not at any time had an opportunity to see Oswald [when he was distributing leaflets at the Trade Mart], and had never met him under any other circumstances and added what turned out to be a very ironic remark—that it was perhaps unfortunate that I did not because then I might possibly have had a tiny footnote in history.<sup>10</sup>

When Sylvia Meagher wrote expressing her horror over his plight but objecting to the efforts of his attorneys to have the Warren Report made binding on the judiciary, Shaw made his position clear. In his four-page response, he said he found the Report's flaws understandable and its "central conclusions . . . absolutely correct and valid," and he laid out the logic of his thinking.<sup>11</sup>

<sup>\*</sup> A cab driver named Marty picked Shaw up the day after the preliminary hearing, recognized him, and insisted on serving as his personal transportation service from then on, any hour, day or night, and he refused to accept payment. "Everybody knows what that big SOB is trying to do to you," he said. "You have enough problems on your mind." Over time Shaw tried repeatedly to give Marty money; he refused it (Shaw Journal, pp. 71–73).

## FALSE WITNESS

Those who believe he was a master spy may be heartened to learn Shaw left his passports (his traveling dates and locations now may be checked), a file folder labeled *Permindex* (the alleged CIA organization), with a few letters in it and a brochure; and another file containing information about his activities during the months preceding the assassination. Others will find more enlightenment in correspondence such as that with Hale Boggs concerning Shaw's role on the Welcoming Committee for President Kennedy during his 1962 trip to New Orleans, and clippings about Shaw himself, which chronicle his early success as a playwright.<sup>12</sup>

"We now have [Shaw's] perspective on what happened to him," said Thomas Samoluk, the review board's deputy director, who traveled to New Orleans, reviewed the contents of Shaw's seven boxes, and brought them back to Washington, "and that is a very important addition to the historical record." Dave Snyder was more impassioned about it. "If you look at Shaw's letters to people he knew and at his journal," Snyder said, "you see Shaw was a very considerate, sensitive man, a very caring man. Most of the correspondence is ordinary, routine stuff—bread and butter [thank you] notes, for instance. But it shows Clay Shaw doing what Clay Shaw did, and doing it meticulously and well." In what he left behind, Shaw seems to be saying, "Look at this—for this is who I really was." In preserving this material, Shaw insured that his "footnote in history" will not be written entirely by others.

Shaw's documents, and those from Edward Wegmann's family, along with Tyler's film, are today part of the JFK Collection at the National Archives' handsome new building on grounds donated by the University of Maryland, a wooded setting adjoining the University's golf course in College Park, Maryland. The six-story glass and concrete state-of-the-art research facility is a 1.8 million square-foot structure with wide hallways and panoramic views, equipped with moveable shelving on tracks, a sophisticated computer setup, superb photographic equipment for researchers, environmental controls to protect the archival records, and cold storage vaults for photographs.

Among the articles being protected in those vaults is the Zapruder film, the collection's most famous item. The review board laid claim to the home movie by defining it as an "assassination record" under the terms of the 1992 Records Collection Act and it became part of the JFK

## THE MOVEMENT AND THE FILES

Collection officially on August 1, 1998.\* At this writing, the Department of Justice and the Zapruder family have entered into arbitration to determine the price the government will pay for the film, with the ceiling set at \$30 million. (The family, which under the arbitration agreement will retain ownership of the copyright, was asking for \$18.5 million and the government was offering \$3 million.)†

As required by law, the five-member review board (a panel of three made up of a judge from Minnesota and four academics with expertise in law, history and archives)‡ went out of business on September 30, 1998, simultaneously issuing its Final Report. In that 208-page document the board noted that drawing conclusions concerning the assassination was not part of its mandate, and it drew none. It did acknowledge, however, that reaction to Oliver Stone's film prompted enactment of the "JFK Act." While the board discovered no "smoking gun" document, advocates on both sides found ammunition for their position in the report. *Time* described the board's achievements, travails, and recommendations.

The report began by addressing the secrecy issue. "The problem was," the board members said in their opening chapter, "that 30 years of government secrecy" surrounding the assassination "led the American public to believe that the government had something to hide." They returned to this theme in their concluding section, charging that "[t]he federal government needlessly and wastefully classified and then withheld from public access countless important records that did not require such treatment."

During the board's four-year, \$8 million effort, its members used the unprecedented powers boldly. They deposed witnesses, for instance, ordered the Zapruder film tested for authenticity and a bullet fragment from the presidential limousine tested for possible residue. They also obtained (over vigorous legal opposition from New Orleans District

\* Researchers have been viewing the film at the National Archives since the 1960s, but the film was always privately owned. (Abraham Zapruder sold it to Time Inc., who sold it back to the Zapruder family in 1975.) In 1978 the Zapruder family placed the "camera original" in the Archives under a limited deposit agreement.

† The review board's plan to make low-priced digitized copies of the film available to the public through the Archives was preempted by the Zapruder family in July 1998, with the release of an inexpensive version (showcase, a forty-five-minute video), now in stores nationwide.

‡ Federal Judge John R. Tunheim, Chair; Columbia University historian Herbert F. Graff; Ohio State University historian Kermit L. Hall; American University historian Anna K. Nelson; and Princeton University librarian William L. Green.

252

253

## FALSE WITNESS

Attorney Harry Connick) Jim Garrison's old office files and grand jury transcripts. Yet, despite their aggressive endeavors, they feared that "critical records may have been withheld" by some government agencies. So they created a "compliance program," which required an officer from each agency "to warrant, under oath and penalty of perjury" that all relevant records had been turned over to the board.

Since taking office in April 1994, board members examined and released classified passages in more than 29,000 documents (the largest number from the CIA), processed the release of 33,000 more (the largest number from the FBI), and aided in the transmittal of many others, from various agencies and private citizens, to the JFK Collection at the National Archives.

Overall, some 4.5 million pages have poured into that collection since President Bush signed the Records Collection Act in 1992. Those documents—a virtual avalanche of paper—are today a magnet at College Park. According to Steven D. Tilley, the archivist in charge, many hundreds have examined some portion of the JFK Collection since the first big document release in August 1993. The number of school-children doing projects on the assassination and making requests is increasing, Tilley noted, and the staff has twice done presentations of forensic (autopsy) material for a group from the Bronx High School of Science in New York. Researchers can access the collection's electronic reference system on the Internet, order documents by e-mail, and obtain some items through Westlaw and Lexis-Nexis.<sup>13</sup>

Because the largest contributions have come from sources that either monitored the New Orleans investigation or examined it afterwards, a surprisingly large portion of the collection concerns Jim Garrison.

One Garrison document, in particular, that today resides among those millions of pages came to my attention a while back. It is a transcript of a statement Perry Russo made under hypnosis.<sup>†</sup> Garrison turned this document over to the House Select Committee in 1977

\* The FBI, CIA, HSCA, and Church Committee.

† Jim Garrison, memorandum to Jonathan Blackmer, regarding "Statements of Perry Russo" made under hypnosis concerning "Clay Shaw, David Ferrle and other individuals" (hereinafter Garrison Memo), dated Aug. 16, 1977. Garrison implied there was only one hypnosis and this was it. There were at least three.

## THE MOVEMENT AND THE FILES

with a notation. Explaining why the pages were numbered one to seventeen and one to thirteen), Garrison wrote ~~the transcript was~~ in two parts because Dr. Fatter had apparently "intended" a "break" or "rest period" for Russo's benefit. He did not. Garrison's "document" is actually two documents, the transcript of the first hypnosis and another, which took place eleven days later. Garrison ~~reversed~~ them, reversing their chronology, and labeled them ~~1 to 17~~ by so doing, he obliterated the damaging reality of both hypnosis interviews.<sup>15</sup> If the House Select Committee relied on this ~~document~~ any way, it was misled.\* No one should trust anything Garrison ~~said~~.

The Garrison material, according to one unofficial ~~estimate~~ may amount to as much as twenty percent of the overall ~~collection~~ of that 4.5 million, Garrison's portion amounts to some ~~400,000~~ pages.

The phoenix now has a substantial and ~~permanent~~ place in America's official historical record.

\* Garrison's cooperation with that committee was highly ~~questionable~~. For instance, turn over to it the early interviews with ~~the witnesses~~. They were among the 15,000 pages his family donated ~~to the committee~~.