

Page 37 (44)

Civil Liberties

p 55 (11)

5H 242

(13)

5H 243

(14)

delete or modify
as per f.46 Comments

p 56 (35)

transfer to page 50
of text

p 79 (4)

WR 106

SH 153

P. 79 Fnote (5)

qq to reconsider

P. 80 Fnote (21)

2H pp 99 and 131

P. 81 Fnote (51)

3H p 372 (not 588)

In notes on
EE MS

Overview
Chapter II

- 12/5/63 WC held first meeting
12/8/63 J Lee Rankin was asked by Warren by telephone to serve as counsel
12/9/63 FBI submitted 4-volume report; a 5th volume (Supplemental report) was submitted on 1/13/64)
12/16/63 WC held second meeting; Rankin sworn in
12/21/63 to 1/10/64 critical period during which the modus operandi was mapped; it was decided that only "major problems" would come before the WC itself
1/27/64 WC staff, FBI and SS viewed the Zapruder film; it showed that JFK and Connally were hit by two shots in a span of 1-1/2 seconds
1/30-31/64 Rankin said that the field investigation would be postponed until the end of the Ruby trial
2/3/64 The hearings began with Marina's testimony--"her answers did not completely satisfy the staff"
2/6/64 The staff wanted Marina to be questioned further; Rankin said that the WC had "decided that they believed her" and that there would be no more questioning. There was a heated argument. One "prominent lawyer" threatened to resign unless Marina was cross-examined. There were few formal staff meetings after Rankin lost control of this one, per Eisenberg.

Another dispute arose on the preparation of witnesses. Redlich said "no," citing UK system of commission inquiry. Rankin appointed Redlich, Belin and Liebeler as a study committee. The dispute ended in a compromise, with the lawyers instructed to submit memos on their off-the-record examinations of witnesses. But in practice there was "no time" and Rankin told them to "use their discretion" in preparing witnesses.

End of

February Goldberg joined the staff, was assigned to the "speculations and rumors" chapter

- 2/25/64 Walter Craig was "appointed" after the WC reconsidered its earlier position that it was a fact-finding body, not a court; but Craig's participation was "no more than a formality"
3/4/64 Ruby's trial opened; on same day, WC heard Mark Lane and his allegations re meeting in Carousel Club, in open session (though hearings were closed to public ostensibly to avoid prejudicing Ruby's trial)
3/14/64 Trial ended
3/18/64 Field investigation began; Willens, Ball and Belin proceeded to Dallas where Ball and Belin "informally interviewed" police officials and key witnesses
3/20/64 Ball and Belin conducted an off-the-record reconstruction of Oswald's movements at the scene of the assassination, with the participation of "most of the eyewitnesses" who later testified before the WC in Washington. "Frank Adams...was unable to participate in the investigation" and Specter had to go it alone.

William Coleman (a Negro) "also unable to work full-time for the Commission" and Pollak took over.

There were two separate investigations: (1) WC hearings and (2) staff investigation. Ball and Liebeler, when asked what the WC had done, said "nothing." Warren "was the Commission." There was no direct contact between the WC members and the staff lawyers.

Early in the WC's term it was decided to maintain a chronological file, but there was "no time" to do it.

April 1964 Specter and Redlich were working in Washington on the Zapruder film and Specter came up with the single-missile-thesis. The ballistics tests and further analysis of the Zapruder film and other films were arranged for the express purpose of testing that theory. Meanwhile Connally testified that a single bullet was "inconceivable"

Early May Rankin told the staff lawyers to wrap it up and submit their chapters by June 1st, with publication deadline June 30th. But not all the problems were "solved" and "new evidence" had turned up which required additional investigation.

5/24/64 Rankin Redlich and Specter went to Dallas for reenactments; the main purpose was to "corroborate" the single-missile theory

End of May Warren said that the Hearings and Exhibits would not be published because it would be too expensive. The staff lawyers protested to Rankin. Senator Russell and the other Congressional members said that the costs were justified; and it was decided to publish the hearings and exhibits

6/1/64 Only Specter had finished his chapter (and Ball, a few days later). Redlich was not satisfied with Ball's draft and ~~re~~ rewrote it over Ball's protests. Warren was not told that the chapters were not in. Near the release date Willens and Redlich went over Rankin's head and told Warren that it would be impossible to publish the WR by the 30th. Warren lost his temper and "demand" that Willens close down the investigation "immediately." New deadline set as 7/15/64. Later deadline extended to 8/1/64 because it was "impossible" to finish by 7/15/64.

Rankin arranged for 3 psychiatrists to meet with the WC and the staff on "terminology." There was an all-day meeting but it did not produce a satisfactory basis for psychological findings on Oswald.

7/20/64 Liebeler submitted a draft on Oswald's motives. Rankin felt it was "too psychological" and Goldberg was told to rewrite it.

By August some chapters had been re-done as many as 20 times. Getting a consensus seemed "almost impossible." The deadline was set as September, while the WC was under increasing pressure to publish from the White House (McGeorge Bundy).

9/4/64 The galley's were circulated. Liebeler attacked the key chapter (identification of the assassin) in a 26-page memorandum, and the chapter had to be re-written.

9/7/64 Marina was re-called to testify in Dallas before Russell/Cooper/Boggs. She changed major parts of her story and contradicted prior testimony, leading to still more re-writing of the WR.

9/24/64 WR handed to LBJ

9/25/64 At "farewell dinner" Warren suggested that there was a "lawyer/client" relationship with the Government and that the staff lawyers should consider the investigation as "privileged information" (source: Liebeler and Eisenberg).

Part I Political Truth

Chapter III The Dominant Purpose

There is no statement of ultimate purpose but all indications are, purpose was to save the national prestige, dispel rumors, and show that the USA was not a banana republic. What if a rumor unfavorable to the national image proved to be true??? The WC policy can be seen in the 1/24/64 secret meeting between Warren/Rankin and Carr/Wade, who said that Oswald was on the FBI payroll at \$200 a month, since September 1962, No 179. Wade had heard that a Govt voucher for \$200 was found in Oswald's possession. Also his post office boxes were a standard procedure, in Wade's opinion, for FBI informants.

Rankin presented it as "a dirty rumor," said "it must be wiped out," i.e., without expressing regard for whether or not it was true. The WC seemed to see it only as a problem of dispelling rumors. Rankin proposed that he should speak to JEH and let the FBI investigate itself, before any WC investigation. Cooper and Russell objected. Warren said, let's go into it from both ends.

2/4/64 Warren to reporter, "not in your lifetime" (see NY Times 2/5/64 p 19 col 1).

1/28/64 Rankin went to JEH, so said at once "Oswald never" was on FBI payroll, etc.

2/13/64 JEH sent affidavits of 10 FBI agents disclaiming Oswald informant (NB-- but not deBruyes-SM)

2/27/64 Gemberling submitted an affidavit explaining why Hosty's name in Oswald's notebook not previously reported in the 12/23/63 report, i.e., because the circumstances were "fully known to the FBI."

5/6/64 Belmont offered the WC the full FBI file on Oswald. Rankin said okay but the staff was not to see it. Warren said, no, he would not accept the FBI file on LHO because if the WC saw it, others would demand the same right (see Belmont testimony in 5H). The file was sent back to the FBI; no independent check was ever made. Jaworski was asked to talk to Hudkins "informally." He reported back that there was nothing to the story that LHO was on FBI payroll.

BUT

1/24/64 Secret Service submitted 30 reports including an interview with Hudkins (document control no 767) which said that Hudkins got his story from Allan Sweatt! LHO was No.S-172 at \$200 a month. Sweatt was never questioned. The SS report on the interview with Hudkins was suppressed, even from the Nat'l Archives; the details were kept secret even from the WC lawyers! EE in a footnote says that the WC was never able fully to explain how Hosty's numbers got into Oswald's notebook; the reconstruction showed that Marina could not have seen his license plates.

Chapter IV Vulnerability of Facts

Redlich said that if Kennedy and Connally were hit by separate bullets, it meant that there were two assassins. Zapruder frame 235 "Governor Connally slumps forward", ie, 10 frames or 1/2 second separate his shot from JFK's first shot.

NY Times reported that the "bullet lodged in shoulder" on 12/18/63 p 27 and 1/26/64 p 68

FBI Summary Report of 12/9/63 says,

"Medical examination of the President's body revealed that one of the bullets had entered just below the shoulder to the right of the spinal column at an angle of 45 to 60 degrees downward, that there was no point of exit, and that the bullet was not in the body."

FBI Supplemental Report of 1/13/64 repeated,

"Medical examination of the President's body had revealed that the bullet which entered his back had penetrated to a distance of less than a finger length."

Specter's alibi was that the two FBI agents present at the autopsy, when the doctors were unable to find the path of the bullet, rushed out to phone the Maryland field office. Meanwhile the doctors found the path; but by the time the agents submitted their reports, the FBI summary report had "gone to press." WHICH IN NO WAY EXPLAINS THE FBI REPORT OF 1/13/64.

That means either that (1) the FBI and therefore the whole WR not reliable; or (2) the autopsy report is spurious and was changed after 1/13/64.

Test is, what is the evidence on the actual locus of the wounds? Humes sketch; also Clinton Hill, Glen Bennett testimony. But still inconclusive due to the known inaccuracy of human observation.

BUT

Suppressed photos of JFK's clothes in FBI Summary report show holes graphically. Hole in shirt is well below the collar (see photos pp 71 and 72 of EE manuscript).

FBI report showed that the bullet did not go through. Medical examiner NY Milton Halpern says that there is "no such thing as a rifle bullet passing through a neck without leaving a path."

Part II The Investigation

The threshold question for the WC was: Was there more than one assassin?
The films show that JFK and the Governor were hit almost simultaneously
The FBI report of 12/9/63 showed that they were not hit by the same bullet
therefore
There is prima facia case of TWO assassins.

Area I. Basic Facts Specter was alone after Adams' de facto resignation. He began field investigation on 3/16/64 with specific instructions from Warren--to "clear up the confusion" about the anterior neck wound. His whole investigation amounted to off-the-record and on the record interviews with 28 Parkland Hospital staff.

Stretcher bullet Which stretcher? Vitally important point was never resolved. During Humes' testimony Specter told Dulles that the stretcher bullet had been found on Connally's stretcher, but he was lying. All FBI and SS reports showed that it was NOT from the Governor's stretcher. Four days after his statement to Dulles, Specter first questioned Tomlinson. Bullet 399 was precluded from the Governor's stretcher by Finck's testimony that it was NOT the wrist bullet. His finding was never challenged. That in itself proves that bullet 399 did not come from Connally's stretcher.

Fourth Shot? the information on the bullet mark on the curb was "lost in the shuffle" and came to light after Specter had finished his chapter

Area II. Identification of the Assassin (Ball and Belin)

Chapter VI. The Limits of the Investigators

The lawyers were not satisfied with FBI cooperation. FBI cooperated only on express orders from JEH. Would not develop any information not specifically requested in writing! (EE p 119)

WC told lawyers there would be no rigorous cross-examination unless a witness was clearly lying. Most of the lawyers were not satisfied with Marina's February testimony. Liebler said that she was telling the WC what it wanted to hear. Ball said that she left too many questions unanswered. Coleman offered to prepare a "trappy deposition." Rankin said that the WC had decided against all these views, because Warren was a good judge of human beings and he was satisfied that Marina was truthful.

The staff protested loud and strong. Coleman threatened to resign. Others came close to walking out of the meeting (at which this was being discussed). Liebler asked WHY there should be no more examination of Marina. Rankin answered "The Chief Justice doesn't want it." Rankin "lost control of the meeting." Redlich wrote a memo to Rankin saying,

"We cannot ignore...that Marina has lied to the Secret Service, the FBI, and the Commission repeatedly on matters of vital concern to the people of this country and the world."

Lawyers began to use phrase "Snow White and the Seven Dwarfs," referring to Marina vis-a-vis the WC.

The staff was "explicitly prohibited from contravening the testimony of witnesses."

Liebeler's urgent request to submit Dial Ryder to polygraph examination was denied. (EE on phone: WC was afraid it would corroborate his story.)

Time Pressure because of deadlines, Griffin could not finish his investigation of Ruby's means of entry into the basement. In June the WC felt that Griffin was giving too much time to that question. He was ordered to get on with other aspects, despite his protests that the question was of prime importance! (EE p 128)

Odio story--Liebeler found details in her story corresponding to facts she could not possibly have known. On rechecking Slawson's "schedule" which precluded LHO's presence in Dallas at the time of the Odio visit, Liebeler found no reason to assume that LHO took the 2.35 am bus in Houston!!! He could have caught the bus in Alice, Texas. When Liebeler submitted that to Rankin, Rankin got angry and said, "No more memos. At this stage we are supposed to be closing doors, not opening them."

Chapter VII The Commission Hearings

43% devoted to LHO life history, focus was on Oswald not on the assassination. 12% on government agencies (State Dept, FBI, etc) Less than 1/2 on shots, identity of the assassin, Oswald's movements on 11/22/63. 51 witnesses in 81 hours, including the experts. "Outside" experts were called by Eisenberg, on ballistics and fingerprints; other areas, " cursory examination."

Dry runs--Norman probably remembered hearing shells drop overhead during the reenactment, not 11/22/63.

Some lawyers thought the WC hearings "a joke" (EE p 140) Absenteeism, really serious; only 3 WC members heard more than 1/2 of the testimony. Average was 45%. Rankin says Warren very conscientious, made sure open the hearings at 9 am before leaving for Supreme Court at 10; Rankin worried about Warren's health. The separation between the WC members and the lawyers got wider and wider with the passage of time; Willens refused to open his locked drawer on one occasion and would not give material to McCloy. Warren had to intercede. Rankin said it was an "unfortunate misunderstanding," that Willens was waiting for other corroborative evidence.

Chapter VIII The Hypothesis

FBI report of 12/9/63 contained 7 major facts, which were the same "facts" cited in the WR as the basis for its main conclusion, that LHO had killed JFK. What in fact was the contribution made by the "independent investigation"? According to Redlich, the "indep investigation" determined the relationship among the FBI facts; also, the single missile theory was the "most important contribution" made by the WC. FBI report states categorically that two bullets hit JFK, one bullet hit Governor C. (EE p 146)

Film Analysis 1/27/64 Redlich/Eisenberg/Specter with Shaneyfelt/Kelley/Gauthier frame-by-frame examination of the Zapruder film between frames 207 and 225, tried to place car position at the first shot. Second shot could not precede frame 250 without proving that there were two rifles shooting.
2/25/64 WC got the original copy of the Zap film from LIFE.

Single Bullet Hypothesis early March, Specter had informal discussion with Humes and Boswell (NB--not Finck--SM). According to Specter, Humes first suggested that one bullet had hit both men. BUT that raised a problem because the FBI Summary Report said that the bullet did not exit JFK.

3/16/64 Humes testified and the UNDATED autopsy was introduced in evidence. It was diametrically in conflict with the FBI report, suggesting that the autopsy report was revised after 1/13/64 if the FBI was accurate. Boswell testified that the autopsy findings were based on the autopsy examination "and subsequent conference." Humes then launched magic-bullet-theory.

Eisenberg said that at first the lawyers were incredulous; gradually they became persuaded, because it was the only reasonable way to explain the close timing between the hits on JFK and Connally.

BUT the theory raised new problems in re the stretcher bullet ("399"). It was first thought that 399 had come from WFK's stretcher. Now it had to be transposed to the Governor's. Specter said that 399 came from the Connally stretcher and that he would develop evidence on that; at the time he said it, he had no evidence. In his attempt to develop such evidence, he succeeded in proving that it was impossible for 399 to have come from the Connally stretcher.

But Specter was in conflict with the testimony of the Connallys; not one witness out of more than 100 said that both men were hit by a single shot. Also, the doctors testified that the Governor was hit AFTER frame 231. Was the bullet hovering in the air for at least 6 frames? No. Therefore, there were 2 bullets.

In order to maintain the single bullet theory, the WC had to reject FBI report of 12/9/63

- " expert testimony on bullet 399
- " Governor's testimony on separate bullet
- " Parkland doctors' testimony that he was not in position before frame 231

All this was rejected, which is the key to the WC's commitment to the lone-assassin premise.

The Tests (EE p 153)

4/27/64 US army wound ballistics xperts did additional tests on rifle, purpose was to determine penetrating power of the bullets, per Specter---specifically, would bullet penetrate a second mass after exit from a first mass? Finck said that the proper test would be to fire bullet through two human cadavers. Specter said, "too complicated." 3 series of tests, (1) gelatin simulating neck, showed loss of 82 feet per second of 2000 ft per second velocity; (2) goat, simulating Connally chest, lost 265 ft per second; and (3) wrist human cadaver, direct hit showed much more damage than sustained by Governor's wrist.

BUT Governor's chest thicker than goat by 50%. So they made added allowance under (2) adjusting the 265 ft loss per second by 50% and arriving at 400 ft loss velocity per second. Since Olivier estimated the wrist bullet had lost 480 ft per second, the experts concluded that the bullet had first gone through JFK. B U T that was based on a mathematical fallacy, because a bullet does NOT lose speed at a constant rate; it loses speed at an ACCELERATED rate. If the distance traveled by a bullet is increased by 50%, it has MORE THAN 50% loss in velocity. Loses greater amount of velocity in each successive second; or, covers less distance per second within any unit of time. Therefore, the difference and less

of 80 ft per second does NOT justify the assumption that the Connally bullet first went through JFK. The same loss of velocity (480 ft per second) is probable if it went through Connally alone.

The Reconstruction The WC opposed the May reenactments because (according to Specter) it would look bad if the basic facts were not known at that late date. But according to Rankin, opposed because afraid over-enthusiastic lawyer(s) would try to make the facts fit the hypothesis! The WC agreed to the reenactments on condition that they were supervised by Rankin, who went to Dallas on 5/23/64 with Redlich and Specter, and held the exercise on 5/24/64 early morning.

R Frazier was the only expert to testify on the path of the bullet. He refused to support the single-bullet-theory. As was true for the goats tests, the on-site tests showed only that it was possible but not even probable. But Specter considered the tests as "important corroboration" of the single-missile. WR report states that Frazier testified that the JFK bullet "probably" struck Connally; that is a distortion of what he said in reply to a hypothetical question and is false.

The single-missile is the only substantial change from the basic FBI report.

Chapter IX Writing the Report

The estimate was one month; the actual time needed was 4 months. Redlich did Chapters I - IV; Goldberg, V-VII; and Willens VIII-IX; Rankin served as liaison with WC.

WC refused to accept single-bullet theory so Specter's draft of III had to be rewritten by Redlich. Ball & Belin's IV was rejected as "totally inadequate." Redlich took TEN WEEKS to rewrite it. Chapter V (abortive transfer/Ruby) rewritten by Goldberg, who didn't like style of drafters Griffin/Laulicht. VI (conspiracy), ditto re Pollak draft. VII (LHO background and motives) by Liebeler, rewritten by Goldberg because it was "too subtle" and "too sympathetic" in the WC's view. VIII (presidential protection) by Stern was said by WC to be not critical enough of the Secret Service, so Willens rewrote much of it. The first drafts were not seen by WC members. Second drafts went to individual members who wrote comments in margins. Collated by re-editing committee and sent back to be rewritten--some chapters, 20 x. 20 lawyers applied citations for every statement in the WR. If not fully substantiated, modified or deleted--THEORETICALLY.

Liebeler complained about the unwillingness of the staff to discuss changes, because of the impatience to go to press. Final draft finished mid-September and went to Goldberg for "polishing." He needed 6 months, had less than one week. 30 people worked on the WR but the main authors were Redlich and Goldberg.

CHAPTER X The Selection Process (EE p 172)

3 New Witnesses Ball in his draft of IV rejected as "utterly unreliable" Markham's testimony. Liebeler said her testimony was worthless...she was a mental case...a proven liar. Redlich reply to those objections was that the WC wanted to believe Markham and that's all there is to it. Similarly Ball was dubious about Brennan's testimony; on 3/20/64 reenactment Brennan had difficulty seeing figure in 6th floor window; also because Brennan's deliberate lie at 11/22/63 lineup (and maybe his lies to WC too) reflected on his credibility.

But Redlich gave much weight to Brennan testimony in rewriting IV. He also rehabilitated Marina and accepted the General Walker myth, despite his February memo saying Maria was a liar--he did so, apparently, under "pressure from above."

Redlich finished Chapter IV on 9/4/64. Liebeler read the galleys weekend of 9/5/64; he said it read like a prosecutor's brief. So he wrote a 26-page single-space memo attacking Chapter IV point by point---warning "this kind of selection from the record could seriously affect the integrity and credibility of the entire report."

Liebeler pointed out for example that there was no evidence that the rifle was in the Paine garage on 11/21/63. Fibers in bag did not match blanket. Fibers on rifle did not match fibers in blanket or in paper bag (?) but that omitted from WR. These facts indicated rifle was NOT stored in the blanket.

Liebeler also criticized the fingerprint evidence; LHO's prints on cartons did not mean he was at the window but only that he had handled those cartons in the course of his work. But Liebeler's main attack was on LHO's marksmanship.

The "easy shot" testimony was taken only in July and for the sole purpose of providing just that opinion in the testimony; but in each case, the questions to the witnesses omitted the time factor. Liebeler found the "easy shot" testimony contrary to the evidence that the shots in fact were "extremely difficult."

He pointed out that in 10 out of 13 tests, which were primarily for accuracy, the experts failed to equal LHO's time; only 1 expert out of 6 matched his time in other tests. He said it was "simply dishonest" not to mention the defect in the scope. He blasted the use of Angerson and Zahm testimony--they had had no contact with LHO--and the omission of Delgado's testimony at the same time.

THE USSR file on LHO (suppressed by the WC) indicated that he was an extremely poor shot and had to be supplied with game on his hunting trips in the Soviet Union.

Liebeler said that by selecting certain evidence, the chapter blatantly distorted the fact that LHO was a poor shot and created a "fairy tale" that LHO was a good shot, and that he had fired an "easy shot."

9/9/64 Liebeler submitted memo to Rankin, who first REFUSED TO ACCEPT IT, saying, "No more memos" and that the WR must be published. Liebeler insisted. Rankin read it and immediately summoned Redlich to Washington. Redlich took position he was Moses on the Mountain when law handed down; heatedly objected to all Liebeler's criticisms, saying that the WC wanted it interpreted as an easy shot and **HE WORKED FOR THE COMMISSION.**

In the end, Rankin "adjudicated" and inserted reference to the shims and the defect in the scope, BUT said that the defect was an added advantage!

Chapter XI The Commission's Conclusions

Russell said he would not sign the WR if it said that one bullet had hit both men; Cooper and Boggs tended to the same view, objecting that there was "no evidence" for the theory and "strong doubts" (respectively). Dulles and McCloy were in favor of the two-for-one bullet. There then ensued a battle of adjectives to precede the word "evidence" and they settled on "persuasive."

The WC concealed strong evidence of a second assassin "in the national interest."

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